

AGENDA

BERKELEY CITY COUNCIL MEETING

Tuesday, April 11, 2023

6:00 PM

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

TELECONFERENCE LOCATION - 1404 LE ROY AVE, BERKELEY 94708

JESSE ARREGUIN, MAYOR

Councilmembers:

DISTRICT 1 – RASHI KESARWANI

DISTRICT 2 – TERRY TAPLIN

DISTRICT 3 – BEN BARTLETT

DISTRICT 4 – KATE HARRISON

DISTRICT 5 – SOPHIE HAHN

DISTRICT 6 – SUSAN WENGRAF

DISTRICT 7 – RIGEL ROBINSON

DISTRICT 8 – MARK HUMBERT

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

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

*Remote participation by the public is available through Zoom. To access the meeting remotely: Join from a PC, Mac, iPad, iPhone, or Android device: Please use this URL: <https://cityofberkeley-info.zoomgov.com/j/1606544287>. If you do not wish for your name to appear on the screen, then use the drop down menu and click on "rename" to rename yourself to be anonymous. To request to speak, use the "raise hand" icon by rolling over the bottom of the screen. To join by phone: Dial **1-669-254-5252** or **1-833-568-8864 (Toll Free)** and enter Meeting ID: **160 654 4287**. If you wish to comment during the public comment portion of the agenda, Press *9 and wait to be recognized by the Chair.*

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

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

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

Preliminary Matters

Roll Call:

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

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

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

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

Consent Calendar

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

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

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

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

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

Consent Calendar

1. Minutes for Approval

From: City Manager

Recommendation: Approve the minutes for the Council meetings of February 14 (regular), February 21 (special), February 27 (closed and special), February 28 (special and regular), March 13 (closed), March 14 (special and regular), March 20 (special) and March 21 (special and regular).

Financial Implications: None

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

2. Formal Bid Solicitations and Request for Proposals Scheduled for Possible Issuance After Council Approval on April 11, 2023

From: City Manager

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

Financial Implications: General Fund - \$120,000

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

3. Contract No. 31900273 Amendment: Bay Area Community Services North County Housing Resource Center

From: City Manager

Recommendation: Adopt a Resolution amending Contract No. 31900273 with Bay Area Community Services (BACS) North County Housing Resource Center (HRC) by increasing the not to exceed amount (NTE) by \$80,000 utilizing one-time grant funds. The amendment will increase the NTE amount from \$11,410,274 to \$11,490,274.

Financial Implications: See report

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

Consent Calendar

- 4. Contract: JSI Research & Training Institute, Inc. for Community Health Assessment, Innovation, and Improvement Plan Consultant**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute a contract and any amendments with JSI Research & Training Institute, Inc. to serve as a Community Health Assessment, Innovation, and Improvement Plan consultant for the City of Berkeley's Health, Housing, and Community Services (HHCS) Department from May 1, 2023 to May 1, 2025 in an amount not to exceed \$249,413.
Financial Implications: See report
Contact: Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400
- 5. Contract: Easy Does It for Provision of Wheelchair Van Service for Seniors & the Disabled**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager, or her designee, to execute a contract and any amendments with Easy Does It in the amount of \$175,000 for the period of July 1, 2023 through June 30, 2026 for the provision of accessible wheelchair van services to clients of the Aging Services Division's Berkeley Rides for Seniors & the Disabled program.
Financial Implications: See report
Contact: Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400
- 6. Contract No. 32100126 Amendment: Anjanette Scott LLC for Housing Consultant Services**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 32100126 with Anjanette Scott LLC increasing the contract by \$50,000 for consulting services in a total amount not to exceed \$150,000, with a contract end date of June 30, 2024.
Financial Implications: See report
Contact: Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400
- 7. Contract No. 32000224 Amendment: GovtInvest Labor Costing, Pension & OPEB Analysis Software**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute a contract amendment to Contract No. 32000224 with GovtInvest for a labor costing, pension and OPEB (Other Post-Employment Benefits) analysis software system, increasing the amount of the contract by \$150,000 to cover 3 years of subscription access to this service for a revised total contract amount not to exceed \$200,000.
Financial Implications: See report
Contact: Aram Kouyoumdjian, Human Resources, (510) 981-6800

Consent Calendar

8. Side Letter of Agreement – Service Employees International Union, Local 1021 Community Services & Part-Time Recreation Leaders Association

From: City Manager

Recommendation: Adopt a Resolution authorizing the City Manager to execute and implement a Side Letter of Agreement with Service Employees International Union, Local 1021 Community Services & Part-Time Recreation Leaders Association (PTRLA) to modify Section 15.6 of the Memorandum of Agreement regarding Hazardous Substance Special Assignment Pay. Effective July 7, 2022, employees who are regularly assigned to perform services in unhooded settings throughout the service area shall receive a three percent (3%) salary differential to their base pay for all actual hours worked in the field and performing duties in unhooded settings. This Resolution follows Council consideration of this item in Closed Session on December 12, 2022.

Financial Implications: See report

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

9. Contract No. 31900122-1 Amendment: Rolling Orange, Inc. for Additional Website Maintenance and Support

From: City Manager

Recommendation: Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 31900122-1 with Rolling Orange, Inc. for additional website maintenance and support for an amount not-to-exceed \$105,000 and a total contract value not-to-exceed \$674,300 from March 1, 2019 to June 30, 2025.

Financial Implications: See report

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

10. Donation: Memorial Bench at the Berkeley Marina in memory of Sophia Pritzos

From: City Manager

Recommendation: Adopt a Resolution accepting a cash donation in the amount of \$3,400 for a memorial bench to be placed at the Berkeley Marina in memory of Sophia Pritzos.

Financial Implications: \$3,400 (Donation)

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

11. Lease Amendment: Cazadero Performing Arts Camp (CPAC), 5385 Cazadero Hwy, Cazadero, CA 95421

From: City Manager

Recommendation: Adopt first reading of an Ordinance authorizing the City Manager to execute an amendment to a lease agreement with Cazadero Performing Arts Camp (CPAC), at 5385 Cazadero Hwy, Cazadero, CA 95421, for City to disburse up to \$400,000 to tenant to implement capital improvements to satisfy City's obligations under the lease.

Financial Implications: Measure T1 Fund - \$400,000

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

Consent Calendar

- 12. Contract: Power Engineering Construction for the Selective Timber Pile Replacement Project at the Berkeley Marina**
From: City Manager
Recommendation: Adopt a Resolution: 1. Approving the plans and specifications for the Berkeley Marina Selective Pile Replacement Project (Bid Specification No. 23-11567-C); and 2. Accepting the bid of Power Engineering Construction as the lowest responsive and responsible bidder on the Project; and 3. Authorizing the City Manager to execute a contract and any amendments, extensions or other change orders until completion of the project in accordance with the approved plans and specifications, with Power Engineering Construction, for the Berkeley Selective Piling Replacement Project, in an amount not to exceed \$3,175,000, which includes a contract amount consisting of base bid plus allowance of \$2,710,690 and a 17.13% contingency in the amount of \$464,310.
Financial Implications: See report
Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700
- 13. Contract No. 10785 Amendment: West Coast Arborist, Inc for Tree Removal and Pruning Service**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to amend Contract No. 10785 with West Coast Arborist, Inc. for tree removal and pruning service by increasing the contract amount by \$100,000 for a not-to-exceed amount of \$1,290,000.
Financial Implications: 2023 Parks Tax Fund - \$1,290,000
Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700
- 14. Accept Grant Funding From the Board of State and Community Corrections (BSCC) Officer Wellness and Mental Health Grant Award Program**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager, or designee, to accept the Board of State and Community Corrections (BSCC) Officer Wellness and Mental Health Grant Award. The total funding awarded to the Berkeley Police Department is \$106,014 for the period July 1, 2022, to December 1, 2025. Funds for the grant will be used to enhance officer wellness and resilience by providing mental health resources.
Financial Implications: See report
Contact: Jennifer Louis, Police, (510) 981-5900
- 15. Support March 21, 2023 Day of Action Urging Banks to Divest from Fossil Fuel Businesses**
From: Peace and Justice Commission
Recommendation: Adopt a Resolution that the City of Berkeley Council support the Tuesday March 21, 2023 nation-wide day of action to tell banks to divest from fossil fuel projects, and encourages Berkeley's residents to support and participate in local actions on that date.
Financial Implications: None
Contact: Okeya Vance-Dozier, Commission Secretary, (510) 981-7100

Consent Calendar

16a. Allocation of \$3 Million Over Two Years, FY 2024 and FY 2025, to Reduce Consumption and Health Impacts of Sugar-Sweetened Beverages (SSBs).

(Reviewed by the Budget and Finance Policy Committee)

From: Sugar Sweetened Beverage Product Panel of Experts

Recommendation: Adopt a Resolution allocating \$3 million from the General Fund in FY24 (July 1, 2023 through June 30, 2024) and FY25 (July 1, 2024 through June 30, 2025) that shall be invested in a grant program administered and coordinated by the Department of Health, Housing, and Community Services' (HHCS) Public Health Division (HHCS/PHD) consistent with the Sugar-Sweetened Beverage Product Panel of Experts (SSBPPE) Commission's goals to reduce the consumption of sugar sweetened beverages (SSB) in Berkeley and to address the health effects of SSB consumption. The total of \$3 million will be distributed in two installments of \$1.5 million per year for FY24 and FY25. In each of these years, the funds will be distributed as follows: a. Direct the City Manager to award up to 42.5% of the allocated funds to Berkeley Unified School District (BUSD) through a grant proposal to reduce the consumption of sugar-sweetened beverages (SSBs) through the implementation and enhancement of the BUSD cooking and gardening programs. The BUSD funding process is separate from the RFP process for the general community-based organization funding process and shall be guided by the SSBPPE Commission's Criteria for BUSD Funding. b. Direct the City Manager to award at least 42.5% of the allocated funds through an RFP process managed by HHCS/PHD for grants to community-based organizations consistent with the SSBPPE Commission's goals to reduce the consumption of SSBs and to address the effects of SSB consumption. The community-based organization funding RFP process is separate from the BUSD funding process and shall be guided by the SSBPPE Commission's Criteria for Community Agency Grants. c. Direct the City Manager to utilize up to 15% of the allocated funds to support HHCS/PHD to coordinate and monitor the grant process, coordinate the overall program evaluation, and produce an annual report that disseminates process and outcome data from the epidemiologist resulting from the SSBPPE Commission funding program as well as pay certain City of Berkeley Finance Department costs related to the sugary drink tax.

Policy Committee Recommendation: To forward the item to Council with a Qualified Positive Recommendation to approve staff's recommendation, with an additional amount of \$35,590 in FY24 and FY25, and any additional revenues beyond the projected amounts being prioritized for grants.

Financial Implications: See report

Contact: Roberto Terrones, Commission Secretary, (510) 981-5400

Consent Calendar

16b. Companion Report: Allocation of \$3 Million Over Two Years, FY24 and FY25, to Reduce Consumption and Health Impacts of Sugar-Sweetened Beverages (SSBs). *(Reviewed by the Budget and Finance Policy Committee)*

From: City Manager

Recommendation: Adopt a Resolution allocating \$2 million from the General Fund in FY24 (July 1, 2023 through June 30, 2024) and FY25 (July 1, 2024 through June 30, 2025) that shall be invested in a grant program administered and coordinated by the Department of Health, Housing, and Community Services' (HHCS) Public Health Division (HHCS/PHD) consistent with the Sugar-Sweetened Beverage Product Panel of Experts (SSBPPE) Commission's goals to reduce the consumption of sugar sweetened beverages (SSB) in Berkeley and to address the health effects of SSB consumption. The total of \$2 million will be distributed in two installments of \$1 million per year for FY24 and FY25. The funds will be distributed as follows: a. Direct the City Manager to award up to \$712,000 of the allocated funds to Berkeley Unified School District (BUSD) for the period, July 1, 2023 to June 30, 2025 through a grant proposal to reduce the consumption of sugar-sweetened beverages (SSBs) through the implementation and enhancement of the BUSD cooking and gardening programs. The BUSD funding process is separate from the RFP process for the general community-based organization funding process and shall be guided by the SSBPPE Commission's Criteria for BUSD Funding. b. Direct the City Manager to award at least \$712,000 of the allocated funds for the period, July 1, 2023 to June 30, 2025 through an RFP process managed by HHCS/PHD for grants to community-based organizations consistent with the SSBPPE Commission's goals to reduce the consumption of SSBs and to address the effects of SSB consumption. The community-based organization funding RFP process is separate from the BUSD funding process and shall be guided by the SSBPPE Commission's Criteria for Community Agency Grants. c. For the period, July 1, 2023 to June 30, 2025, direct the City Manager to allocate \$125,000 to fund Finance Department costs for staffing and MuniServices fees and \$451,000 to HHCS/PHD for staffing, operating and consulting costs to coordinate and monitor the grant process, manage resulting contracts awarded, support activities aligned with the goal of the sugary beverage tax, including the Healthy Retail Checkout ordinance, and provide an annual presentation to the SSBPPE Commission that includes process and outcome data and updates on Finance Department fees related to the sugary drink tax for the SSBPPE Commission to inform the development of the Commission's annual report. d. Carryover any sugary drink tax revenue received in excess of \$2 million during FY24 and FY25 to be awarded for related services in FY25 – FY27.

Policy Committee Recommendation: To forward the item to Council with a Qualified Positive Recommendation to approve staff's recommendation, with an additional amount of \$35,590 in FY24 and FY25, and any additional revenues beyond the projected amounts being prioritized for grants.

Financial Implications: See report

Contact: Henry Oyekanmi, Finance, (510) 981-7300, Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400

Council Consent Items

- 17. Support AB 40 – Improving Ambulance Patient Offload Times**
From: Mayor Arreguin (Author), Councilmember Bartlett (Co-Sponsor)
Recommendation: Adopt a Resolution in support of AB 40 (Rodriguez), which develops a 20-minute statewide standard for ambulance patient offload times. Send a copy of the Resolution to Assemblymembers Freddie Rodriguez and Buffy Wicks, State Senator Nancy Skinner, and Governor Gavin Newsom.
Financial Implications: None
Contact: Jesse Arreguin, Mayor, (510) 981-7100
- 18. Resolution to Support AB 1001**
From: Mayor Arreguin (Author), Councilmember Taplin (Co-Sponsor), Councilmember Bartlett (Co-Sponsor)
Recommendation: Adopt a Resolution in support of Assembly Bill 1001, introduced by Assembly Member Matt Haney, and send a copy of the Resolution to Governor Gavin Newsom, State Senator Nancy Skinner, and Assembly Members Matt Haney and Buffy Wicks.
Financial Implications: See report
Contact: Jesse Arreguin, Mayor, (510) 981-7100
- 19. Establishment of Fred Ross Memorial Bench in Cesar Chavez Park**
From: Mayor Arreguin (Author)
Recommendation: Adopt a Resolution directing the City Manager to work with the family of the late Fred Ross Jr. to dedicate a memorial bench at the west facing edge of Cesar Chavez Park in his honor. The family of Fred Ross Jr. shall be responsible for the cost of the bench and shall be engaged in determining the location of the bench.
Financial Implications: None
Contact: Jesse Arreguin, Mayor, (510) 981-7100
- 20. Support for AB 1690 (Universal health care coverage)**
From: Councilmember Taplin (Author), Mayor Arreguin (Co-Sponsor), Councilmember Bartlett (Co-Sponsor), Councilmember Harrison (Co-Sponsor)
Recommendation: Send a letter to Assemblymember Ash Kalra (D-San Jose) in support of AB 1690 (Universal health care coverage).
Financial Implications: Staff time
Contact: Terry Taplin, Councilmember, District 2, (510) 981-7120
- 21. Support for AB 362 (Land value taxation study)**
From: Councilmember Taplin (Author), Councilmember Bartlett (Co-Sponsor), Councilmember Harrison (Co-Sponsor)
Recommendation: Send a letter to Assemblymember Alex Lee (D-San Jose) in support of AB 362 (Land value taxation study).
Financial Implications: See report
Contact: Terry Taplin, Councilmember, District 2, (510) 981-7120

Council Consent Items

22. Referral to the June 2023 Budget Process to Increase Capacity for Berkeley Community Media

From: Councilmember Harrison (Author), Councilmember Bartlett (Co-Sponsor)

Recommendation: Refer \$54,000 to the June, 2023 budget Process to increase personnel funding for Berkeley Community Media (BCM), advancing two current part time employees to full time.

Financial Implications: \$54,000

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

23. Referral to the June 2023 Budget Process for Funding Harold Way Placemaking Project Schematic Design

From: Councilmember Harrison (Author)

Recommendation: Refer \$100,000 to the June 2023 Budget Process to fund Harold Way Placemaking Project Schematic Design.

Financial Implications: See report

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

24. Referral to the June 2023 Budget Process as a sole source procurement contract for Two Full-Time Social Workers for Social Justice Collaborative
From: Councilmember Harrison (Author)

Recommendation: Refer \$147,000 to the June 2023 Budget Process as a sole source procurement contract for annual staffing costs associated with funding two social workers to provide low-income immigrants, asylum seekers, unaccompanied children, young dreamers, and displaced families with direct legal services and legal representation.

Financial Implications: See report

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

25. Referral \$100,000 to the June, 2023 Budget Process to Design a Comprehensive Berkeley Police Early Intervention and Risk Management System

From: Councilmember Harrison (Author), Councilmember Bartlett (Co-Sponsor)

Recommendation: Refer \$100,000 to the June, 2023 Budget Process to enter into a contract to design and assist with implementing a comprehensive Berkeley Police Department Early Intervention and Risk Management System to provide necessary data and help in implementing fair and impartial policing policies and public safety reimagining.

Financial Implications: See report

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

Council Consent Items

26. Referring \$579,000 to the June 2023 Budget Process for Staffing Costs Associated with Acquisition of and Prevention of Displacement from Multi-Family Housing

From: Councilmember Harrison (Author)

Recommendation: Refer \$579,000 to the June 2023 Budget Process for annual City staffing costs and for allied non-profits to implement and administer programs associated with acquisition and prevention of displacement from multi-family housing including the Small Sites Program, investments related to the Empty Homes Tax, and administrative implementation of the proposed Berkeley Community and Tenant and Opportunity to Purchase Act (COPA/TOPA).

Financial Implications: See report

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

27. Relinquishment of Council Office Budget Funds to Grant Downtown Berkeley Association (DBA) \$500 for 2274 Shattuck Avenue Mural Project serving a Municipal Public Purpose.

From: Councilmember Harrison (Author), Councilmember Bartlett (Co-Sponsor)

Recommendation: Adopt a resolution approving the expenditure to grant Downtown Berkeley Association (DBA) \$500 for the 2274 Shattuck Avenue Mural Project serving a Municipal Public Purpose, with funds relinquished to the City's general fund for this purpose from Councilmember Harrison's discretionary Council Office Budget Fund.

Financial Implications: See report

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

28. Resolution in Support of AB 641: Automobile dismantlers: catalytic converters
From: Councilmember Harrison (Author)

Recommendation: Adopt resolution in support of AB 641, Automobile dismantlers: catalytic converters, amending Section 220 of the Vehicle Code to revise and expand the definition of "automobile dismantler" to include individuals illegally in possession of two or more catalytic converters.

Financial Implications: Staff time

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

29. Proclaiming May as Jewish American Heritage Month

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

Recommendation: Adopt a resolution proclaiming May as Jewish American Heritage Month.

Financial Implications: None

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

Council Consent Items

30. Kala Art Institute 2023 Relinquishment of Council Office Budget Funds to General Fund and Grant of Such Funds

From: Councilmember Hahn (Author), Councilmember Taplin (Co-Sponsor)

Recommendation: Adopt a resolution approving the expenditure of an amount not to exceed \$500 per Councilmember, including \$250 from Councilmember Hahn and \$500 from Councilmember Taplin, to the Kala Art Institute, a 501(c)(3) non-profit organization, to support Art Kala 2023, an exhibition, auction, and benefit to support Kala's artistic, cultural, and educational programs, with funds relinquished to the City's general fund for this purpose from the discretionary Council office budgets of Councilmembers Hahn and Taplin, and from any other Councilmembers who would like to contribute.

Financial Implications: Councilmembers' Discretionary Funds - \$500

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

Council Consent Items

31. **Budget Referral: Funds to Study Berkeley's Affordable and Social Housing Needs and Programmatic and Funding Opportunities**

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

Recommendation: Refer \$250,000 to the June 2023 budget process to study and report to Council on: 1. The need for Affordable Housing in Berkeley to: a. Rehouse Berkeley's unhoused residents. b. Meet the housing needs of very low-, low- and moderate-income Berkeley residents, from less than 30% to 120% of Area Median Income (AMI). c. Significantly increase cooperative, land trust, and other Social Housing, including innovative social housing models that provide significant moderate-income housing opportunities. d. Meet the needs of low-income artists, seniors, individuals with disabilities, and other populations with unique needs. e. Potentially increase Affordable Housing, up to 100%, at North Berkeley and Ashby Bart Stations. f. Meet the City's Housing Element Affordable Housing production requirements of 5,270 units from 30%-120% AMI in a timely manner, prior to the end of the current RHNA cycle in 2031. 2. Existing and potential new programs to increase homeownership for low-income and first-time homebuyers. 3. Needs/programs to accelerate the City's Small Sites Program. 4. Existing and upcoming funds available at the local, County, Regional, State, and Federal levels to support Berkeley in meeting its Affordable and Social Housing needs and requirements. 5. Berkeley-specific funds required to meet Affordable and Social Housing needs and to produce Berkeley's RHNA-required Affordable Housing, including funds to build capacity at Land Trusts and other organizations to deliver Cooperative and Social Housing. 6. Existing sources and amounts of Funding available to meet Berkeley's Affordable and Social Housing needs and requirements. 7. Potential Bonds or other measures to secure necessary Affordable and Social Housing funds including a potential measure or measures on the November 2024 ballot, based on the success of 2018 Measure O. 8. Added costs of delaying the preservation and construction of Affordable Housing, including potential increased costs for land, financing, and construction, and the yearly/per-individual cost of providing services to Berkeley's unhoused residents. 9. Consequences of failure to meet RHNA Affordable Housing allocations in a timely manner. 10. Potential re-authorization of Measure P in November of 2024 as a permanent measure, to extend additional funding available to support rehousing the homeless. 11. Any other information related to Affordable and Social Housing in Berkeley to help inform residents and the City Council of the need for additional Affordable Housing and Affordable Housing programs and funds, and funds to rehouse the homeless. Study to be delivered to the City Council no later than December 1, 2023 and to include a plan for Berkeley to meet its Affordable and Social Housing needs and requirements and recommendations for additional funds, programs, and other measures to meet needs over the next decade.

Financial Implications: See report

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

Council Consent Items

- 32. Budget Referral: \$30,000 for Yield Signs at Two Unmarked Intersections**
From: Councilmember Wengraf (Author)
Recommendation: In support of the City's Pedestrian Plan with a vision that, "Berkeley is a model walkable city where traveling on foot or with an assistive device is safe, comfortable, and convenient for people of all races, ethnicities, incomes, ages, and abilities," refer to the Fiscal Year 2024 Budget Process an allocation of \$30,000 to install "YIELD" signs at two unmarked intersections at Shasta and Queens and Quail and Queens.
Financial Implications: \$30,000
Contact: Susan Wengraf, Councilmember, District 6, (510) 981-7160
- 33. Budget Referral: \$150,000 for Handrails, Lights and Signage for City Pedestrian Path Network**
From: Councilmember Wengraf (Author), Councilmember Hahn (Co-Sponsor), Councilmember Humbert (Co-Sponsor), Councilmember Taplin (Co-Sponsor)
Recommendation: In support of the City's goals as stated in the "General Plan," "Local Hazard Mitigation Plan," "Pedestrian Plan," and "Community Wildfire Protection Plan", refer to the Fiscal Year 2024 Budget Process an allocation of \$150,000 for the installation of lighting, handrails and signage on paths deemed most critical for safe evacuation throughout Berkeley.
Financial Implications: \$150,000
Contact: Susan Wengraf, Councilmember, District 6, (510) 981-7160
- 34. Approval of the Public Bank East Bay Viability Study** *(Reviewed by the Budget & Finance Committee)*
From: Councilmember Robinson (Author), Mayor Arreguin (Co-Sponsor), Councilmember Harrison (Co-Sponsor), Councilmember Hahn (Co-Sponsor)
Recommendation: Refer to the Budget & Finance Policy Subcommittee to review and discuss the Public Bank East Bay Viability Study and consider the following recommendations for the full Council: (1) Adopt a resolution formally adopting the viability study; (2) Adopt a resolution of intention to form the Public Bank East Bay alongside Oakland & Richmond; (3) Refer to the City Manager to coordinate with the Friends of the Public Bank of the East Bay and the staff of the cities of Oakland and Richmond on the development of a business plan for the Public Bank of the East Bay, or designate the appropriate staff to do so; (4) Refer to the City Manager to engage an independent consultant with expertise in banking operations and financing to advise city staff as they coordinate with the Friends of the Public Bank East Bay and participating jurisdictions in the production of a business plan for a public bank
Policy Committee Recommendation: To send the item to Council with a positive recommendation.
Financial Implications: See report
Contact: Rigel Robinson, Councilmember, District 7, (510) 981-7170

Council Consent Items

**35. Budget Referral: Fully fund the City's 50-50 Sidewalk Repair Program
From: Councilmember Humbert (Author), Councilmember Robinson (Co-Sponsor)**

Recommendation: Refer \$2.2 million to the FY 24 Mid-Biennial Budget Update for the purpose of fully funding clearance of the existing backlog in Berkeley's 50-50 Sidewalk Repair Program. Refer an additional \$1 million per year (above the existing \$1 million baseline funding for sidewalk repair) to future budget processes to ensure all of Berkeley's sidewalks are kept in a state of good repair.

Financial Implications: See report

Contact: Mark Humbert, Councilmember, District 8, (510) 981-7180

Action Calendar

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

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

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

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

Action Calendar – Scheduled Public Comment Period

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

Action Calendar – Old Business

36. Adopt Ordinance Adding Chapter 2.102 to the Berkeley Municipal Code to Establish a Labor Peace Policy Minimizing Labor/Management Conflict in Berkeley Marina Zone (Continued from March 21, 2023) (Item Contains Revised Material)

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

Recommendation: Adopt Ordinance Adding Chapter 2.102 to the Berkeley Municipal Code (BMC) to Establish a Labor Peace Policy minimizing labor/management conflict in Berkeley Marina Zone.

Financial Implications: See report

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

Action Calendar – New Business

37. **Unfunded Liability Obligations and Unfunded Infrastructure Needs**

From: City Manager

Recommendation: That the City Council takes the following actions:

1. Accept the Unfunded Liability Obligations and Unfunded Infrastructure Needs report;
2. Receive a presentation on Pensions and Other-Post Employment Benefits tonight and provide staff with direction;
3. Schedule for either the April 25, 2023 City Council Meeting or at a later date to be determined a presentation and discussion on Unfunded Infrastructure Needs.

Financial Implications: See report

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

38a. **Recommendation for RV Lot and Waste Management on Streets for RVs**

From: Homeless Services Panel of Experts

Recommendation: The Homeless Services Panel of Experts recommends to Council that they refer to staff to expedite all efforts to identify a location for another RV lot(s) to take the place of the now closed SPARK lot at 742 Grayson and that the new lot identified require mandatory safety inspections and fire extinguishers to be provided. The Homeless Services Panel of Experts further recommends that Council refer to staff to develop a waste management plan to be implemented for RVs currently on the streets.

Financial Implications: See report

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

38b. **Companion Report to Recommendation for RV Lot and Waste Management on Streets for RVs**

From: City Manager

Recommendation: Refer the Homeless Services Panel of Experts' recommendation to identify and expedite a new safe RV parking location/program and develop a waste management plan for RVs on the streets to the Budget and Finance Policy Committee for consideration alongside all other homeless services priorities in the budget process.

Financial Implications: See report

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

39a. **Referral of two health educator positions to the COB FY 2024 budget process**

From: Peace and Justice Commission

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

Financial Implications: See report

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

Action Calendar – New Business

39b. Companion Report: Referral of two health educator positions to the COB FY 2024 budget process

From: City Manager

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

Financial Implications: None

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

Information Reports

40. Environment and Climate Commission 2023 Work Plan

From: Environment and Climate Commission

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

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.*

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

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

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

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

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

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

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

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

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

COMMUNICATION ACCESS INFORMATION:

This meeting is being held in a wheelchair accessible location.

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

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



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

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***I hereby certify that the agenda for this meeting of the Berkeley City Council was posted at the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way, as well as on the City's website, on March 30, 2023.***

A handwritten signature in black ink, appearing to read "Mark Numainville".

Mark Numainville, City Clerk

## **Communications**

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

### **Unhoused Attacking Community Members**

1. Diana Lui, Creative Director, Asha Tea House
2. Sergeant Kevin Kleepe, Community Service Bureau, Special Response Team with City of Berkeley Police Department (2)
3. Anna Weinstein

### **BART Development**

4. Tom Athanasiou
5. Netsy Firestein
6. Stephanie Roth

7. Gerry Tierney
8. Greg Castillo
9. Matthew Wadlund
10. Pablo Diza-Gutierrez
11. Julie Goldobin
12. Lee Bishop
13. Andrea Horbinski
14. Teresa Clarke

### **Golden Bear Housing**

15. Peter Radu, Manager of Neighborhood Service
16. Becca Sullivan

### **Aquatic Park Fish Die-Off**

17. Melinda Howard-Herrarte, on behalf of Northern Alameda County Group

### **Gender Based Domestic Violence**

18. Cameron Johnson, on behalf of Homeless Services Panel of Experts

### **Recycling**

19. David Lerman (2)
20. Heather Kay

### **Fire Evacuation & Emergency Service Routes**

21. Margot Smith, on behalf of Commission on Aging

### **CDC Maternal Mortality Rates 2021**

22. Carole Marasovic

### **Chipper Postcard Mailer**

23. David Sprague, Interim Fire Chief

### **Creating Quiet Zones**

24. Amir Gholi

### **Add Domestic Violence Department Back to Berkeley Police Department**

25. Mee345@ (2)

### **Public Comment at Council Meetings**

26. Vivian Warkentin

### **Support Hybrid Meetings**

27. Ardys D.

### **Garbage Rates**

28. Marilyn Kwock

- 29. Donna Hemmila
- 30. Robert Lauriston
- 31. Pamela Michaud
- 32. Eric Friedman

**Fixed Video Surveillance Cameras**

- 33. Hansel Alejandro Aguilar, Director of Police Accountability
- 34. Jen Louis, Interim Police Chief

**Senior Centers**

- 35. Eileen Hughes
- 36. Wendy Alfsen
- 37. Jamal Williams

**Offer to Present Center Street Greenway**

- 38. Kirstin Miller, on behalf of Ecocity Builders

**Harriet Tubman Apartments**

- 39. Moni Law
- 40. Christoverre Kohler

**Support for Ebike Rebate & Bike Storage**

- 41. Tom Lent and Liza Lutzker, on behalf of Walk Bike Berkeley

**Regulate Pesticides**

- 42. Maya Cohen

**Ohlone Greenway at North Berkeley BART**

- 43. Charles Siegel

**Golden Gate Fields/Horses**

- 44. Angie Bushby
- 45. Melissa Mangini
- 46. Nancy Veerhusen
- 47. Marisa Menedez
- 48. Dale A
- 49. Jennifer Milliken

**Residential Vacancy Rates**

- 50. Gregory Kalkanis

**Keep Innovations in Berkeley Initiative**

- 51. Wesly Jackson, on behalf of Valitor

**Banning the Retail Sale of Animals**

- 52. Laura Ide



**People’s Park Anniversary Needs Porta-Potties**

53. Hali Hammer

**Shattuck Avenue Building Heights**

54. Larisa Cummings

**Berkeley Municipal Code 7.72**

55. Narelia

**Fraudulent Sale of 1590 Oregon to Avoid Taxes**

56. George Wolff

**Tibetan National Flag Raising Ceremony**

57. Jinpa Tharchin, on behalf of Tibetan Association of Northern California

**Berkeley’s Mansion Tax**

58. Fred Dodsworth

**American For Responsible Technology**

59. Vivian Warkentin

**Restore and Daylight Strawberry Creek**

60. Pamela Drake

**Trash Pickup at Sweet Green Restaurant**

61. Chris Cook

**Proclamation for 100 Years of Age Berkeley Resident**

62. Berkeley’s Mayor Office

**Storm Situation Update for March 27 to March 28, 2023**

63. Dee Williams-Ridley, City Manager

**URL’s Only**

64. Vivian Warkentin (4)

65. Fred Dodsworth

**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  
April 11, 2023

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

RECOMMENDATION

Approve the minutes for the Council meetings of February 14 (regular), February 21 (special), February 27 (closed and special), February 28 (special and regular), March 13 (closed), March 14 (special and regular), March 20 (special) and March 21 (special and regular).

CONTACT PERSON

Mark Numainville, City Clerk, 981-6900

Attachments:

1. February 14, 2023 - Regular Council Meeting
2. February 21, 2023 - Special Council Meeting
3. February 27, 2023 – Special Closed Council Meeting
4. February 27, 2023 - Special Council Meeting
5. February 28, 2023 - Special Council Meeting
6. February 28, 2023 - Regular Council Meeting
7. March 13, 2023 – Special Closed Meeting
8. March 14, 2023 – Special Council Meeting
9. March 14, 2023 – Regular Council Meeting
10. March 20, 2023 – Special Council Meeting
11. March 21, 2023 - Special Council Meeting
12. March 21, 2023 -Regular City Council Meeting

**MINUTES**  
**BERKELEY CITY COUNCIL MEETING**  
**Tuesday, February 14, 2023**  
**6:00 PM**

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

JESSE ARREGUIN, MAYOR

Councilmembers:

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

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

***PUBLIC ADVISORY: THIS MEETING WILL BE CONDUCTED IN A HYBRID MODEL WITH BOTH IN-PERSON ATTENDANCE AND VIRTUAL PARTICIPATION***

*For in-person attendees, face coverings or masks that cover both the nose and the mouth are required. Physically distanced seating will be available. If you are feeling sick, please do not attend the meeting in person.*

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

*To access the meeting remotely: Join from a PC, Mac, iPad, iPhone, or Android device: Please use this URL <https://cityofberkeley-info.zoomgov.com/j/1617057994>. If you do not wish for your name to appear on the screen, then use the drop down menu and click on "rename" to rename yourself to be anonymous. To request to speak, use the "raise hand" icon by rolling over the bottom of the screen.*

*To join by phone: Dial 1-669-254-5252 or 1-833-568-8864 (Toll Free) and enter Meeting ID: 161 705 7994. If you wish to comment during the public comment portion of the agenda, Press \*9 and wait to be recognized by the Chair.*

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

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

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

## Preliminary Matters

**Roll Call:** 6:04 p.m.

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

**Absent:** Bartlett

Councilmember Bartlett present at 6:08 p.m.

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

### Ceremonial Matters:

1. Adjourned in memory of Chimey Lee, Community Activist
2. Adjourned in memory of Mel Martynn, Community Activist
3. Adjourned in memory of Richard Valle, Alameda County Supervisor, District 2
4. Adjourned in memory of Susan Felix, Arts and Affordable Housing Advocate

**City Manager Comments:** None.

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

**Action:** M/S/C (Arreguin/Robinson) to accept an urgency item from Councilmember Robinson pursuant to Government Code Section 54954.2(b)(2) entitled Letter to Senator Nancy Skinner and Assemblymember Phil Ting in Support of Public Transit Funding in FY 2023-24 State Budget.

**Vote:** All Ayes.

**Action:** M/S/C (Arreguin/Harrison) to accept an urgency item from Councilmember Bartlett pursuant to Government Code Section 54954.2(b)(2) entitled Black History Month Awards by the Berkeley Public Schools Fund: Relinquishment of Council Office Budget Funds to General Fund and Grant of Such Funds.

**Vote:** All Ayes.

## Consent Calendar

**Public Comment on Consent Calendar and Information Items Only:** 8 speakers.

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

**Vote:** All Ayes.

**Urgent Item: Letter to Senator Nancy Skinner and Assemblymember Phil Ting in Support of Public Transit Funding in FY 2023-24 State Budget**

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

**Recommendation:** Send a letter to Senate Budget and Fiscal Review Committee Chair Nancy Skinner and Assembly Committee on Budget Chair Phil Ting to urge them to prioritize funding in the FY 2023-24 budget to avoid the impending fiscal cliff faced by transit agencies in the wake of COVID-19.

**Financial Implications:** None

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

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

**Urgent Item: Black History Month Awards by the Berkeley Public Schools Fund: Relinquishment of Council Office Budget Funds to General Fund and Grant of Such Funds**

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

**Recommendation:** Adopt a Resolution approving the expenditure of funds, including \$3000 from the discretionary Council office budget of Vice Mayor Ben Bartlett, to the Berkeley Public School Fund for the Black History Month Awards. The funds will be relinquished to the City's General Fund from the discretionary council office budget of Councilmember Ben Bartlett and the discretionary council office budgets of any other Councilmembers who would like to contribute.

**Financial Implications:** See report

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

**Action:** Adopted Resolution No. 70,688–N.S. revised to include contributions from the following Councilmembers up to the amounts listed: Councilmember Hahn - \$200; Councilmember Wengraf - \$250; Councilmember Robinson - \$200; Councilmember Kesarwani - \$100; Councilmember Humbert - \$200; Mayor Arreguin - \$250; Councilmember Taplin - \$1,000, Councilmember Harrison - \$200.

## Consent Calendar

1. **Parking/Towing Fines & Fees Reform** *(Reviewed by the Health, Life Enrichment, Equity & Community Committee)*  
**From: Councilmember Robinson (Author), Councilmember Harrison (Co-Sponsor), Councilmember Bartlett (Co-Sponsor), Councilmember Hahn (Co-Sponsor)**  
**Recommendation:** Adopt second reading of Ordinance No. 7,854-N.S. amending BMC 14.72.080 to allow individuals who are eligible for Residential Preferential Parking (RPP) permits and also for parking citation Indigent Payment Plans to purchase Residential Parking Permits even if they have outstanding parking tickets older than 21 days.  
**First Reading Vote:** Ayes – Taplin, Bartlett, Harrison, Hahn, Wengraf, Robinson, Humbert, Arreguin; Noes – None; Abstain – Kesarwani; Absent – None.  
**Financial Implications:** See report  
Contact: Rigel Robinson, Councilmember, District 7, (510) 981-7170  
**Action:** Adopted second reading of Ordinance No. 7,854–N.S.  
**Vote:** Ayes – Taplin, Bartlett, Harrison, Hahn, Wengraf, Robinson, Humbert, Arreguin; Noes – None; Abstain – Kesarwani; Absent – None.
  
2. **Formal Bid Solicitations and Request for Proposals Scheduled for Possible Issuance After Council Approval on February 14, 2023**  
**From: City Manager**  
**Recommendation:** Approve the request for proposals or invitation for bids (attached to staff report) that will be, or are planned to be, issued upon final approval by the requesting department or division. All contracts over the City Manager’s threshold will be returned to Council for final approval.  
**Financial Implications:** Various Funds - \$2,124,000  
Contact: Henry Oyekanmi, Finance, (510) 981-7300  
**Action:** Approved recommendation.
  
3. **Contract: Public Consulting Group for Professional Services**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to enter into a contract with Public Consulting Group (PCG) for professional services related to the Ground Emergency Medical Transport (GEMT), Quality Assurance Fee (QAF), Intergovernmental Transfer (IGT), and Public Provider Ground Emergency Medical Transport (PP-GEMT) programs using the General Services Agency’s (GSA) contract No. 47QTCA20D004Y for an amount not to exceed \$200,000 in the base term from March 1, 2023 through January 22, 2025 and not to exceed \$300,000 in total with one two (2) year extension to January 22, 2027 if the GSA contract is extended.  
**Financial Implications:** See report  
Contact: David Sprague, Fire, (510) 981-3473  
**Action:** Adopted Resolution No. 70,689–N.S.

## Consent Calendar

- 4. Contract: Forster & Kroeger Landscape Maintenance for Chipping Services**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a contract and any amendments, with Forster & Kroeger Landscape Maintenance to provide Chipping Services for two years from May 1, 2023 until April 30, 2025 in the amount not to exceed \$700,000.  
**Financial Implications:** Various Funds - \$700,000  
Contact: David Sprague, Fire, (510) 981-3473  
**Action:** Adopted Resolution No. 70,690–N.S.
- 5. Revenue Contract: 2023 Community Services Block Grant**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager or her designee to accept the Community Services Block Grant (CSBG) Contract Number 23F-4001 in the amount of \$293,705 to provide services for low-income people for the period January 1, 2023 to May 31, 2024.  
**Financial Implications:** See report  
Contact: Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400  
**Action:** Adopted Resolution No. 70,691–N.S. and accepted revised material in Supplemental Communications Packet #2 from the Health, Housing, and Community Services Department.
- 6. Inclement Weather Shelter Program Funding Request and Contract No. 31900284 Amendment- Dorothy Day House (DDH) to Operate an Inclement Weather Shelter**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution allocating an additional \$292,185 from Measure P to the Inclement Weather Shelter Program for a total allocation of \$412,185, and authorizing the City Manager or her designee to execute an amendment to Contract No. 31900284 with Dorothy Day House (DDH) to add \$190,260 to operate an inclement weather shelter for up to 127 nights from December 3, 2022 through April 15, 2023 for a total contract amount not to exceed \$4,211,173.  
**Financial Implications:** See report  
Contact: Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400  
**Action:** Adopted Resolution No. 70,692–N.S.



## Consent Calendar

- 7. Contract: Resources for Community Development for Martin Luther King Jr. House – Mental Health Services Act Operating Support**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a contract with Resources for Community Development (RCD) for Martin Luther King Jr. (MLK) House in the amount of \$107,890, to support hiring additional on-site staff to monitor the 12-room, transitional Single-Room Occupancy housing development.  
**Financial Implications:** Mental Health Services Act Fund - \$107,890  
Contact: Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400  
**Action:** Adopted Resolution No. 70,693–N.S.
- 8. Mills Act Contract – 2523 Piedmont Avenue**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to enter into a Mills Act contract with Wilson Wong and Christian Kwan for the City Structure of Merit property at 2523 Piedmont Avenue.  
**Financial Implications:** See report  
Contact: Jordan Klein, Planning and Development, (510) 981-7400  
**Action:** Adopted Resolution No. 70,694–N.S.
- 9. Mills Act Contract – 2119 Marin Avenue**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to enter into a Mills Act contract with Anne and Michael Ray for the City Landmark property at 2119 Marin Avenue.  
**Financial Implications:** See report  
Contact: Jordan Klein, Planning and Development, (510) 981-7400  
**Action:** Adopted Resolution No. 70,695–N.S.
- 10. Authorize a Funding Agreement with AC Transit to Supplement the Quick-Build Durant Transit Lane Project**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to negotiate and enter into a funding agreement between the City of Berkeley and AC Transit providing \$648,000 in additional City funding to supplement the Quick-Build Durant Transit Lane Project.  
**Financial Implications:** See report  
Contact: Liam Garland, Public Works, (510) 981-6300  
**Action:** Adopted Resolution No. 70,696–N.S. as revised in the revised material in Supplemental Communications Packet #1 from the Public Works Department.

## Council Consent Items

11. **Berkeley Rotary Endowment: Relinquishment of Council Office Budget Funds to General Fund and Grant of Such Fund**  
**From: Mayor Arreguin (Author)**  
**Recommendation:** Adopt a Resolution approving the expenditure of an amount not to exceed \$250 per Councilmember including \$250 from Mayor Arreguin, to the Berkeley Rotary Endowment, with funds relinquished to the City's general fund for this purpose from the discretionary Council Office Budgets of Mayor Arreguin and any other Councilmembers who would like to contribute.  
**Financial Implications:** See report  
Contact: Jesse Arreguin, Mayor, (510) 981-7100  
**Action:** Adopted Resolution No. 70,697–N.S. revised to include contributions from the following Councilmembers up to the amounts listed: Mayor Arreguin - \$250; Councilmember Hahn - \$200; Councilmember Wengraf - \$250; Councilmember Bartlett - \$250; Councilmember Robinson - \$200; Councilmember Taplin - \$250; Councilmember Harrison - \$250; Councilmember Kesarwani - \$100; Councilmember Humbert - \$200.
12. **Referral: Southside Impact Fee Nexus Study**  
**From: Councilmember Robinson (Author), Councilmember Bartlett (Co-Sponsor), Councilmember Harrison (Co-Sponsor), Councilmember Humbert (Co-Sponsor)**  
**Recommendation:**  
1. Refer to the City Manager to establish a development impact fee for projects within the Southside Plan boundary for the purpose of funding Southside public realm improvements. Staff should complete all necessary actions, including preparation of a Nexus Study pursuant to the Mitigation Fee Act.  
2. Refer \$250,000 to the FY 2023 budget process for a consultant to be engaged over a two-year process, starting in 2024, to assist with the vision, capital list, nexus study, fee schedule, and other requirements.  
**Financial Implications:** See report  
Contact: Rigel Robinson, Councilmember, District 7, (510) 981-7170  
**Action:** Approved recommendation.

Recess 8:33 p.m. – 8:43 p.m.

## Action Calendar – Public Hearings

### 13a. Citywide Affordable Housing Requirements

**From: City Manager**

**Recommendation:** Conduct a public hearing and upon conclusion:

1. Adopt first reading of an Ordinance amending the Berkeley Municipal Code Chapter 23.328, updating the citywide Affordable Housing Requirements in the Zoning Ordinance, repealing existing administration and zoning code sections that refer to affordable housing requirements, BMC Section 22.20.065, and Section 23.312.040(A)(6), and updating references to BMC Chapter 23.328 throughout the Berkeley Municipal Code, to become effective on April 1, 2023.
2. Adopt a Resolution establishing regulations for a voucher program and establishing an in-lieu fee pursuant to BMC Chapter 23.328 upon the effective date of contemporaneously adopted amendments to BMC Section 23.328, and rescind Resolution No. 70,668-N.S. related to fees, exemptions, and administration of inclusionary affordable housing and in-lieu programs upon the effective date of contemporaneously adopted amendments to BMC Chapter 23.328.

**Financial Implications:** See report

Contact: Jordan Klein, Planning and Development, (510) 981-7400, Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400

### 13b. Citywide Affordable Housing Requirements

**From: Councilmember Harrison (Author)**

**Recommendation:**

1. Amend Ordinance No. 7,853–N.S. to: a. replace exemption for fewer than five units with less than 3,000 square feet of Gross Floor Area as defined in BMC 23.106.030.
2. Rescind and replace Resolution No. 70,668–N.S. to: a. remove the in-lieu fee discount applied to projects of 12,000 or fewer residential square feet and include an analysis in the upcoming feasibility study of whether and at what size (based on residential square footage) projects should receive a discount in the level of affordable housing mitigation fees. Apply the standard \$45 per square foot fee on projects of between 3,000 and 12,000 residential square feet; and b. utilize square footage instead of unit numbers in studying likely impacts on smaller projects. Expedite the completion of the next feasibility study of the application of in-lieu fees on smaller projects of 3,000 square feet or less (equivalent to four to five units) to determine the level at which in-lieu fees for smaller projects are financially feasible.

**Financial Implications:** See report

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

**Public Testimony:** The Mayor opened the public hearing. 21 speakers.

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

**Vote:** All Ayes.

**Action:** M/S/C (Kesarwani/Humbert) to adopt the City Manager’s recommendation in Item 13a to:

1. Adopt first reading of Ordinance No. 7,853-N.S. as revised for Section 23.328.050.F.2 to read as follows:

## Action Calendar – Public Hearings

*A Housing Development Project with 5,000 square feet or less of Residential Unit Floor Area, unless it is part of a larger Housing Development Project. This exemption shall expire on April 1, 2025 or at such time as the City Council modifies or repeals this exemption, whichever date is sooner.*

Second reading scheduled for February 28, 2023.

2. Adopt Resolution No. 70,698–N.S. with a modified sliding scale for fees to be consistent with the language in Section 23.328.050.F.2 of the Ordinance.

3. The City Council will consider the adoption of a new sliding scale for fees following completion of the feasibility study, by April 2025 or sooner if feasible.

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

## Information Reports

### 14. Referral Response: Home Share Program

**From:** City Manager

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

**Action:** Received and filed.

### 15. LPO NOD: 1767-1771 Alcatraz Avenue/#LMSAP2022-0010

**From:** City Manager

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

**Action:** Received and filed.

**Public Comment – Items Not Listed on the Agenda - None.**

## Adjournment

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

**Vote:** All Ayes.

Adjourned at 10:17 p.m.

I hereby certify that the foregoing is a true and correct record of the regular session meeting held on February 14, 2023.

---

Rose Thomsen, Deputy City Clerk

## Communications

### Hopkins Corridor Plan

1. Michael Marletta
2. Constance Milligan

3. Ceara Brencic
4. Linda Franklin
5. Gabriele Weitzel
6. Warren Pottebaum
7. Miriam Kasin
8. Carol Hirth
9. Melissa Short
10. David Johnson
11. Richard Boubelik
12. Karen Olson
13. Diana Bohn
14. Phoebe Sorgen
15. Susan Griffin
16. Jane Stillwater
17. Stefano
18. Rocky Offner
19. Tony Corman
20. Sigurd Wilbanks
21. Ken Stein
22. Anne Boersma
23. Kirsten Rose
24. Gabi Klausner
25. Kori Kody
26. Richard Hirsch
27. Oded Hilu
28. Chris McKee
29. John Rice
30. Deb Trillia
31. Mary Staats
32. Carol Hirth
33. Maris Arnold
34. Mike Lubby
35. Malu Paradise
36. Lorna Byrne
37. Karen Dabrusin
38. Meredith Stout
39. David Shere
40. Lisa Bruce
41. Kenny Yip (2)
42. Simon Hochberg
43. Joel Myerson
44. Stephen Wood (2)
45. Grace Munakata
46. Todd Andrew (2)
47. Lisa Oglesby
48. Soleil Taylor

49. Carol Hirth
50. Matthew Dimond
51. Richard Neese
52. Marcello Barbero
53. Michael Tompkins
54. Carol Lesh
55. Lenore Dolin
56. Carol Hirth
57. Laurence LePaule
58. Patrick Gordis
59. Lois Yuen
60. Todd Andrews
61. Sandra Smith
62. Kelly Haberer
63. steidtmann@
64. Gabriela Kipnis
65. Patricia Kipnis
66. Laura Fujii
67. Barbara
68. Clifford Fred
69. Rachel Gold
70. Leslie Roussan
71. Wahid Bhimji
72. Jonah Busch
73. Amrando Chenyek
74. Tobey Wiebe
75. Sally Nelson
76. Nathan McPhail
77. Juli Dickey
78. Richard Tamm
79. Jack Kurzeil
80. Charles Siegel
81. Todd Andrew
82. Friends of Hopkins Street
83. Kenny Yip
84. Len Kamp
85. Stephen Wood
86. Charles Steidtmann
87. Janice Murota
88. Marguerite Lee
89. Nimrod Pitsker Elias
90. Andrea Traber
91. Dawn Howard
92. Stephanie Mackley
93. Stuart Hellman
94. Howard Goldberg

- 95. Cindi Goldberg
- 96. Carolyn Weil
- 97. Zipporah Collins
- 98. Jeanne Marguerite Brenna
- 99. Lee Bishop
- 100. Bianca Walser
- 101. Suzi Krebs
- 102. Summer Brenner
- 103. Ross Bernet
- 104. Robin Harley
- 105. Matthew Lewis
- 106. David Mendelsohn
- 107. Thomas Buckey
- 108. Diana Bohn
- 109. Gael Alcock
- 110. Joanne Cooke
- 111. Christopher Ardalan
- 112. Peggy Judge
- 113. Phyllis Orrick (3)
- 114. Tom Lent
- 115. Peggy Scott
- 116. Susan McKearnan
- 117. Toby Pohl
- 118. Kathy Kemp
- 119. Jenn Bejaka

**Crime in Berkeley**

- 120. Tiffany Fyans
- 121. Carla and Dolph Rempp
- 122. Rachel De La Montanya

**Homelessness**

- 123. David Freeling
- 124. Lynn Bradley

**Equitable Housing**

- 125. Elisa Mikiten
- 126. Diana Bohn (2)
- 127. Sara Sebahar

**Youth Seat on Environmental and Climate Commission**

- 128. Laura Galligan
- 129. Matthew Lovell
- 130. Franziska Raedeker
- 131. Helen Marcus
- 132. Ibmason

**Berkeley Police Matters**

133. Jennifer Louis, Interim Chief of Police

**Grocery Stores Destruction**

134. David Lerman

**UA Theater on Shattuck**

135. Constance Rivemale

136. Francie Maguire

137. Anne Herrick

**African Americans Civil Rights**

138. Wade Nobles

**Budget Matters**

139. Eric Friedman

**Reimagining Berkeley**

140. Diana Bohn

**Measure P**

141. Eric Friedman

**Telegraph Redesign**

142. Mike Wilson

**Berkeley's Missing Restaurant Reports**

143. David Lerman

**Urgent Care**

144. Fred Tabsharani

**Mental Health First Aid Certification**

145. Elana Auerbach

**Climate Change – Rising Sea Levels**

146. Fred Dodsworth

**Public Bank of the East Bay**

147. Bhima Sheridan

**Pathway STAIR Center**

148. Friends of the Adeline

**Bike Lane Study – Dwight and Bonar**

149. Farid Javandel, on behalf of the Transportation Division



150. Laurel and Ben Kuchinsky

**Proclamation Request for the Kiwanis**

151. Jeffrey Egeberg, on behalf of the Kiwanis Club of Berkeley

**San Pablo Avenue Improvement Plan**

152. Laura Riggs

**City of Berkeley Pension Liabilities**

153. Barbara Gilbert

**Pedestrian Safety**

154. Brooke Elmgren

**Youth Drug Use/Mental Health**

155. Barbara Gilbert

**North Berkeley BART Plans**

156. Kenmotsu Junko

**Solar Panel Adoption**

157. Peter Schultze-Allen

**Commissioners Conflict of Interest**

158. Laura Fujii

**RV's Parked Around West Berkeley Area**

159. Regina Kenney

**Sexual Assault at the Hope Center**

160. Eric Friedman

**Residential Parking Permits**

161. Lanay Thomas

**Here/There Encampment**

162. Stephanie Thomas

163. Debbie Perkins

164. Judy ann Alberti

165. Margaret Hurlbert

166. Toby Blome

167. Nora Ultreya

168. Diana Bohn (2)

**Support West Berkeley Seniors and Youth in Budget**

169. Carol Perez

**SEIU 1021 Legislative Aides**

170. Julio Corral, on behalf of SEIU 1021

**URL's Only**

171. Vivian Warkentin (2)

**Supplemental Communications and Reports 1**

**Item #10: Authorize a Funding Agreement with AC Transit to Supplement the Quick Build Durant Transit Lane Project**

172. Revised material, submitted by Public Works

**Item #13b: Citywide Affordable Housing Requirement**

173. Supplemental material, submitted by Councilmember Taplin

174. Revised material, submitted by Councilmember Harrison

**Supplemental Communications and Reports 2**

**Item #5: Revenue Contract: 2023 Community Services Block Grant**

175. Revised material, submitted by Health, Housing and Community Services

**Item #13a: Citywide Affordable Housing Requirement**

176. Berkeley Neighborhood Council

**Item #13b: Citywide Affordable Housing Requirement**

177. Sheila Jordan

178. Bruce Bagnell

179. Patrick Kehoe (2)

180. Liz Ozol

181. Rosie Cohan

182. Summer Brenner

183. Eric Johnson

184. Teresa Clarke

185. Melanie Lawrence and John Small

186. Ned Resnikoff

187. Lee Bishop

188. Verna Winters

189. Gregory Lemieux

190. Virginia Warheit

191. Sally Nelson

192. Selene Ballonoff

193. Elana Auerbach (2)

194. Michael Brown

195. Renee Smith

196. Robin Rattan

197. Jonathan Lowe

198. Bill Bogert (2)

199. Erika Shore

200. Judy MacLean (2)

- 201. Gregory Kalkanis
- 202. Judy Grether
- 203. Ms. Fowles
- 204. Sylvia
- 205. Lisa Bullwinkel
- 206. Alan Thomsen
- 207. Diana Bohn (2)
- 208. Vanessa Warheit
- 209. Anne McClintock (2)
- 210. Elania Nanopoulos (2)

**Item #14: Referral Response: Home Share Program**

- 211. Cary Sweeney
- 212. Luke Barnesmoore
- 213. Tracy Powell

**Supplemental Communications and Reports 3**

**Item #13a: Citywide Affordable Housing Requirement**

- 214. Presentation, submitted by Planning and Development

**Item #13b: Citywide Affordable Housing Requirement**

- 215. Cora Johnson-Grau
- 216. Kim Pham
- 217. Jane Fink (2)
- 218. Charlene Woodcock
- 219. Moni Law (2)
- 220. Oren Cheyette
- 221. Preston Mui
- 222. Brian MacDonald

**Urgent Items**

**Letter to Senator Nancy Skinner and Assemblymember Phil Ting in Support of Public Transit Funding in FY 2023-24 State Budget**

- 223. Submitted by Councilmember Robinson

**Black History Month Awards by the Berkeley Public Schools Fund: Relinquishment of Council Office Budget Funds to General Fund and Grant of Such Funds**

- 224. Submitted by Councilmember Bartlett

**Miscellaneous**

- 225. Eids Message to Mayor, Council and City

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

**Tuesday, February 21, 2023  
6:00 PM**

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

JESSE ARREGUIN, MAYOR

Councilmembers:

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

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

***PUBLIC ADVISORY: THIS MEETING WILL BE CONDUCTED IN A HYBRID MODEL WITH BOTH IN-PERSON ATTENDANCE AND VIRTUAL PARTICIPATION***

*For in-person attendees, face coverings or masks that cover both the nose and the mouth are required. Physically distanced seating will be available. If you are feeling sick, please do not attend the meeting in person.*

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

*To access the meeting remotely: Join from a PC, Mac, iPad, iPhone, or Android device: Please use this URL <https://cityofberkeley-info.zoomgov.com/j/1618510002>. If you do not wish for your name to appear on the screen, then use the drop down menu and click on "rename" to rename yourself to be anonymous. To request to speak, use the "raise hand" icon by rolling over the bottom of the screen.*

*To join by phone: Dial **1-669-254-5252** or **1-833-568-8864 (Toll Free)** and enter Meeting ID: **161 851 0002**. If you wish to comment during the public comment portion of the agenda, Press \*9 and wait to be recognized by the Chair.*

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

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

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

## Preliminary Matters

**Roll Call:** 6:05 p.m.

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

**Absent:** Taplin, Bartlett, Harrison

Councilmember Taplin present at 6:18 p.m.

Councilmember Bartlett present at 6:20 p.m.

## Worksession

- 1. COVID-19 Response 2022 Summary Report**  
**From: City Manager**  
Contact: Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400  
**Action:** 6 speakers. Presentation made and discussion held.
- 2. Referral Response: Affordable Housing Preference Policy for Rental Housing Created Through the Below Market Rate and Housing Trust Fund Programs**  
**From: City Manager**  
Contact: Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400  
**Action:** 13 speakers. Presentation made and discussion held.

Recess 8:14 p.m. – 8:24 p.m.

## Adjournment

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

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

Adjourned at 9:49 p.m.

I hereby certify that the foregoing is a true and correct record of the special session meeting held on February 21, 2023.

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Rose Thomsen, Deputy City Clerk

## Communications

- None

## Supplemental Communications and Reports 1

- None

## Supplemental Communications and Reports 2

- None

## Supplemental Communications and Reports 3

### Item #1: COVID-19 Response 2022 Summary Report

1. Presentation, submitted by Health, Housing, and Community Services

### Item #2: Referral Response: Affordable Housing Preference Policy for Rental Housing Created Through the Below Market Rate and Housing Trust Fund Programs

2. Presentation, submitted by Health, Housing, and Community Services
3. Presentation, submitted by Healthy Black Families

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

**MONDAY, FEBRUARY 27, 2023**

**4:30 P.M.**

JESSE ARREGUIN, MAYOR

Councilmembers:

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

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

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

*Pursuant to Government Code Section 54953(e) and the state declared emergency, this meeting of the City Council will be conducted exclusively through teleconference and Zoom videoconference. The COVID-19 state of emergency continues to directly impact the ability of the members to meet safely in person and presents imminent risks to the health of attendees. Therefore, no physical meeting location will be available.*

*To access the meeting remotely: Join from a PC, Mac, iPad, iPhone, or Android device: Please use this URL <https://cityofberkeley-info.zoomgov.com/j/1616821086>. If you do not wish for your name to appear on the screen, then use the drop down menu and click on "rename" to rename yourself to be anonymous. To request to speak, use the "raise hand" icon by rolling over the bottom of the screen.*

*To join by phone: Dial 1-669-254-5252 or 1-833-568-8864 (Toll Free); enter Meeting ID: 161 682 1086. If you wish to comment during the public comment portion of the agenda, Press \*9 and wait to be recognized by the Chair.*

*Please be mindful that the teleconference will be recorded as any Council meeting is recorded, and all other rules of procedure and decorum will apply for Council meetings conducted by teleconference or videoconference.*

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

**Preliminary Matters**

**Roll Call:** 4:36 p.m.

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

**Absent:** Kesarwani

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

**CLOSED SESSION:**

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

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

a. Cantin v. City of Berkeley, Alameda County Superior Court Case No. 22CV009896

**Action:** M/S/C (Wengraf/Hahn) to discuss the matter of Cantin v. City of Berkeley, Alameda County Superior Court Case No. 22CV009896, and approved a settlement of that matter in the amount of \$250,000 in exchange for a release of all claims against the City.

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

b. Government Claim of Gregory H. McCormick

**Action:** M/S/C (Arreguin/Harrison) to approved payment the claim of Gregory H. McCormick in the amount of \$23,160 in satisfaction of his claim against the City and conditioned upon execution of a release.

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

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

|                      |                                                                                                                                                                                                                       |
|----------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Property address:    | 1619 University Avenue, Berkeley, California                                                                                                                                                                          |
| Agency Negotiators:  | Dee Williams-Ridley, City Manager; LaTanya Bellow, Deputy City Manager; Anne Cardwell, Deputy City Manager; Peter Radu, Assistant to the City Manager; Lisa Warhuus, Director of Health, Housing & Community Services |
| Negotiating parties: | City of Berkeley; Campus Motel, LLC                                                                                                                                                                                   |
| Property owner:      | Campus Motel, LLC                                                                                                                                                                                                     |
| Under negotiation:   | Price and terms                                                                                                                                                                                                       |

**Action:** No reportable action taken.



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

Negotiators: Dee Williams-Ridley, City Manager, Anne Cardwell, Deputy City Manager, LaTanya Bellow, Deputy City Manager, Aram Kouyoumdjian, Human Resources Director.

Employee Organizations: Berkeley Fire Fighters Association Local 1227

**Action:** No reportable action taken.

Councilmember Harrison absent at 5:54 p.m.

**OPEN SESSION:**

The City Council met in closed session to discuss the matter of Cantin v. City of Berkeley, Alameda County Superior Court Case No. 22CV009896, and approved a settlement of that matter in the amount of \$250,000 in exchange for a release of all claims against the City.

The City Council also met in closed session discuss the Government Claim of Gregory H. McCormick, and approved payment of that claim in the amount of \$23,160 in satisfaction of his claim against the City and conditioned upon execution of a release.

**Adjournment**

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

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

Adjourned at 5:55 p.m.

I hereby certify that the foregoing is a true and correct record of the closed session meeting held on February 27, 2023.

\_\_\_\_\_  
Sarah Bunting, Assistant City Clerk

**Communications**

- None

**Supplemental Communications and Reports 1**

- None

**Supplemental Communications and Reports 2**

- None

## Supplemental Communications and Reports 3

- None

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

**Monday, February 27, 2023  
6:30 PM**

JESSE ARREGUIN, MAYOR

Councilmembers:

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

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

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

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## Preliminary Matters

**Roll Call:** 6:33 p.m.

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

**Absent:** Bartlett, Humbert

Councilmember Bartlett present at 6:36 p.m.

Councilmember Humbert present at 6:39 p.m.

## Action Calendar

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

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

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

## Action Calendar – New Business

- 1. Resolution Extending the Covered Period of the COVID-19 Emergency Response Ordinance (Chapter 13.110)**  
**From: Mayor Arreguin (Author)**  
**Recommendation:** Adopt a Resolution extending the Covered Period of the COVID-19 Emergency Response Ordinance for 60-days beyond the eventual expiration of the Local Emergency.  
**Financial Implications:** To be determined  
Contact: Jesse Arreguin, Mayor, (510) 981-7100  
  
**Action:** 40 speakers. M/S/C (Arreguin/Robinson) to adopt Resolution No 70,699-N.S. extending the Covered Period of the COVID-19 Emergency Response Ordinance for 60-days beyond the eventual expiration of the Local Emergency.  
**Vote:** All Ayes.

Recess: 8:17 p.m. – 8:27 p.m.

## Action Calendar – New Business

### 2. Amendments to COVID-19 Emergency Response Ordinance, BMC Chapter 13.110

**From: Mayor Arreguin (Author)**

**Recommendation:** Adopt the first reading of an Ordinance amending Berkeley Municipal Code (BMC) Chapter 13.110, the COVID-19 Emergency Response Ordinance to suspend the application of the ordinance to commercial property, permit lawful owner move-in evictions, and establish a Transition Period during which time specified evictions would be prohibited.

**Financial Implications:** None

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

Recess 10:09 p.m. – 10:15 p.m.

**Action:** 25 speakers. M/S/C (Arreguin/Harrison) to adopt first reading of Ordinance No. 7,855-N.S. as amended in Supplemental Communications Packet #2 by Mayor Arreguin and Councilmember Harrison and further amended in 13.110.030.B. regarding the definition of the Transition Period. Second reading scheduled for March 14, 2023.

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

## Adjournment

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

**Vote:** All Ayes.

Adjourned at 10:19 p.m.

I hereby certify that the foregoing is a true and correct record of the special session meeting held on February 27, 2023.

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Mark Numainville, City Clerk

## Communications

- None

## Supplemental Communications and Reports 1

- None

## Supplemental Communications and Reports 2

**Item #1: Resolution Extending the Covered Period of the COVID-19 Emergency Response Ordinance (Chapter 13.110)**

1. Pamela Webster
2. Erin Chalmers
3. Bhima Sheridan

4. Carol Curtis
5. Marion Hunt
6. Robert Bahme
7. Berkeley Property Owners Association
8. Louie Escobar
9. Dan Lieberman

**Item #2: Amendments to COVID-19 Emergency Response Ordinance, BMC Chapter 13.110**

10. Revised material, submitted by Mayor Arreguin

**Supplemental Communications and Reports 3**

**Item #1: Resolution Extending the Covered Period of the COVID-19 Emergency Response Ordinance (Chapter 13.110)**

11. Leor Beary
12. Barbara Jameson-Bellow
13. Sukhdeep Kapoor
14. Natasha Kapoor-Acuna
15. Diana Bohn
16. Renee Bott
17. Huan Liu
18. Virginia Hollins-Davidson
19. Chris Baker
20. Stan Momtchev
21. Paul Tuleja
22. Dan Dolan
23. Chris Moore
24. Christina Redse
25. Dorian Stull
26. Sarah Davis
27. Stefano DeZerega
28. Zachary Greenwood
29. Jenny Johnston
30. Andrew Jeffries
31. Noemi Ruelas
32. Jeannie Sides
33. Paul Mileck
34. Sandra Clement
35. Torsten Galley
36. Kenny & Sharon Yu
37. Susan Payne
38. Vicki Fall
39. Olga Louchakova-Schwartz
40. Gail Martin
41. Alan Curtis
42. Alison Simon
43. Samm Hickey
44. Jonathan Wishnev
45. Elan Ben-Oni
46. Summer Brenner
47. Yoo Park

48. Karen Williams Null & Daniel Null
49. Aaron Reuter
50. Kathleen Crandall
51. Shira Cion
52. Anne Mileck
53. Roger Hallsten
54. Will Flynn
55. Shua Chai
56. Vanessa Babot
57. Christine Schwartz
58. Ronald Edwards
59. Evan and Erika Mills
60. Lisa Reutter
61. Robert Flores
62. Julie Truong
63. Dave Ahlberg, on behalf of Regent House
64. Abdul Mahrat
65. Chris Toll
66. Marion Hunt
67. Daisy
68. Cynthia, on behalf of Jones Berkeley
69. Shua Chai
70. Aman Kataria
71. Debbie Woods
72. Sasha Futran
73. Celia Karian
74. Lorraine Osmundson
75. Igor Tregub

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

**Tuesday, February 28, 2023  
4:00 PM**

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

JESSE ARREGUIN, MAYOR

Councilmembers:

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

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

***PUBLIC ADVISORY: THIS MEETING WILL BE CONDUCTED IN A HYBRID MODEL WITH BOTH IN-PERSON ATTENDANCE AND VIRTUAL PARTICIPATION***

*For in-person attendees, face coverings or masks that cover both the nose and the mouth are required. Physically distanced seating will be available. If you are feeling sick, please do not attend the meeting in person.*

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

*To access the meeting remotely: Join from a PC, Mac, iPad, iPhone, or Android device: Please use this URL <https://cityofberkeley-info.zoomgov.com/j/1610465939>. If you do not wish for your name to appear on the screen, then use the drop down menu and click on "rename" to rename yourself to be anonymous. To request to speak, use the "raise hand" icon by rolling over the bottom of the screen.*

*To join by phone: Dial 1-669-254-5252 or 1-833-568-8864 (Toll Free) and enter Meeting ID: 161 046 5939. If you wish to comment during the public comment portion of the agenda, Press \*9 and wait to be recognized by the Chair.*

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

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



## Preliminary Matters

**Roll Call:** 4:04 p.m.

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

**Absent:** Harrison, Arreguin

Councilmember Harrison arrived at 4:07 p.m.

Mayor Arreguin arrived at 4:56 p.m.

## Action Calendar – New Business

### 1. Five Year Zero Waste Rate Schedule

**From:** City Manager

**Recommendation:** Provide input on proposed Five Year Zero Waste Rate Schedule.

**Financial Implications:** See report

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

**Action:** 7 speakers. Presentation made and discussion held.

## Adjournment

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

**Vote:**

Adjourned at 6:12 p.m.

I hereby certify that the foregoing is a true and correct record of the special session meeting held on February 28, 2023.

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Mark Numainville, City Clerk

## Communications

- None

## Supplemental Communications and Reports 1

- None

## Supplemental Communications and Reports 2

**Item #1: Five Year Zero Waste Rate Schedule**

1. Rachel Doughty

## Supplemental Communications and Reports 3

### Item #1: Five Year Zero Waste Rate Schedule

2. Steven Sherman, Vice-Chair Zero Waste Commission
3. Presentation, submitted by the Zero Waste Division

**MINUTES**  
**BERKELEY CITY COUNCIL MEETING**  
**Tuesday, February 28, 2023**  
**6:00 PM**

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

JESSE ARREGUIN, MAYOR

Councilmembers:

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

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

***PUBLIC ADVISORY: THIS MEETING WILL BE CONDUCTED IN A HYBRID MODEL WITH BOTH IN-PERSON ATTENDANCE AND VIRTUAL PARTICIPATION***

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## Preliminary Matters

**Roll Call:** 6:27 p.m.

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

**Absent:** None

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

### Ceremonial Matters:

1. Adjourned in Memory of Beatrice Barrigher, South Berkeley resident and community leader
2. Adjourned in Memory of David Lance Goines, Local Artist
3. Adjourned in Memory of Pat DeVito, Co-Founder of Berkeley Path Wanderers

**City Manager Comments:** None

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

**Action:** M/S/C (Arreguin/Robinson) to accept an urgency item for the Consent Calendar from Mayor Arreguin pursuant to Government Code Section 54954.2(b)(2) titled Increase Funding to Housing Retention Program Contract.

**Vote:** All Ayes.

## Consent Calendar

**Public Comment on Consent Calendar and Information Items Only:** 15 speakers.

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

**Vote:** All Ayes.

**Urgent Item: Increase Funding to Housing Retention Program Contract**  
**From: Mayor Arreguin (Author)**

## Consent Calendar

**Recommendation:** Adopt a Resolution authorizing the City Manager or her designee to: 1. Allocate an additional \$300,000 to the Housing Retention Program from General Fund salary savings or U1 HRP funds; and 2. Amend the current contract with the Eviction Defense Center (EDC) (No. 32100023) by \$300,000 for rent debt or other expenses that would enable applicants to retain housing.

**Financial Implications:** See report

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

**Action:** Councilmembers Hahn, Harrison, and Wengraf added as co-sponsors. Adopted Resolution No. 70,700–N.S.

### 1. Citywide Affordable Housing Requirements

**From:** City Manager

**Recommendation:** Adopt second reading of Ordinance No. 7,853-N.S. amending the Berkeley Municipal Code Chapter 23.328, updating the citywide Affordable Housing Requirements in the Zoning Ordinance, repealing existing administration and zoning code sections that refer to affordable housing requirements, BMC Section 22.20.065, and Section 23.312.040(A)(6), and updating references to BMC Chapter 23.328 throughout the Berkeley Municipal Code, to become effective on April 1, 2023.

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

**Financial Implications:** See report

Contact: Jordan Klein, Planning and Development, (510) 981-7400, Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400

**Action:** Adopted second reading of Ordinance No. 7,853–N.S.

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

### 2. Minutes for Approval

**From:** City Manager

**Recommendation:** Approve the minutes for the Council meetings of January 10 (special), January 17 (regular), January 18 (special), January 30 (closed) and January 31 (special and regular).

**Financial Implications:** None

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

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

### 3. Donation to the Animal Shelter from the Stephen and Mary Birch Foundation

**From:** City Manager

**Recommendation:** Adopt a Resolution accepting a donation from the estate of Stephen and Mary Birch in the sum of \$5,000.

**Financial Implications:** Donation - \$5,000

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

**Action:** Adopted Resolution No. 70,701–N.S.

## Consent Calendar

**4. Formal Bid Solicitations and Request for Proposals Scheduled for Possible Issuance After Council Approval on February 28, 2023**

**From: City Manager**

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

**Financial Implications:** Various Funds - \$2,220,000

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

**Action:** Approved recommendation.

**5. Contract: Street Level Advisors and Strategic Economics for Housing Preference Policy Fair Housing Analysis Consultant**

**From: City Manager**

**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a contract and any amendments with Street Level Advisors (Contractor), with Strategic Economics as a subcontractor, to provide Fair Housing Analysis services for a Housing Preference Policy for the Department of Health, Housing and Community Services (HHCS) from April 1, 2023 to April 1, 2024 in an amount not to exceed \$60,055.

**Financial Implications:** General Fund - \$60,055

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

**Action:** Adopted Resolution No. 70,702–N.S.

**6. Increase Wage Ranges of Seasonal Camp Staff Classifications**

**From: City Manager**

**Recommendation:** Adopt a Resolution approving wage increases for certain Unrepresented Camp Classification rates in Unit X1, effective March 1, 2023, and amending Resolution No. 69,998-N.S.

**Financial Implications:** See report

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

**Action:** Adopted Resolution No. 70,703–N.S.

**7. Final Map of Tract 8573: 2628 Shattuck Avenue**

**From: City Manager**

**Recommendation:** Adopt a Resolution approving the final map of Tract Map 8573 for an 81-unit condominium project consisting of 78 residential units and 3 commercial units at 2628 Shattuck Avenue.

**Financial Implications:** See report

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

**Action:** Adopted Resolution No. 70,704–N.S.

## Consent Calendar

- 8. Final Map of Tract 8626: 2023-2025 Kala Bagai Way**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution approving the final map of Tract Map 8626 for a 49-unit condominium project consisting of 48 residential units and one commercial unit at 2023-2025 Kala Bagai Way.  
**Financial Implications:** See report  
Contact: Liam Garland, Public Works, (510) 981-6300  
**Action:** Adopted Resolution No. 70,705–N.S.
- 9. Final Map of Tract 8490: 739 Channing Way**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution approving the final map of Tract Map 8490 for a 15-unit condominium project consisting of 10 residential units, 4 live/work units, and one commercial unit and to merge 2 existing parcels at 739 Channing Way.  
**Financial Implications:** See report  
Contact: Liam Garland, Public Works, (510) 981-6300  
**Action:** Adopted Resolution No. 70,706–N.S.
- 10. Bauman Lease Termination and Settlement of Balance Due**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a lease termination agreement with Bauman Wellness (“Bauman”) for its tenancy at 1007 University Ave., including a bill of sale transferring all of Bauman’s assets remaining in the leased premises to City ownership, and a mutual waiver of claims.  
**Financial Implications:** See report  
Contact: Liam Garland, Public Works, (510) 981-6300, Farimah Brown, City Attorney, (510) 981-6950  
**Action:** Adopted Resolution No. 70,707–N.S.
- 11. Support for AB-309: Social Housing**  
**From: Councilmember Taplin (Author), Councilmember Hahn (Co-Sponsor)**  
**Recommendation:** Send a letter in support of Assembly Bill 309 to the state legislature.  
**Financial Implications:** Staff time  
Contact: Terry Taplin, Councilmember, District 2, (510) 981-7120  
**Action:** Councilmembers Robinson and Humbert added as co-sponsors. Approved recommendation.

## Council Consent Items

12. **Resolution Condemning a Pattern of Attacks Targeting Black Political and Community Leaders**  
**From:** Councilmember Taplin (Author), Councilmember Bartlett (Co-Sponsor), Councilmember Kesarwani (Co-Sponsor), Mayor Arreguin (Co-Sponsor)  
**Recommendation:** Adopt a Resolution Condemning a Pattern of Attacks Targeting Black Political and Community Leaders  
**Financial Implications:** None  
Contact: Terry Taplin, Councilmember, District 2, (510) 981-7120  
**Action:** Adopted Resolution No. 70,708–N.S.
13. **Resolution in Support of HR 8040: the People Over the Pentagon Act**  
**From:** Councilmember Harrison (Author)  
**Recommendation:** Adopt resolution and send letters of support for reintroduction and passage of HR 8040: the People Over the Pentagon Act to California's congressional delegation accompanied by provisions for a just transition for workers in militarized industries. HR 8040 calls for reducing the bloated military budget by \$100 billion.  
**Financial Implications:** See report  
Contact: Kate Harrison, Councilmember, District 4, (510) 981-7140  
**Action:** Adopted Resolution No. 70,709–N.S.  
**Vote:** Ayes – Kesarwani, Taplin, Bartlett, Harrison, Hahn, Wengraf, Robinson, Arreguin; Noes – None; Abstain – Humbert.
14. **Referral: Creation of an Intersection Daylighting Policy**  
**From:** Councilmember Robinson (Author), Councilmember Humbert (Co-Sponsor), Councilmember Hahn (Co-Sponsor), Councilmember Harrison (Co-Sponsor)  
**Recommendation:** Refer to the City Manager to develop a comprehensive intersection daylighting policy and make recommendations about the implementation of a citywide intersection daylighting program. Staff should consider criteria for identifying priority areas for daylighting such as high-injury streets, streets and intersections with especially high pedestrian traffic, commercial districts, and streets near schools and colleges. Staff should seek input and feedback on the development of such a policy and program from the Transportation & Infrastructure Commission, and other relevant commissions.  
**Financial Implications:** See report  
Contact: Rigel Robinson, Councilmember, District 7, (510) 981-7170  
**Action:** Approved recommendation as revised in Supplemental Communications Packet #2 by Councilmember Robinson.



## Council Consent Items

### Action Calendar – Public Hearings

**15. ZAB Appeal: 1262 Francisco Street, Administrative Use Permit #ZP2021-0006  
From: City Manager**

**Recommendation:** Conduct a public hearing and, upon conclusion, adopt a Resolution affirming the decision of the Zoning Adjustments Board to approve Administrative Use Permit ZP#2021-0006, to modify Administrative Use Permit ZP#2020-0122, to add 40 square feet on the first floor and a balcony on the second floor of an existing single-family dwelling unit.

**Financial Implications:** None

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

**Public Testimony:** The Mayor opened the public hearing. 3 speakers. M/S/C (Arreguin/Hahn) to close the public hearing.

**Vote:** All Ayes.

**Action:** M/S/C (Hahn/Harrison) to adopt Resolution No. 70,710–N.S. affirming the decision of the Zoning Adjustments Board to approve Administrative Use Permit ZP#2021-0006, to modify Administrative Use Permit ZP#2020-0122, to add 40 square feet on the first floor and a balcony on the second floor of an existing single-family dwelling unit.

**Vote:** All Ayes.

Recess 8:08 p.m. – 8:23 p.m.

**16. The City of Berkeley Employer of Choice Initiative  
From: City Manager**

**Recommendation:** Adopt a resolution to support and endorse the City Manager's workplan to implement the City of Berkeley's Employer of Choice initiative. The workplan provides actionable recommendations by Municipal Resource Group (MRG), an independent consultant firm specializing in providing cities, counties, and government agencies with professional strategic services.

Consistent with MRG's 90-day Action Plan recommendations, the City Manager is currently requesting authorization to 1) hire two Associate HR Analysts and one Assistant HR Analyst, 2) contract with a branding and marketing agency in an amount not to exceed \$250,000 to help attract, outreach and recruit talent for the City workforce in support of the Human Resources Department; and 3) enhance communications and social media content planning and strategy including support for department communications in a combined amount not to exceed \$200,000.

**Financial Implications:** See report

Contact: Dee Williams-Ridley, City Manager, (510) 981-7000

**Action:** 6 speakers. M/S/C (Arreguin/Hahn) to adopt Resolution No. 70,711–N.S.

**Vote:** All Ayes.

## Action Calendar – New Business

17. **Resolution Terminating the Proclamation of Local Emergency Issued Due to the Spread of a Severe Acute Respiratory Illness Caused by a Novel (New) Coronavirus (COVID-19); and Discussion and Possible Action on the City’s Eviction Moratorium**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution terminating the proclamation of local emergency issued due to the spread of a severe acute respiratory illness caused by a novel (new) coronavirus (COVID-19); and discuss and take possible action regarding the City’s eviction moratorium.  
**Financial Implications:** See report  
Contact: Dee Williams-Ridley, City Manager, (510) 981-7000  
**Action:** 7 speakers. M/S/C (Arreguin/Hahn) to take no action on Item 17 and direct the City Manager to bring an item to the Council to extend the local emergency prior to the expiration of the current declaration. Refer the City Manager to evaluate economic recovery considerations for potential future action.  
**Vote:** Ayes – Taplin, Bartlett, Harrison, Hahn, Robinson, Arreguin; Noes – Kesarwani, Humbert; Abstain – Wengraf.
- 18a. **Adding a Youth Member to the Environment and Climate Commission**  
*(Reviewed by the Agenda & Rules Committee)*  
**From: Youth Commission**  
**Recommendation:** That Council adds a seat on the Environment and Climate Commission for a person under 18 years of age; and that Student Director on the Berkeley Unified School Board nominates the new youth commissioner and that the full board confirms the appointment.  
*Policy Committee Recommendation: To send the items from the Youth Commission, Environment and Climate Commission, and Councilmember Harrison to the City Council with a qualified positive recommendation that the item proposed by Councilmember Harrison be adopted as revised to state that the full City Council will appoint the members to the two youth seats on the Environment and Climate Commission, and that the Berkeley Unified School District Board of Directors will provide recommendations to the City Council on candidates for the youth seats.*  
**Financial Implications:** None  
Contact: Ginsi Bryant, Commission Secretary, (510) 981-6700  
**Action:** See action for Item 18c.

## Action Calendar – New Business

### 18b. Support for Youth Appointee to Environment and Climate Commission

*(Reviewed by the Agenda & Rules Committee)*

**From: Environment and Climate Commission**

**Recommendation:** Refer to the City Manager to evaluate the feasibility of, and subsequently prepare draft legal language to enable, a tenth voting Environment & Climate Commission (ECC) member, representing youth, nominated by a suitable body or individual and confirmed by a suitable board of elected officials. If feasible, the ECC recommends that a youth representative be nominated by the BUSD Student Director and confirmed by the full BUSD Board of Directors, in alignment with the recommendation passed by the Youth Commission.

*Policy Committee Recommendation: To send the items from the Youth Commission, Environment and Climate Commission, and Councilmember Harrison to the City Council with a qualified positive recommendation that the item proposed by Councilmember Harrison be adopted as revised to state that the full City Council will appoint the members to the two youth seats on the Environment and Climate Commission, and that the Berkeley Unified School District Board of Directors will provide recommendations to the City Council on candidates for the youth seats.*

**Financial Implications:** See report

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

**Action:** See action for Item 18c.

### 18c. Adopt an Ordinance Amending Berkeley Municipal Code Chapter 3.82 Modifying Membership and Appointment Procedures for the Environment and Climate Commission *(Reviewed by the Agenda & Rules Committee)*

**From: Councilmember Harrison (Author)**

**Recommendation:** Adopt an Ordinance Amending Berkeley Municipal Code Chapter 3.82 Modifying Membership and Appointment Procedures for the Environment and Climate Commission.

*Policy Committee Recommendation: To send the items from the Youth Commission, Environment and Climate Commission, and Councilmember Harrison to the City Council with a qualified positive recommendation that the item proposed by Councilmember Harrison be adopted as revised to state that the full City Council will appoint the members to the two youth seats on the Environment and Climate Commission, and that the Berkeley Unified School District Board of Directors will provide recommendations to the City Council on candidates for the youth seats.*

**Financial Implications:** See report

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

**Action:** Moved to Consent Calendar to adopt the recommendation from the policy committee. Adopted first reading of Ordinance No. 7,856-N.S. Second reading scheduled for March 14, 2023.

## Council Action Items

### Council Action Items

19. **Reforms to Public Comment Procedures at meetings of the Berkeley City Council** (*Reviewed by the Agenda & Rules Committee*)  
**From: Councilmember Droste (Author)**  
**Recommendation:** Adopt a Resolution revising the City Council Rules of Procedure and Order: Section IV. Conduct of the Meeting and Appendix C Temporary Rules for The Conduct of City Council Meetings Through Video Conference During The Covid-19 Emergency to: 1. Consolidate non-agenda public comment, public comment on the Consent Calendar, and public comment on Action Items into a single public comment period toward the start of the Council meeting (consistent with the Berkeley Unified School District's public comment procedure), and continue to provide for additional time for public comment at the end of meetings; 2. Adopt reasonable limits on the overall number of public speakers (consistent with rulings from the Second District Court of Appeal) with a mechanism for the City Council to extend public comment; and 3. Rescind Resolution No. 70,091– N.S.  
*Policy Committee Recommendation: To send the item to the City Council with a negative recommendation that no action be taken on the item.*  
**Financial Implications:** See report  
Contact: Lori Droste, Councilmember, District 8, (510) 981-7180  
**Action:** M/S/C (Arreguin/Robinson) to continue Item 19, including the Supplemental Materials from Councilmember Robinson, to March 14, 2023 and agendize the item as the first item on the Action Calendar.  
**Vote:** All Ayes.

### Information Reports

20. **FY 2023 First Quarter Investment Report: Ended September 30, 2022**  
**From: City Manager**  
Contact: Henry Oyekanmi, Finance, (510) 981-7300  
**Action:** Received and filed.

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

### Adjournment

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

Adjourned at 10:53 p.m.

I hereby certify that the foregoing is a true and correct record of the regular session meeting held on February 28, 2023.

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Mark Numainville, City Clerk

## **Communications**

### **Item # 18c: Adopt an Ordinance Amending Berkeley Municipal Code Chapter 3.82 Modifying Membership and Appointment Procedures for the Environment and Climate Commission**

1. John Malamut

### **Crime in Berkeley**

2. Kathy Krebs
3. Peter Rinzler
4. Melanie Lawrence
5. Barbara Gilbert

### **Housing Element**

6. Sandra Smith
7. Diana Bohn

### **Drugs and Encampment at Civic Center Park**

8. Anna Weinstein

### **Bike Lane at Dwight and Bonar**

9. Laurel Hunter
10. Farid Javandel, Deputy Director of Public Works

### **Tenant-Centered Legislative Process**

11. The Berkeley Tenants Union Steering Committee

### **IKE Kiosks**

12. Vivian Warkentin

### **Proclamation for the Kiwanis Club**

13. Jeffrey Egeberg, Secretary, Kiwanis Club of Berkeley

### **Berkeley Police Department Matters**

14. Berkeley Progressive Alliance (2)
15. Berkeley Police Association
16. Diana Bohn

### **UA Theater on Shattuck**

17. Dale Sophiea

**Asphalt Plant in Berkeley**

- 18. Meryl Siegal (2)
- 19. Pear Michaels

**Black History Month**

- 20. Moni Law

**Support Daylight at Strawberry Creek**

- 21. Jennifer Ware
- 22. Janet Byron
- 23. Stacie Degeneffe
- 24. Stefen
- 25. Diana Bohn
- 26. Kathleen Giustino
- 27. Miranda Ewell

**City Jobs**

- 28. Walter Wood

**Earthquakes**

- 29. Fred Dodsworth

**Housing for Displaced Individuals/Families + Homelessness**

- 30. Charisse
- 31. Mary Behm Steinberg
- 32. Carol Corradi

**Hillside Fire Safety Group is no FireSafe Berkeley**

- 33. Henry DeNero

**Hopkins Corridor**

- 34. Elizabeth Horowitz
- 35. Carol Hirth
- 36. Peggy Mendelson
- 37. Sandy Emerson
- 38. Helen Toy
- 39. Diane Mintz
- 40. Susan McAllister
- 41. Mary Lee Noonan
- 42. Lina Lamirande
- 43. Sandy Steinman
- 44. Celia Ronis
- 45. Laura Fujiii
- 46. Rebecca Mirvish
- 47. Anne Lai

- 48. Diane Mintz
- 49. Terry Nicol

**Berkeley BART Development**

- 50. Peggy Mendelson
- 51. Jack Kurzeil (3)
- 52. Kelly Hammargren
- 53. Maris Arnold
- 54. Diana Bohn
- 55. Margaret Pritt

**Berkeley's Horrendous Street Conditions**

- 56. Joan Finnie

**Continued Toll-Free Access to City Meetings**

- 57. Elizabeth Starr

**Heavy Equipment Around San Pablo and Dwight**

- 58. Martha Stassinis

**Japanese Day of Remembrance**

- 59. Grace Morizawa

**Tibetan National Uprising Day Proclamation**

- 60. Jinpa Tharchin, on behalf of the Tibetan Association of Northern California

**City of Berkeley Holidays**

- 61. Murthy Sama

**Supplemental Communications and Reports 1**

**Item #17: Resolution Terminating the Proclamation of Local Emergency Issued Due to the Spread of a Severe Acute Respiratory Illness Caused by a Novel (New) Coronavirus (COVID-19); and Discussion and Possible Action on the City's Eviction Moratorium**

- 62. Krista Gulbransen, on behalf of Berkeley Property Owners Association

**Item #19: Reform to Public Comment Procedures at Meetings of the Berkeley City Council**

- 63. Supplemental material, submitted by Councilmember Robinson

**Urgent Item: Increase Funding to Housing Retention Program Contract**

- 64. Urgent item, submitted by Mayor Arreguin

**Supplemental Communications and Reports 2**

**Item #14: Referral: Creation of an Intersection Daylighting Policy**

- 65. Supplemental material, submitted by Councilmember Robinson

**Item #15: ZAB Appeal: 1262 Francisco Street, Administrative Use Permit #ZP2021-0006**

- 66. Grant Reading
- 67. John Vinopal
- 68. Jason Yow
- 69. Adam Love
- 70. Laurence Fishbein

**Item #18c: Adopt an Ordinance Amending Berkeley Municipal Code Chapter 3.82 Modifying Membership and Appointment Procedures for the Environment and Climate Commission**

- 71. Anthony Maes
- 72. Stevie Kaplan
- 73. Samuel Kaplan Pettus (2)

**Item #19: Reform to Public Comment Procedures at Meetings of the Berkeley City Council**

- 74. David Fielder
- 75. Judy Grether
- 76. Bill Hickman
- 77. Bernard Marszalek
- 78. Brian Hofer
- 79. Jean Tepperman
- 80. Vanessa Warheit
- 81. Martin Nicolaus
- 82. Richard Warren
- 83. Marc Janowitz
- 84. Christopher McKee
- 85. Leni Siegel
- 86. Janic Schroeder
- 87. Miranda Ewell
- 88. Holly Scheider
- 89. Tom Graly
- 90. Summer Brenner
- 91. Cindy Shamban
- 92. Nancy Rader
- 93. Nancy Schimmel
- 94. Jinky Gardner
- 95. Juli Dickey
- 96. Jill Korte
- 97. Helga Recke
- 98. Howard Goldberg
- 99. Erin Diehm
- 100. Kelly Hammargren
- 101. Virginia Warheit
- 102. Terry Fletcher



- 103. Aimee Baldwin
- 104. Isabelle Gaston
- 105. Jane Fink
- 106. Cecilia Lunaparra
- 107. Sally Nelson
- 108. Phil Allen
- 109. Julia Cato
- 110. Gary Parsons
- 111. Eric Friedman
- 112. Carol Leonard
- 113. Vicki Sommer

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

#### **Item #15: ZAB Appeal: 1262 Francisco Street, Administrative Use Permit #ZP2021-0006**

- 114. Vika Teicher
- 115. Eric Price

#### **Item #16: The City of Berkeley Employer of Choice Initiative**

- 116. Presentation, submitted by the City Manager's Office

#### **Item #17: Resolution Terminating the Proclamation of Local Emergency Issued Due to the Spread of a Severe Acute Respiratory Illness Caused by a Novel (New) Coronavirus (COVID-19); and Discussion and Possible Action on the City's Eviction Moratorium**

- 117. Andrea Mullarkey
- 118. Barbara Gilbert
- 119. Kristie Lavelle

#### **Item #18c: Adopt an Ordinance Amending Berkeley Municipal Code Chapter 3.82 Modifying Membership and Appointment Procedures for the Environment and Climate Commission**

- 120. Freyja Knapp
- 121. Antonia Mou
- 122. Emma Kittredge
- 123. Gabriel Yetnikoff

#### **Item #19: Reform to Public Comment Procedures at Meetings of the Berkeley City Council**

- 124. Paul Kealoha Blake
- 125. Tom Lent (2)
- 126. Berkeley Neighborhoods Council
- 127. Catherine Betts
- 128. Melanie Lawrence
- 129. Linda Wood
- 130. Maris Arnold

131. Sanjani Varkey
132. Sheryl Rose
133. David Mayer
134. Kitt Saginor
135. Rachel Bradley
136. Janet Levenson
137. Mariana Almeida
138. Lois Yuen
139. Stephanie Thomas
140. Eileen Adams
141. Donna DeDiemar
142. Ellen Leuenberger
143. Adam Rogers
144. Laurel and Ben Kuchinsky
145. Eric Johnson
146. Peggy Radel
147. John Robin
148. Sarah Bell
149. Bob Flasher
150. Mary Lee Noonan
151. Kenny Yip
152. Frances Feldon
153. Phoebe Thomas Sorgen
154. Bill Bogert
155. steidtmann@
156. Jonathan Wieder
157. Andrea Traber
158. Kori Kody
159. Cece Littlepage
160. Phyllis Orrick
161. Erin Diehm
162. Ana Noles
163. Myriam Misrach
164. Lynn Cooper
165. Susie Wallenstein
166. Diana Bohn
167. Diane Garcia
168. Leni Siegel
169. Carla Woodworth
170. David Brandon
171. James Mattson
172. Joel Myerson
173. Diane Ross-Leech
174. Donna Allman
175. Pamela Zelnik
176. Ellen Pasternack

177. Trarie Kottkamp
178. Anne McClintock
179. Janet Stromberg
180. Theresa Malki
181. Dahlia Armon
182. Richard Tamm
183. Ann Campbell
184. Libby Lee-Egan
185. Jim Offel
186. Elana Auerbach
187. Laura Fujii
188. Kevin Casey
189. Dawn Howard
190. Charlene Woodcock
191. Judy Ann Alberti
192. Jeanne Schuman and William Pollock
193. Todd Darling
194. Armando Chenyek
195. DJ
196. Vivian Warkentin
197. Richard Koenig
198. Lisa Bullwinkel
199. Vince Sugrue

**Miscellaneous**

**Not Made in the USA**

200. Eid

# BERKELEY CITY COUNCIL SPECIAL MEETING MINUTES

**MONDAY, MARCH 13, 2023**

**3:00 P.M.**

REDWOOD ROOM – 2180 MILVIA STREET, BERKELEY, CA 94704

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

JESSE ARREGUIN, MAYOR

Councilmembers:

DISTRICT 1 – RASHI KESARWANI

DISTRICT 2 – TERRY TAPLIN

DISTRICT 3 – BEN BARTLETT

DISTRICT 4 – KATE HARRISON

DISTRICT 5 – SOPHIE HAHN

DISTRICT 6 – SUSAN WENGRAF

DISTRICT 7 – RIGEL ROBINSON

DISTRICT 8 – MARK HUMBERT

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

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

## Preliminary Matters

**Roll Call:** 3:03 p.m.

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

**Absent:** Kesarwani, Bartlett

Councilmember Kesarwani present at 3:12 p.m.

Councilmember Bartlett present at 3:14 p.m.

**Public Comment - Limited to items on this agenda only – 2 speakers**

## CLOSED SESSION:

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

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

- a. Significant exposure to litigation pursuant to Section 54956.9(d)(3); see letter from California Department of Housing and Community Development, attached as required by *Fowler v. City of Lafayette*, 46 Cal. App. 5th 360 (2020)

**Action:** No reportable action taken.

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

- a. *Mena v. Bradd, et al.*, Alameda County Superior Court Case No. RG21101938

**Action:** No reportable action taken.

- b. *Cohen v. City of Berkeley*, Alameda County Superior Court Case No. 22CV018148

**Action:** M/S/C (Arreguin/Robinson) to authorize a settlement in the amount of \$43,000.

**Vote:** All Ayes.

### 3. CONFERENCE WITH LEGAL COUNSEL—ANTICIPATED LITIGATION PURSUANT TO GOVERNMENT CODE SECTION 54956.9(d)(2):

- a. WCAB Case Numbers: ADJ12170910 and ADJ11544202.

**Action:** M/S/C (Arreguin/Wengraf) to provide direction to outside counsel and approve a settlement by Compromise and Release, as to workers' compensation matter WCAB Case Numbers: ADJ12170910 and ADJ11544202.

**Vote:** All Ayes.

## **OPEN SESSION:**

City Council met in closed session on March 13, 2023, Pursuant to Government Code Section 54956.9(d)(2) and provided direction to outside counsel and approved a settlement by Compromise and Release, as to workers' compensation matter WCAB Case Numbers: ADJ12170910 and ADJ11544202.

City Council met in closed session on March 13, 2023, Pursuant to Government Code 54956.9(d)(1) and authorized a settlement in the amount of \$43,000 in the matter of Cohen v. City of Berkeley, Alameda County Superior Court Case No. 22CV018148.

## **Adjournment**

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

**Vote:** All Ayes.

Adjourned at 4:54 p.m.

I hereby certify that the forgoing is a true and correct record of the closed session meeting held on March 13, 2023.

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Mark Numainville, City Clerk

## **Communications**

- None

## **Supplemental Communications and Reports 1**

- None

## **Supplemental Communications and Reports 2**

- None

## **Supplemental Communications and Reports 3**

**Item #1: Conference with Legal Counsel – Anticipated Litigations Pursuant to Government Code Section 54956.9(d)(3)**

1. Kelly Hammargren

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

**Tuesday, March 14, 2023  
4:00 PM**

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

TELECONFERENCE LOCATION - 1404 LE ROY AVE, BERKELEY 94708

JESSE ARREGUIN, MAYOR

Councilmembers:

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

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

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## Preliminary Matters

**Roll Call:** 4:03 p.m.

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

**Absent:** Bartlett

Councilmember Bartlett present at 4:20 p.m.

## Worksession

- Berkeley Police Department Annual Report, 2022 Year End Data Reports**  
**From: City Manager**  
Contact: Jennifer Louis, Police, (510) 981-5900  
**Action:** 12 speakers. Presentation made and discussion held.

Councilmember Bartlett absent 6:36 p.m. – 6:43 p.m.

Councilmember Kesarwani absent 6:38 p.m. – 6:43 p.m.

## Adjournment

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

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

Adjourned at 6:43 p.m.

I hereby certify that the foregoing is a true and correct record of the special meeting held on March 14, 2023.

---

Rose Thomsen, Deputy City Clerk

## Communications

- None

## Supplemental Communications and Reports 1

- None

## Supplemental Communications and Reports 2

- None



## Supplemental Communications and Reports 3

### Item #1: Berkeley Police Department Annual Report, 2022 Year End Data Reports

1. Presentation, submitted by the Police Department
2. George Lippman
3. Todd Andrew

**MINUTES**  
**BERKELEY CITY COUNCIL MEETING**  
**Tuesday, March 14, 2023**  
**6:00 PM**

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

JESSE ARREGUIN, MAYOR

Councilmembers:

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

DISTRICT 5 – SOPHIE HAHN  
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## Preliminary Matters

**Roll Call:** 7:01 p.m.

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

**Absent:** None

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

### Ceremonial Matters:

1. Recognition of the 60<sup>th</sup> Anniversary of KALX, UC Berkeley's student and community radio station
2. Recognition of Cazadero Family Camp
3. Adjourned in memory of Ben Casillas Jr., Community Member and victim of the fire at Bayer's West Berkeley campus
4. Adjourned in memory of Victor Garlin, Berkeley Resident, Community Leader, and Professor of Economics
5. Adjourned in memory of Judy Heumann, Disability Rights Activist

**City Manager Comments:** None

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

## Consent Calendar

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

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

**Vote:** All Ayes.

## Consent Calendar

- 1. Amendments to COVID-19 Emergency Response Ordinance, BMC Chapter 13.110**  
**From: Mayor Arreguin (Author), Councilmember Hahn (Author)**  
**Recommendation:** Adopt second reading of Ordinance No. 7,855-N.S. amending Berkeley Municipal Code (BMC) Chapter 13.110, the COVID-19 Emergency Response Ordinance to suspend the application of the ordinance to commercial property, permit lawful owner move-in evictions, and establish a Transition Period during which time specified evictions would be prohibited.  
**First Reading Vote:** Ayes – Taplin, Bartlett, Harrison, Hahn, Robinson, Arreguin; Noes – Wengraf; Abstain – Kesarwani, Humbert.  
**Financial Implications:** None  
Contact: Jesse Arreguin, Mayor, (510) 981-7100  
**Action:** Adopted first reading of Ordinance No. 7,855–N.S. as revised in the Supplemental Communications Packet #2 from Mayor Arreguin and with further revision to Section 13.110.030.A to read as follows: *“Covered Period” means the period of time beginning with March 17, 2020 and concluding at the end of April 30, 2023.* Second reading scheduled for March 21, 2023.
- 2. Adopt an Ordinance Amending Berkeley Municipal Code Chapter 3.82 Modifying Membership and Appointment Procedures for the Environment and Climate Commission**  
**From: Councilmember Harrison (Author)**  
**Recommendation:** Adopt second reading of Ordinance No. 7,856-N.S., amending Berkeley Municipal Code Chapter 3.82 Modifying Membership and Appointment Procedures for the Environment and Climate Commission.  
**First Reading Vote:** All Ayes.  
**Financial Implications:** See report  
Contact: Kate Harrison, Councilmember, District 4, (510) 981-7140  
**Action:** Adopted second reading of Ordinance No. 7,856–N.S.
- 3. Formal Bid Solicitations and Request for Proposals Scheduled for Possible Issuance After Council Approval on March 14, 2023**  
**From: City Manager**  
**Recommendation:** Approve the request for proposals or invitation for bids (attached to staff report) that will be, or are planned to be, issued upon final approval by the requesting department or division. All contracts over the City Manager’s threshold will be returned to Council for final approval.  
**Financial Implications:** Mental Health Services Act - \$2,802,400  
Contact: Henry Oyekanmi, Finance, (510) 981-7300  
**Action:** Approved recommendation.

## Consent Calendar

- 4. Contract: KLD Engineering, P.C. for Evacuation and Response Time Modeling**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to piggyback on the County of Santa Barbara contract and execute a contract and any amendments with KLD Engineering, P.C., for Evacuation and Response Time Modeling from April 1, 2023 through June 30, 2024 in the amount not to exceed \$400,000 with an option to extend for an additional two years not to exceed an additional \$100,000 if the piggyback contract is extended.  
**Financial Implications:** See report  
Contact: David Sprague, Fire, (510) 981-3473  
**Action:** Adopted Resolution No. 70,712–N.S.
- 5. Contract: GoGo Technologies, Inc. for Transportation Services for Seniors and the Disabled**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager, or her designee, to execute a contract and any amendments with GoGo Technologies, Inc. in the amount of \$350,000 for the period of April 1, 2023 through June 30, 2026 for the provision of a 24/7 call center to arrange rides with Uber and Lyft for customers of the Aging Services Division’s Berkeley Rides for Seniors and the Disabled program.  
**Financial Implications:** Measure BB Fund - \$350,000  
Contact: Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400  
**Action:** Adopted Resolution No. 70,713–N.S.
- 6. Contract: mySidewalk, Inc. for HHCS Web-Based Population Health Data Platform**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a contract and any amendments with mySidewalk, Inc. to provide a web-based population health data platform to access, compile, and share Community Health Assessment (CHA) data, and priority issues and strategies for the Community Health Improvement Plan (CHIP) for the Department of Health, Housing and Community Services (HHCS) from March 15, 2023 to March 14, 2026, in an amount not to exceed \$128,315.  
**Financial Implications:** Various Funds - \$128,315  
Contact: Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400  
**Action:** Adopted Resolution No. 70,714–N.S.

## Consent Calendar

- 7. Contract No. 32000225 Amendment: Its Personnel Consulting for Recruitment, Hiring, and Independent Workplace Investigation**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 32000225 with Its Personnel Consulting for recruitment, hiring and independent workplace investigation services, increasing the amount by \$149,000 for total amount not to exceed \$349,000 and extending the term of the contract through June 30, 2024.  
**Financial Implications:** General Fund - \$149,000  
Contact: Aram Kouyoumdjian, Human Resources, (510) 981-6800  
**Action:** Adopted Resolution No. 70,715–N.S.
- 8. Contract No. 32100046 Amendment: HR Acuity, LLC for Case Management and Employee Relations Software**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 32100046 with HR Acuity, LLC for case management and employee relations software, increasing the amount by \$139,000 for a total amount not to exceed \$189,000, and extending the contract term to June 30, 2025.  
**Financial Implications:** General Fund - \$139,000  
Contact: Aram Kouyoumdjian, Human Resources, 510-981-6800  
**Action:** Adopted Resolution No. 70,716–N.S.
- 9. Purchase Orders: Glassdoor to Provide Search Engine Optimization (SEO) and Ad Work**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute purchase orders with Glassdoor to provide search engine optimization (SEO) and ad work for two years from April 1, 2023 until March 31, 2025 in an amount not to exceed \$150,000.  
**Financial Implications:** Various Funds - \$150,000  
Contact: Aram Kouyoumdjian, Human Resources, (510) 981-6800  
**Action:** Adopted Resolution No. 70,717–N.S.
- 10. Purchase Orders: Indeed to Provide Search Engine Optimization (SEO) and Ad Work**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute purchase orders with Indeed to provide search engine optimization (SEO) and ad work for two years from April 1, 2023 until March 31, 2025 in an amount not to exceed \$150,000.  
**Financial Implications:** Various Funds - \$150,000  
Contact: Aram Kouyoumdjian, Human Resources, (510) 981-6800  
**Action:** Adopted Resolution No. 70,718–N.S.

## Consent Calendar

11. **Contract No. 31900187 Amendment: LV.NET (formerly Towerstream) for Secondary Internet for Redundancy and Load Balancing**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to amend the contract with LV.NET (formerly Towerstream, Inc.) for redundant secondary internet services, increasing the contract amount by \$106,000 for a total not-to-exceed amount of \$278,000 from October 3, 2017 to June 30, 2024.  
**Financial Implications:** Information Technology Communications Services Fund - \$106,000  
Contact: Kevin Fong, Information Technology, (510) 981-6500  
**Action:** Adopted Resolution No. 70,719–N.S.

## Council Consent Items

12. **Opposition to Initiative #1935**  
**From: Mayor Arreguin (Author), Councilmember Hahn (Co-Sponsor), Councilmember Harrison (Co-Sponsor), Councilmember Wengraf (Co-Sponsor)**  
**Recommendation:** Adopt a Resolution to oppose Initiative #1935, the deceptively named “Taxpayer Protection and Government Accountability Act”.  
**Financial Implications:** See report  
Contact: Jesse Arreguin, Mayor, (510) 981-7100  
**Action:** Adopted Resolution No. 70,720–N.S.
13. **Resolution to Support SB 50**  
**From: Mayor Arreguin (Author), Councilmember Robinson (Co-Sponsor), Councilmember Hahn (Co-Sponsor)**  
**Recommendation:** Adopt a Resolution in support of Senate Bill 50 with amendments, introduced by Senator Steven Bradford. Send a copy of the Resolution to Governor Gavin Newsom, State Senators Nancy Skinner and Scott Weiner, and Assemblymember Buffy Wicks.  
**Financial Implications:** None  
Contact: Jesse Arreguin, Mayor, (510) 981-7100  
**Action:** Adopted Resolution No. 70,721–N.S.
14. **Support SB 252 – State Divestment from Fossil Fuels**  
**From: Mayor Arreguin (Author), Councilmember Hahn (Co-Sponsor), Councilmember Harrison (Co-Sponsor), Councilmember Wengraf (Co-Sponsor)**  
**Recommendation:** Adopt a Resolution in support of SB 252 (Gonzalez), which would prohibit the Public Employees’ Retirement System (CalPERS) and the State Teachers’ Retirement System (CalSTRS) from investing in fossil fuel companies. Send a copy of the Resolution to Assemblymember Buffy Wicks, State Senators Nancy Skinner and Lena Gonzalez, Governor Gavin Newsom, CalPERS, and CalSTRS.  
**Financial Implications:** None  
Contact: Jesse Arreguin, Mayor, (510) 981-7100  
**Action:** Adopted Resolution No. 70,722–N.S.

## Council Consent Items

- 15. Budget Referral: Vision 2050 Complete Streets Parcel Tax Community Engagement and Program Plan**  
**From: Councilmember Taplin (Author), Councilmember Harrison (Co-Sponsor), Councilmember Robinson (Co-Sponsor)**  
**Recommendation:** Refer \$400,000 to the June 2023 mid-year budget update to conduct community engagement, public information campaign, and program plan development for potential 2024 complete streets and climate-resilient infrastructure revenue measures.  
**Financial Implications:** See report  
Contact: Terry Taplin, Councilmember, District 2, (510) 981-7120  
**Action:** Councilmember Bartlett added as a co-sponsor. Approved recommendation.
- 16. Resolution Supporting Unionization Efforts by Urban Ore workers**  
**From: Councilmember Taplin (Author), Councilmember Robinson (Co-Sponsor)**  
**Recommendation:** Adopt a Resolution in support of workers at Urban Ore unionizing under representation by the Industrial Workers of the World (IWW) Union 670.  
**Financial Implications:** None  
Contact: Terry Taplin, Councilmember, District 2, (510) 981-7120  
**Action:** Councilmember Bartlett added as a co-sponsor. Adopted Resolution No. 70,723–N.S.
- 17. Support for SB-58: Controlled Substances**  
**From: Councilmember Taplin (Author), Councilmember Robinson (Co-Sponsor)**  
**Recommendation:** Send a letter of support for Sen. Wiener’s Senate Bill 58, which would decriminalize psilocybin, psilocyn, MDMA, DMT, ketamine, mescaline, and ibogaine; expunge criminal records for use and possession of these substances; and establish a commission to provide recommendations to the state legislature on therapeutic uses.  
**Financial Implications:** None  
Contact: Terry Taplin, Councilmember, District 2, (510) 981-7120  
**Action:** Councilmembers Bartlett and Humbert added as co-sponsors. Approved recommendation as revised in Supplemental Communications Packet #1 from Councilmember Taplin.  
**Vote:** Ayes – Kesarwani, Taplin, Bartlett, Harrison, Wengraf, Robinson, Humbert, Arreguin; Noes – None; Abstain – Hahn; Absent – None.



## Council Consent Items

**18. Letter in Support of SB 466**

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

**Recommendation:** Send a letter to Senator Aisha Wahab (cc: Governor Gavin Newsom, Senator Nancy Skinner, Assemblymember Buffy Wicks) in support of SB 466, which would reform the Costa-Hawkins Rental Housing Act.

**Financial Implications:** None

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

**Action:** Approved recommendation.

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

**19. Resolution and Letter in Support of H.R. 852, the Investing in Safer Traffic Stops Act of 2023**

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

**Recommendation:** Adopt a Resolution in support of H.R. 852, the Investing in Safer Traffic Stops Act of 2023, and send a letter of support to Representative Ritchie Torres, Representative Barbara Lee, Senator Alex Padilla, and Senator Dianne Feinstein.

**Financial Implications:** None

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

**Action:** Councilmember Bartlett added as a co-sponsor. Adopted Resolution No. 70,724–N.S.

## Action Calendar – Old Business

20. **Reforms to Public Comment Procedures at meetings of the Berkeley City Council** (*Reviewed by the Agenda & Rules Committee. Continued from February 28, 2023. Item contains supplemental materials.*)

**From: Councilmember Droste (Author)**

**Recommendation:** Adopt a Resolution revising the City Council Rules of Procedure and Order: Section IV. Conduct of the Meeting and Appendix C Temporary Rules for The Conduct of City Council Meetings Through Video Conference During The Covid-19 Emergency to: 1. Consolidate non-agenda public comment, public comment on the Consent Calendar, and public comment on Action Items into a single public comment period toward the start of the Council meeting (consistent with the Berkeley Unified School District's public comment procedure), and continue to provide for additional time for public comment at the end of meetings; 2. Adopt reasonable limits on the overall number of public speakers (consistent with rulings from the Second District Court of Appeal) with a mechanism for the City Council to extend public comment; and 3. Rescind Resolution No. 70,091– N.S.

*Policy Committee Recommendation: To send the item to the City Council with a negative recommendation that no action be taken on the item.*

**Financial Implications:** See report

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

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

**Vote:** All Ayes.

**Action:** 44 speakers. M/S/C (Hahn/Arreguin) to:

1. Adopt Resolution No. 70,725–N.S. as revised in Option 2 of the supplemental material in Supplemental Communications Packet #2 from Councilmember Robinson and further revised to provide for public comment on the Action Calendar at the onset of the Action Calendar, and as the Action Calendar items are taken up, with exceptions. The changes to the procedures are effective April 11, 2023.

2. Refer the suggestions regarding improvements to the meeting process to the Agenda & Rules Committee and the Open Government Commission for consideration.

**Vote:** All Ayes.

## Action Calendar – Public Hearings

### 21. Ambulance User Fee Increase

**From: City Manager**

**Recommendation:** Conduct a public hearing and upon conclusion, adopt a Resolution: 1) Adjusting the Ambulance User Fee Schedule to match Alameda County's approved ambulance user fee schedule, made effective July 1, 2022, for the Cities of Alameda, Albany, Berkeley, and Piedmont; 2) Making the new Ambulance User Fee Schedule effective April 1, 2023; 3) Authorizing the City Manager to execute an amendment to Contract No. 31900182 with Alameda County for ambulance transport services to incorporate the fee increase; and 4) Rescinding Resolution No. 68,897–N.S., effective April 1, 2023.

**Financial Implications:** See Report

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

**Public Testimony:** The Mayor opened the public hearing. 1 speaker. M/S/C (Arreguin/Bartlett) to close the public hearing.

**Vote:** All Ayes.

**Action:** M/S/C (Arreguin/Harrison) to adopt Resolution No. 70,726–N.S.

**Vote:** All Ayes.

### 22. Amendments to Berkeley Election Reform Act Cost of Living Adjustment Provisions

**From: Fair Campaign Practices Commission**

**Recommendation:** Conduct a public hearing and, upon conclusion, adopt first reading of an ordinance amending the Berkeley Election Reform Act (BMC Chapter 2.12) to (1) clarify that cost of living adjustments for the \$250 campaign contribution limit to be performed in every odd-numbered year shall be rounded to the nearest ten dollars (\$10), and (2) providing that all cost of living adjustments required by BERA be performed by March instead of January of each odd-numbered year to coincide with the availability of necessary data.

**Financial Implications:** None

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

**Public Testimony:** The Mayor opened the public hearing. 1 speaker.

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

**Vote:** All Ayes.

**Action:** M/S/C (Arreguin/Robinson) to adopt first reading of Ordinance No. 7,857–N.S. Second reading scheduled for March 21, 2023.

**Vote:** All Ayes.

## Action Calendar – Old Business

### 23. Climate Action Plan and Resilience Update *(Continued from November 29, 2022)*

**From: City Manager**

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

**Action:** See action for Item 24.

## Action Calendar – New Business

### 24. Berkeley Economic Dashboards Update

**From: City Manager**

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

**Action:** M/S/C (Arreguin/Wengraf) to refer Item 23 and Item 24 to the Agenda & Rules Committee for future scheduling.

**Vote:** All Ayes.

## Council Action Items

### 25. Bureaucratic Effectiveness and Referral Improvement and Prioritization Effort (BE RIPE) *(Reviewed by the Agenda & Rules Committee)*

**From: Councilmember Droste (Author)**

**Recommendation:**

In order to ensure that the City focuses on high-priority issues, projects, and goals and affords them the resources and funding such civic efforts deserve, the City Council should consult with the City Manager's Office to develop and adopt a suite of revisions to the City Council Rules of Procedure and Order that would implement the following provisions:

1. Beginning in 2023, Councilmembers shall submit no more than one major legislative proposal or set of amendments to any existing ordinance per year, with the Mayor permitted to submit two major proposals, for a maximum of ten major Council items per year.
2. In 2023 and all future years, Councilmembers shall be required to submit major items before an established deadline. Council shall then prioritize any new legislative items as well as any incomplete major items from the previous year using the Reweighted Range Voting (RRV) process. This will help establish clear priorities for staff time, funding, and scheduling Council work sessions and meetings. For 2023 alone, the RRV process should include outstanding/incomplete Council items from all previous years. In 2024 and thereafter, the RRV process should only incorporate outstanding/incomplete major items from the prior year. However, Councilmembers may choose to renominate an incomplete major policy item from an earlier year as their single major item.
3. During deliberations at a special worksession, Council retreat, and/or departmental budget presentations, Council and the City Manager should develop a work plan that establishes reasonable expectations about what can be accomplished by staff given the list of priorities as ranked by RRV. Council should also consult with the City Manager and department heads, particularly the City Attorney's office, Planning Department, and Public Works Department on workload challenges (mandates outside Council priorities, etc.), impacts, reasonable staff output expectations, and potential corrective actions to ensure that mandated deadlines are met, basic services are provided, and policy proposals are effectively implemented.
4. Budget referrals and allocations from City Council must be explicitly related to a previously established or passed policy/program, planning/strategy document, and/or an external funding opportunity related to one of these. As a good government practice, councilmembers and the Mayor may not submit budget referrals which direct funds to a specific organization or event. Organizations which receive City

## Action Calendar – New Business

funding must submit at least annually an application detailing, at a minimum: the civic goal(s)/purpose(s) for which City funds are used, the amount of City funding received for each of the preceding five years, and quantitative or qualitative accounting of the results/outcomes for the projects that made use of those City funds. Organizations receiving more than \$20,000 in City funds should be required to provide quantitative data regarding the number of individuals served and other outcomes.

5. Ensuring that any exceptions to these provisions are designed to ensure flexibility in the face of an emergency, disaster, or urgent legal issue/liability and narrowly tailored to be consistent with the goals of enhanced efficiency, effectiveness, fairness, and focus.

*Policy Committee Recommendation: To send the item to the City Council with a Qualified Positive Recommendation to refer the relevant concepts of the original item to the Agenda & Rules Committee for consideration under the existing committee agenda item regarding enhancements to the City’s legislative process.*

**Financial Implications:** See report

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

**Action:** Moved to Consent Calendar to adopt the recommendation from the policy committee.

## Public Comment – Items Not Listed on the Agenda - 3 speakers.

### Adjournment

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

**Vote:** All Ayes.

Adjourned at 11:03 p.m.

I hereby certify that the foregoing is a true and correct record of the regular meeting held on March 14, 2023.

\_\_\_\_\_  
Rose Thomsen, Deputy 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.*

#### Hopkins Corridor

1. Alex Benn
2. Phyllis Orrick
3. Khin Chin, on behalf of Disaster and Fire Safety Commission (2)
4. Andrew Graham
5. Mimi Morgan

6. Grayson Savoie
7. Eric Taylor
8. Laila Hamidi
9. Charan Samudrala
10. Walter Wood
11. Joel Myerson (2)
12. William Stringfellow
13. Becca Schonberg
14. Carol Hirth
15. Sally Nelson
16. Diana Bohn
17. Gerry Tierney
18. Mary B
19. Katherine Silver
20. Susan Ashley
21. Sean Co
22. Friends of Hopkins Street
23. Judy Dater
24. Meg Holm
25. Will Gioia
26. Melissa Short
27. Susan DeMersseman
28. Janet Jacobson-Weiss
29. Friends of Five Creeks

**BART Development at Ashby and/or North Berkeley**

30. Jack Kurzweil (2)
31. Helga Recke

**Stuart Street and MLK Danger Zone**

32. Claire Fitzgerald
33. Ian Bronswick, Associate Civil Engineer

**Ukraine Flag Raising**

34. Igor Tregub

**Crime in Berkeley**

35. John McMonagle
36. Eric Friedman
37. Andres Talero
38. Taline Kazandjian
39. Lisa Mirkovic

**Housing Element**

40. Corey Smith

**Berkeley Unified School District Milvia Garage**

41. Liza Lutzker

**Legislative Assistants Compensation**

42. Khin Chin, VP of SEIU 1021 CSU PTRLA

43. Anne Cardwell, Deputy City Manager

**Dead Animals in Aquatic Park**

44. Cassandra Turgman

**COVID-19**

45. Kelly Hammargren

**Affordable Commercial Space**

46. Sylvia

**Public Transit Fiscal Cliff**

47. Thomas Yamaguchi

**Deaths at Golden Gate Fields**

48. Tweed Conrad

**Housing Demolition and Unfinished Business**

49. Michai Freeman

**Railroad Safety**

50. Sarah Freedman

**2190 Shattuck Avenue, View from the Campanile**

51. Anne Burns

**WARN Notice**

52. Anne Del Rosario Birnbaum, for Chipper Cash

**Infrastructure Need to Protect Codornices Creek Along Hopkins Corridor**

53. Friends of Five Creeks

54. Liam Garland, Director of Public Works

**Proposed Bike Lane from Bonar Street to Mabel Street along Dwight Way**

55. Laurel and Ben Kuchinsky

**North Berkeley Senior Center**

56. Sara Paredes

57. Chris Gilmore

58. Chiara Juster

**High Cost of Food for Cal Students**

59. Olga Jimenez

**Day of Hate on Jews – February 25**

60. Dorothea Dorenz

**Elder Abuse at Harriet Tubman Terrance**

61. Darinxoso Oyamasela

**Alameda County Information for City Stakeholders**

62. Corey Williams on behalf of the U.S. Small Business Administration

**E-Bike Lottery**

63. Anne-Lise Francois

**ADA Bypass**

64. Carl Bass

**Berkeley Asphalt Operations**

65. Pear Michaels

**Bus Rapid Transit from University to Telegraph**

66. Zach Franklin

67. Bailey Schweitzer

**910 Indian Rock Avenue**

68. Leila Moncharsh, on behalf of The Berkeley Architectural Heritage Assoc.

**PAB Recommendations – Unmanned Aerial System**

69. Jen Louis, Interim Chief of Police

**URLs Only**

70. Vivian Warkentin (3)

71. Fred Dodsworth

72. Michai Freeman

**Supplemental Communications and Reports 1**

**Item #17: Support for SB 58: Controlled Substances**

73. Revised material, submitted by Councilmember Taplin

**Item #20: Reforms to Public Comment Procedures at Meetings of the City Council**

74. Berkeley Neighborhood Council (2)

75. Linda Franklin

76. Lisa Bruce

77. Diana Bohn

78. Tarek Rached

79. Natasha Robinson

80. Tony Corman



- 81. Larisa Cummings
- 82. James Mattson
- 83. Mary Behm-Steinberg

## **Supplemental Communications and Reports 2**

### **Item #1: Amendments to COVID-19 Emergency Response Ordinance, BMC Chapter 13.110**

- 84. Revised material, submitted by Mayor Arreguin
- 85. Supplemental material, submitted by Councilmember Kesarwani

### **Item #20: Reforms to Public Comment Procedures at Meetings of the City Council**

- 86. Supplemental material, submitted by Councilmember Robinson
- 87. Shirley Dean
- 88. Zipporah Collins
- 89. Irene Rosenthal
- 90. Sally Nelson
- 91. Diana Bohn
- 92. Rose Monahan
- 93. Carol Denney
- 94. Leah Redwood
- 95. Tammy Stellanova
- 96. Juli Dickey
- 97. David Fielder
- 98. Peggy Radel
- 99. Aimee Baldwin
- 100. Summer Brenner
- 101. MaryAnn Furda
- 102. Anandamayi Arnold

## **Supplemental Communications and Reports 3**

### **Item #1: Amendments to COVID-19 Emergency Response Ordinance, BMC Chapter 13.110**

- 103. Isabelle Gaston

### **Item #14: Support SB 252 – State Divestment from Fossil Fuels**

- 104. Peace and Justice Commission

### **Item #15: Budget Referral: Vision 2050 Complete Streets Parcel Tax Community Engagement and Program Plan**

- 105. Berkeleyans for Better Planning

### **Item #20: Reforms to Public Comment Procedures at Meetings of the City Council**

- 106. Jonathan Wieder
- 107. Hali Hammer
- 108. Molly Baskette
- 109. Kelly Hammargren
- 110. John Bean

111. Michael Weber
112. Gael Alcock
113. Abderazak Mehdhkeur
114. Elaine Bloom
115. Irene Rosenthal
116. Judith White
117. George Lippman
118. Igor Tregub
119. Mati Teiblum
120. Sonya Karabel
121. Barbara Gilbert
122. Derethia DuVal
123. Libby Sayre
124. Jack Kurzweil
125. Sheila Jordan
126. Alice Rosenthal
127. Isis Feral
128. Emma Martin, on behalf of The Center for Independent Living

**Item #25: Bureaucratic Effectiveness and Referral Improvement and Prioritization Effort (BE RIPE)**

129. Nancy Schimmel

**Miscellaneous Communications**

130. Mr. Eid

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

**Monday, March 20, 2023  
6:00 PM**

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

TELECONFERENCE LOCATION - 1404 LE ROY AVE, BERKELEY 94708

JESSE ARREGUIN, MAYOR

Councilmembers:

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

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

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

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

*Remote participation by the public is available through Zoom. To access the meeting remotely: Join from a PC, Mac, iPad, iPhone, or Android device: Please use this URL: <https://cityofberkeley-info.zoomgov.com/j/1612633953>. If you do not wish for your name to appear on the screen, then use the drop down menu and click on "rename" to rename yourself to be anonymous. To request to speak, use the "raise hand" icon by rolling over the bottom of the screen. To join by phone: Dial **1-669-254-5252** or **1-833-568-8864 (Toll Free)** and enter Meeting ID: **161 263 3953**. If you wish to comment during the public comment portion of the agenda, Press \*9 and wait to be recognized by the Chair.*

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

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

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

## Preliminary Matters

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

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

**Absent:** Kesarwani, Bartlett, Hahn

Councilmember Kesarwani present at 6:20 p.m.

## Worksession

**1. Update on the Waterfront Specific Plan for the City of Berkeley Public Tidelands Area**

**From: City Manager**

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

**Action:** 13 speakers. Presentation made and discussion held.

## Adjournment

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

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

Adjourned at 8:31 p.m.

I hereby certify that the foregoing is a true and correct record of the special session meeting held on March 20, 2023.

\_\_\_\_\_  
Rose Thomsen, Deputy 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 #1: Update on the Waterfront Specific Plan for the City of Berkeley Public Tidelands Area**

1. Claudia Kawczynska

## Supplemental Communications and Reports 1

- None

## **Supplemental Communications and Reports 2**

### **Item #1: Update on the Waterfront Specific Plan for the City of Berkeley Public Tidelands Area**

2. Peter Kuhn
3. James McGrath

## **Supplemental Communications and Reports 3**

### **Item #1: Update on the Waterfront Specific Plan for the City of Berkeley Public Tidelands Area**

4. Presentation, submitted by Parks, Recreation and Waterfront
5. Robert Ofsevit

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

**Tuesday, March 21, 2023  
4:00 PM**

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

TELECONFERENCE LOCATION - 1404 LE ROY AVE, BERKELEY 94708

JESSE ARREGUIN, MAYOR

Councilmembers:

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

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

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## Preliminary Matters

**Roll Call:** 4:08 p.m.

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

**Absent:** Kesarwani, Taplin, Harrison, Hahn

Councilmember Harrison present at 5:26 p.m.

Councilmember Kesarwani present at 6:07 p.m.

## Worksession

- 1. Civic Arts Grants Program – Improved Practices & Community Impact**  
**From: City Manager**  
Contact: Eleanor Hollander, Economic Development, (510) 981-7530  
**Action:** 8 speakers. Presentation made and discussion held.
- 2. Civic Center Plan Phase II – Design Concept**  
**From: City Manager**  
Contact: Liam Garland, Public Works, (510) 981-6300  
**Action:** 15 speakers. Presentation made and discussion held.

## Adjournment

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

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

Councilmember Wengraf absent 5:47 p.m. – 6:36 p.m.

Adjourned at 6:36 p.m.

I hereby certify that the foregoing is a true and correct record of the special session meeting held on March 21, 2023.

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Mark Numainville, City Clerk

## Communications

### Item #2: Civic Center Plan Phase II – Design Concept

1. Wendy Alfsen
2. Peter Schultze-Allen
3. Todd Jersey
4. Janet Byron

5. John Caner, Convener, Community for a Cultural Civic Center

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

- None

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

#### **Item #2: Civic Center Plan Phase II – Design Concept**

6. Gillian Irwin
7. Stefen
8. Diana Bohn
9. Rachel Katz

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

#### **Item #1: Civic Arts Grants Program – Improved Practices & Community Impacts**

10. Presentation, submitted by the City Manager's Office

#### **Item #2: Civic Center Plan Phase II – Design Concept**

11. Presentation, submitted by the City Manager's Office
12. Karl Wanaselja
13. Kelly Hammargren



**MINUTES**  
**BERKELEY CITY COUNCIL MEETING**  
**Tuesday, March 21, 2023**  
**6:00 PM**

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

TELECONFERENCE LOCATION - 1404 LE ROY AVE, BERKELEY 94708

JESSE ARREGUIN, MAYOR

Councilmembers:

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

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

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

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

*Remote participation by the public is available through Zoom. To access the meeting remotely: Join from a PC, Mac, iPad, iPhone, or Android device: Please use this URL <https://cityofberkeley-info.zoomgov.com/j/1604192052>. If you do not wish for your name to appear on the screen, then use the drop down menu and click on "rename" to rename yourself to be anonymous. To request to speak, use the "raise hand" icon by rolling over the bottom of the screen. To join by phone: Dial **1-669-254-5252** or **1-833-568-8864 (Toll Free)** and enter Meeting ID: **160 419 2052**. If you wish to comment during the public comment portion of the agenda, Press \*9 and wait to be recognized by the Chair.*

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

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

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

## Preliminary Matters

**Roll Call:** 6:37 p.m.

**Present:** Kesarwani, Bartlett, Harrison, Robinson, Humbert, Arreguin

**Absent:** Taplin, Hahn, Wengraf

Councilmember Wengraf present at 6:47 p.m.

Councilmember Taplin present at 6:51 p.m.

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

### Ceremonial Matters:

1. Recognition of Martin Nicolas, Local Activist and Photographer
2. Recognition of Education and Sharing Day
3. Adjourned in Memory of Lillia Bartlow, Berkeley High School Student

**City Manager Comments:** None

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

## Consent Calendar

**Public Comment on Consent Calendar and Information Items Only:** 24 speakers.

**Action:** M/S/C (Arreguin/Wengraf) to accept an urgency item from Mayor Arreguin and Councilmember Robinson to submit a letter to the California Supreme Court in support of judicial review in *Make UC a Good Neighbor v. The Regents of the University of California*.

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

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

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

**Urgency Item: Authorizing the City Attorney to Submit a Letter in Support of the UC Regents Petition for Review in Make UC a Good Neighbor v. Regents of University of California**

**From: Mayor Jesse Arreguin (author); Councilmember Rigel Robinson (co-author)**

**Recommendation:** Adopt a Resolution Authorizing the City Attorney to submit a letter in support of the University of California Regents' petition for review to the California State Supreme Court in Make UC a Good Neighbor v. The Regents of University of California.

**Financial Implications:** See report

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

**Action:** Adopted Resolution No. 70,727-N.S. with the following amendments:

Amended to move the last Whereas clause to after the third Whereas clause, and to revise the wording in the fifth and seventh Whereas clauses to read:

*WHEREAS, the Court concluded that the noise impacts of the residents of a housing project must be studied and mitigated has the potential to delay or derail the construction of student housing off-campus in the city's jurisdiction; and*

*WHEREAS, this decision could enable parties who oppose certain student housing, affordable housing or residential or commercial development to delay projects arguing that noisy occupants are an environmental impact; and*

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

**Consent Calendar – Continued Business**

**A. Amendments to COVID-19 Emergency Response Ordinance, BMC Chapter 13.110 (Continued from March 14, 2023)**

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

**Recommendation:** Adopt second reading of Ordinance No. 7,855-N.S. amending Berkeley Municipal Code (BMC) Chapter 13.110, the COVID-19 Emergency Response Ordinance to suspend the application of the ordinance to commercial property, permit lawful owner move-in evictions, and establish a Transition Period during which time specified evictions would be prohibited.

**First Reading Vote:** All Ayes.

**Financial Implications:** None

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

**Action:** Adopted second reading of Ordinance No. 7,855–N.S.

## Consent Calendar – Continued Business

### B. Amendments to Berkeley Election Reform Act Cost of Living Adjustment Provisions *(Continued from March 14, 2023)*

**From:** Fair Campaign Practices Commission

**Recommendation:** Adopt second reading of Ordinance No. 7,857-N.S. amending the Berkeley Election Reform Act (BMC Chapter 2.12) to (1) clarify that cost of living adjustments for the \$250 campaign contribution limit to be performed in every odd-numbered year shall be rounded to the nearest ten dollars (\$10), and (2) providing that all cost of living adjustments required by BERA be performed by March instead of January of each odd-numbered year to coincide with the availability of necessary data.

**First Reading Vote:** All Ayes.

**Financial Implications:** None

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

**Action:** Adopted second reading of Ordinance No. 7,857–N.S.

## Consent Calendar

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

**From:** City Manager

**Recommendation:** Adopt a Resolution reviewing the need for continuing the local emergency due to the spread of a severe acute respiratory illness caused by a novel (new) coronavirus (COVID-19) and ratifying the Proclamation of Local Emergency issued by the Director of Emergency Services on March 3, 2020, initially ratified by the City Council on March 10, 2020, and subsequently reviewed and ratified by the Council on April 21, 2020, June 16, 2020, July 28, 2020, September 22, 2020, November 17, 2020, December 15, 2020, February 9, 2021, March 30, 2021, May 25, 2021, July 20, 2021, September 14, 2021, December 14, 2021, February 8, 2022, March 22, 2022, May 10, 2022, June 28, 2022, July 26, 2022, September 20, 2022, November 3, 2022, December 13, 2022, and January 31, 2023.

**Financial Implications:** To be determined.

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

**Action:** Adopted Resolution No. 70,728–N.S. as revised in Supplemental Communications Packet #1 by the City Manager.

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

### 2. Designate the Line of Succession for the Director of Emergency Services

**From:** City Manager

**Recommendation:** Adopt a Resolution approving the designated line of succession to the position of Director of Emergency Services in the event of an emergency, and rescinding Resolution No. 70,406-N.S.

**Financial Implications:** None

Contact: Dee Williams-Ridley, City Manager, (510) 981-7000

**Action:** Adopted Resolution No. 70,729–N.S.

## Consent Calendar

**3. Grant Application: Funding from the Federal Emergency Management Agency (FEMA) to expand a NFPA 1582/1583 compliant employee Wellness, Fitness and Human Performance Program**

**From: City Manager**

**Recommendation:** Adopt a Resolution authorizing the City Manager to apply for and accept a grant, and any amendments, from the Federal Emergency Management Agency (FEMA) for up to \$840,000 with a 10% or \$84,000 in matching city funds to expand a National Fire Protection Association (NFPA) 1582/1583 compliant employee Wellness, Fitness and Human Performance Program.

**Financial Implications:** See report

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

**Action:** Adopted Resolution No. 70,730–N.S.

**4. Contract No. 32200156 Amendment: Options Recovery Services for Community Crisis Response Services**

**From: City Manager**

**Recommendation:** Adopt a Resolution authorizing the City Manager to amend Contract No. 32200156 with Options Recovery Services (Options) to add \$561,917.11 and extend the term of the Community Crisis Response Services to December 31, 2023 with a not to exceed amount of \$1,201,917.11.

**Financial Implications:** See report

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

**Action:** Adopted Resolution No. 70,731–N.S.

**5. Contract No. 32200147 Amendment: Women’s Daytime Drop-In Center for Community Crisis Response Services**

**From: City Manager**

**Recommendation:** Adopt a Resolution authorizing the City Manager to amend Contract No. 32200147 with Women’s Daytime Drop-In Center (WDDC) to add \$75,600 and extend the term of the Community Crisis Response Services to December 31, 2023 with a not to exceed amount of \$195,600.

**Financial Implications:** See report

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

**Action:** Adopted Resolution No. 70,732–N.S.

## Consent Calendar

6. **Contract No. 32300025 Amendment: Non-Profit Intelligence Partners for Flexible Funding program services**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager or her designee to execute an amendment to Contract No. 32300025 with Non-Profit Intelligence Partners (NPI) to provide Flexible Funding program services through June 30, 2024 in an amount not to exceed \$350,000. This will extend the existing contract by one year and add \$300,000 in funding.  
**Financial Implications:** See report  
Contact: Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400  
**Action:** Adopted Resolution No. 70,733–N.S.
7. **Revenue Agreements: California Department of Public Health Childhood Lead Poisoning Prevention and CalFresh Grants**  
**From: City Manager**  
**Recommendation:** Adopt two Resolutions authorizing the City Manager or her designee to submit grant agreements to the State of California, California Department of Public Health (CDPH), to accept the grants, and execute any resultant revenue agreements and amendments to conduct public health promotion, protection, and prevention services for the following two revenue agreements:  
1. CDPH: Childhood Lead Poisoning Prevention Program (CLPPP), in the projected total 3-year amount of \$383,455 for FY 2024, FY 2025, and FY 2026.  
2. CDPH: CalFresh Healthy Living Program (CalFresh), in the projected amount of \$162,390 each year in FFY 2024, FFY 2025, FFY 2026, for a projected total 3-year amount of \$487,170.  
**Financial Implications:** See report  
Contact: Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400  
**Action:** Adopted Resolution No. 70,734–N.S. (Lead); and Resolution No. 70,735–N.S. (CalFresh).

## Consent Calendar

### 8. Funding Recommendation and Joint Homekey Application for the University Inn at 1461 University

**From: City Manager**

**Recommendation:** Adopt three resolutions approving the following actions in support of a Homekey program funding allocation by:

1. Reserving up to \$8,500,000 in General Funds received pursuant to Measure P for the University Inn permanent supportive housing project at 1461 University Avenue as proposed by a partnership between Memar Properties (Memar) and Housing Consortium of the East Bay (HCEB).
2. Reserving up to \$1,000,000 in General Funds received pursuant to Measure P for Memar and HCEB to operate the University Inn as an emergency shelter prior to permanent housing conversion.
3. Authorizing the City Manager or her designee to prepare and submit a joint application together with Memar and HCEB for the State of California Housing and Community Development (HCD) Department's Homekey program for the University Inn permanent supportive housing project. And, further authorizing the City Manager or her designee to include the issuance date of the Notice of Funding Availability, once available, in the resolution.
4. Authorizing the City Manager or her designee to take actions needed for the City's participation in HCD's Homekey program, including entering into HCD's Standard Agreement and any amendments.
5. Authorizing the City Manager or her designee to execute all original or amended documents or agreements to effectuate these actions.

**Financial Implications:** See report.

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

**Action:** Adopted Resolution No. 70,736–N.S. (Funding Reservation) as revised in Supplemental Communications Packet #2 by the City Manager;

Adopted Resolution No. 70,737–N.S. (Joint Application) with an amended Resolved clause to read:

*NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that Council approves \$8,500,000 in funding reservations from General Funds received pursuant to Measure P Allocation for the University Inn Homekey project. The project would include a preference for homeless individuals in Berkeley to the extent allowable under the coordinated entry system and all other applicable laws and regulations.*

Adopted Resolution No. 70,738–N.S. (Authorizing Joint Application) with an amended Resolved clause to read:

*NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that it approves the submission of a joint application with HCEB and Memar or their affiliate for the Homekey application for University Inn Homekey project, with a preference for homeless individuals in Berkeley to the extent allowable under the coordinated entry system and all other applicable laws and regulations.*

## Consent Calendar

**9. Amending the Program Year 2021 (PY2021) Annual Action Plan to Accept HOME-American Rescue Plan Funds**

**From: City Manager**

**Recommendation:** Adopt a Resolution:

1. Amending the PY2021 Annual Action Plan to expend HUD's allocation of HOME Investment Partnerships Program – American Rescue Plan (HOME-ARP) funds to the City of Berkeley, totaling \$2,735,696, upon HUD's acceptance of the City's Allocation Plan.
2. Allocating up to the allowable 15% (\$410,354) of the HOME-ARP funds for administration and planning, up to the allowable 5% (\$136,785) for nonprofit capacity building, and the remaining 80% (\$2,188,557) to supportive services for the qualifying populations. If the HOME-ARP award amount is modified, the same formulas will be applied for allocating funds.
3. Authorizing the City Manager or her designee to submit the approved PY2021 Annual Action Plan Substantial Amendment to HUD, and accept any resulting agreements, and amendments thereto with HUD.

**Financial Implications:** See report.

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

**Action:** Adopted Resolution No. 70,739–N.S.

**10. Salary Range Adjustments: Senior Behavioral Health Clinician, Mental Health Clinical Supervisor, Mental Health Program Supervisor, Assistant Manager of Mental Health Division, and Manager of Mental Health Division**

**From: City Manager**

**Recommendation:** Adopt a Resolution amending Resolution No. 69,997-N.S.

Salary Resolution for Public Employees Union – Local 1 to increase the top step salary of the Senior Behavioral Health Clinician by 0.83%; Mental Health Clinical Supervisor by 4.18%; Mental Health Program Supervisor by 7.33%; Assistant Manager of Mental Health Division by 7.33%; and Manager of Mental Health Division by 1.20%, effective January 14, 2023.

**Financial Implications:** See report

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

**Action:** Adopted Resolution No. 70,740–N.S.



## Consent Calendar

### 11. **Salary Range Adjustments: Deputy City Manager and Employee Relations Manager Classifications**

**From: City Manager**

**Recommendation:** Adopt a Resolution to amend Resolution No. 69,998-N.S. Classification and Salary Resolution for classifications in Representation Unit Z-1 (Confidential and Executive Management Employees) to increase the top step salary of the Deputy City Manager classification from \$277,840.99 to \$291,733.04, and the Employee Relations Manager classification from \$175,026.38 to \$180,065.60 effective January 14, 2023.

This Resolution follows Council consideration of this item in Closed Session on December 12, 2022.

**Financial Implications:** See report

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

**Action:** Adopted Resolution No. 70,741–N.S.

### 12. **Contract: TEROCONS INC. for Aquatic Park Paddling and Rowing Club Parking Lot Improvements Project**

**From: City Manager**

**Recommendation:** Adopt a Resolution:

1. Approving the plans and specifications for the Aquatic Park Paddling and Rowing Club Parking Lot Improvements Project; and
2. Accepting the bid of the lowest responsive and responsible bidder, TEROCONS INC.; and
3. Authorizing the City Manager to execute a contract and any amendments, extensions or other change orders until completion of the project in accordance with the approved plans and specifications, with TEROCONS INC., for the Aquatic Park Paddling and Rowing Club Parking Lot Improvements Project at 2851 West Bolivar Drive, Berkeley, CA 94710, in an amount not to exceed \$260,312.50 which includes a contract amount of \$208,250.00 and a 25% contingency in the amount of \$52,062.50.

**Financial Implications:** Parks Tax Fund - \$260,312.50

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

**Action:** Adopted Resolution No. 70,742–N.S.

### 13. **Grant Funding Application for SolarAPP+ integration**

**From: City Manager**

**Recommendation:** Adopt a Resolution authorizing the City Manager or their designee to submit a grant application in the amount of \$80,000 to The California Energy Commission, to receive technical assistance to integrate the SolarAPP+ web software to the City of Berkeley Permit Service Center operations, and to accept grant funds and execute a resulting grant agreement.

**Financial Implications:** See report.

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

**Action:** Adopted Resolution No. 70,743–N.S.

## Consent Calendar

- 14. Contract No. 32100192 Amendment: California Constructores for Sidewalk Repairs FY 2020 Project**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to amend Contract No. 32100192 with California Constructores, increasing the contract amount by \$200,000 for a total not-to-exceed amount of \$2,375,900.  
**Financial Implications:** See report.  
Contact: Liam Garland, Public Works, (510) 981-6300  
**Action:** Adopted Resolution No. 70,744–N.S.
- 15. Contract: JV Lucas Paving, Inc. for Street Rehabilitation FY 2023 Project**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution: 1) approving plans and specifications for the Street Rehabilitation FY 2023 Project, Specification No. 23-11558-C; and 2) accepting the bid of the lowest responsive and responsible bidder, JV Lucas Paving, Inc. and 3) authorizing the City Manager to execute a contract and any amendments, extensions or other change orders until completion of the project, in accordance with the approved plans and specifications in an amount not to exceed \$10,203,711.  
**Financial Implications:** See report.  
Contact: Liam Garland, Public Works, (510) 981-6300  
**Action:** Adopted Resolution No. 70,745–N.S.
- 16. Purchase Order: Pape Machinery, Inc. for One John Deere 320P Backhoe Loader**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution satisfying requirements of City Charter Article XI Section 67.2 allowing the City Manager to participate in Sourcwell bid procedures and authorizing the City Manager to execute a purchase order for one (1) 2023 John Deere 320P Backhoe Loader with Pape Machinery, Inc. in an amount not to exceed \$215,000.  
**Financial Implications:** See report  
Contact: Liam Garland, Public Works, (510) 981-6300  
**Action:** Adopted Resolution No. 70,746–N.S.
- 17. Purchase Order: Nicholas K Corp dba the Ford Store San Leandro for Eight Ford Interceptor Hybrid Utility Vehicles**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution satisfying requirements of City Charter Article XI Section 67.2 allowing the City Manager to participate in Alameda County bid procedures and authorize the City Manager to execute a purchase order for eight (8) Ford Interceptor Utility Hybrid vehicles with Nicholas K Corp dba the Ford Store San Leandro in an amount not to exceed \$496,454.  
**Financial Implications:** See report.  
Contact: Liam Garland, Public Works, (510) 981-6300  
**Action:** Adopted Resolution No. 70,747–N.S.

## Consent Calendar

### 18. Referral Response: Grant Program for Retaining and Improving Creative Spaces

**From: Civic Arts Commission**

**Recommendation:** Referral to the FY 2024 Budget Process an annual allocation of \$300,000 for funding the Civic Arts program to administer an annual Capital Projects Grant Program for Berkeley-based nonprofit arts and cultural organizations in order to retain and sustain the vitality of Berkeley's arts sector through real estate and capital project support.

**Financial Implications:** See report

Contact: Jennifer Lovvorn, Commission Secretary, (510) 981-7530

**Action:** Approved recommendation.

## Council Consent Items

### 19. Budget Referral: Post COVID-19 Rental Assistance/Anti-Displacement From: Mayor Arreguin (Author), Councilmember Hahn (Co-Sponsor), Councilmember Harrison (Co-Sponsor), Councilmember Robinson (Co-Sponsor)

**Recommendation:** Refer \$2,000,000 to the FY 2024/June Budget Process to augment the Housing Retention Program, (administered by the Eviction Defense Center, EDC) as part of the City's anti-displacement programs (launched in 2017), for the purpose of providing rental assistance to tenants due to the COVID-19 eviction moratorium expiration and rent debt due to inflation and rental increases. The proposed funding source is FY 2023-2024 Measure P tax receipts.

**Financial Implications:** See report

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

**Action:** Approved recommendation.

### 20. City Co-Sponsorship of Bioneers Conference and Relinquishment of Council Office Budget Funds to General Fund and Grant of Such Fund From: Mayor Arreguin (Author), Councilmember Hahn (Co-Sponsor), Councilmember Wengraf (Co-Sponsor)

**Recommendation:** Adopt a resolution memorializing City of Berkeley co-sponsorship of the non-profit Bioneers Conference, to be held April 6-8, 2023 and approving the expenditure of an amount not to exceed \$250 per Councilmember including \$250 from Mayor Arreguin, to the Berkeley Chamber of Commerce to offset permit costs, with funds relinquished to the City's general fund for this purpose from the discretionary Council Office Budgets of Mayor Arreguin and any other Councilmembers who would like to contribute.

**Financial Implications:** See report

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

**Action:** Adopted Resolution No. 70,748–N.S. amended to include contributions from the following Councilmembers up to the amounts listed: Mayor Arreguin - \$250; Councilmember Wengraf - \$250; Councilmember Robinson - \$200.

## Council Consent Items

21. **Budget Referral - Speed Feedback Signs for Arlington Avenue**  
**From: Councilmember Hahn (Author), Councilmember Taplin (Co-Sponsor), Councilmember Wengraf (Co-Sponsor)**  
**Recommendation:** In support of the City's Vision Zero Action Plan and Pedestrian Plan goals, refer to the Fiscal Year 2024 Budget Process an allocation of \$40,000 for two Speed Feedback Signs on Arlington Avenue between The Circle and Mendocino Avenue, to encourage slower speeds on a stretch with numerous hidden and mid-block crosswalks.  
**Financial Implications:** See report  
Contact: Sophie Hahn, Councilmember, District 5, (510) 981-7150  
**Action:** Approved recommendation.
22. **Pedestrian Safety Upgrades for Arlington Avenue**  
**From: Councilmember Hahn (Author), Councilmember Taplin (Co-Sponsor), Councilmember Wengraf (Co-Sponsor)**  
**Recommendation:** In support of the City's Vision Zero Action Plan and Pedestrian Plan goals, refer to the Fiscal Year 2024 Budget Process an allocation of \$35,000 for traffic control measures on Arlington Avenue from The Circle to Mendocino Avenue, to enhance pedestrian safety at hidden crosswalks and where paths cross mid-block, and refresh painted markings that narrow lanes and encourage reduced speeds.  
**Financial Implications:** See report  
Contact: Sophie Hahn, Councilmember, District 5, (510) 981-7150  
**Action:** Approved recommendation.
23. **2023 Virtual Holocaust Remembrance Day Program: Relinquishment of Council Office Budget Funds from General Funds and Grant of Such Funds**  
**From: Councilmember Wengraf (Author), Councilmember Hahn (Author)**  
**Recommendation:** Adopt a Resolution approving the expenditure of an amount not to exceed \$500 per Councilmember, including \$500 each from Councilmember Wengraf and Councilmember Hahn, to support the City's Annual Holocaust Remembrance Day program with funds relinquished to the City's general fund. The relinquishment of funds from Councilmember Wengraf's and Hahn's discretionary Council Office Budgets and all other Councilmembers who would like to contribute, allows the City of Berkeley to invite the community to the City's 20th Annual Holocaust Remembrance Day virtual program, created by the community with City Council support. This year's program will be held virtually on April 16th, 2023 from 2:00 – 3:00 PM. Register via Eventbrite to attend.  
**Financial Implications:** See report  
Contact: Susan Wengraf, Councilmember, District 6, (510) 981-7160  
**Action:** Councilmember Taplin added as a co-sponsor. Adopted Resolution No. 70,749–N.S. amended to include contributions from the following Councilmembers up to the amounts listed: Mayor Arreguin - \$500; Councilmember Kesarwani - \$200; Councilmember Humbert – \$500; Councilmember Harrison – \$250; Councilmember Bartlett – \$250; Councilmember Taplin – \$500; Councilmember Robinson – \$200.

## Council Consent Items

24. **Proclamation in Honor of City of Berkeley Holocaust Remembrance Day**  
**From: Councilmember Wengraf (Author), Councilmember Hahn (Author), Mayor Arreguin (Co-Sponsor), Councilmember Bartlett (Co-Sponsor)**  
**Recommendation:** Adopt the Holocaust Remembrance Day Proclamation for the City of Berkeley's 20th Annual Holocaust Remembrance Day. The program will take place virtually on Sunday, April 16th from 2:00 - 3:00 PM.  
**Financial Implications:** See report  
Contact: Susan Wengraf, Councilmember, District 6, (510) 981-7160  
**Action:** Adopted proclamation.
25. **Referral: On-Street Secure Bike Storage**  
**From: Councilmember Robinson (Author), Councilmember Hahn (Co-Sponsor), Councilmember Harrison (Co-Sponsor), Councilmember Taplin (Co-Sponsor)**  
**Recommendation:** Refer to the City Manager to develop and return to Council with a plan to create on-street secure bike parking in multi-family residential and commercial districts across the City in parking spots previously reserved for car storage. Take associated actions, including:
1. Determining recommended locations for installation that take into consideration factors such as equity priority neighborhoods; transit connections; bicycle network connections; areas with high percentages of tenants; access to destinations such as schools, community centers, employment centers, and businesses; and public input.
  2. Developing and issuing a Request for Proposal for an operator to install and maintain on-street bike lockers, including lockers that can accommodate bikes of varying shapes and sizes.
  3. Pursuing available grant opportunities to fund initial costs and ongoing maintenance.
- Financial Implications:** See report  
Contact: Rigel Robinson, Councilmember, District 7, (510) 981-7170  
**Action:** Approved recommendation.

## Action Calendar – Public Hearings

**26. Implement Residential Preferential Parking (RPP) Program on the 1600 Block of Fifth Street**

**From: City Manager**

**Recommendation:** Conduct a public hearing and upon its conclusion, adopt a Resolution amending Resolution No. 56,508-N.S. Section 25P by adding a subsection to implement Residential Preferential Parking (RPP) on the east side of the 1600 block of Fifth Street in Area P.

**Financial Implications:** See report.

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

**Public Testimony:** The Mayor opened the public hearing. 1 speaker.

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

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

**Action:** M/S/C (Arreguin/Robinson) to adopt Resolution No. 70,750–N.S. with revised materials in Supplemental Communications Packet #1 from the City Manager.

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

## Action Calendar – New Business

**27. Berkeley Transit-First Policy Implementation Plan**

**From: City Manager**

**Recommendation:** 1. Adopt a Resolution approving the Berkeley Transit-First Policy Implementation Plan and authorizing the City Manager to pursue implementation of the Plan as funding and staffing permit; and  
2. Appoint two members and one alternate to serve on the Inter-Agency Liaison Committee (ILC) between the City of Berkeley and AC Transit to discuss transit-related matters on a quarterly schedule.

**Financial Implications:** See report

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

**Action:** Moved to Consent Calendar.

1. Adopted Resolution No. 70,751–N.S.

2. Appointed Councilmembers Robinson, Taplin, and Harrison to the ILC.

## Council Action Items

28. **Adopt Ordinance Adding Chapter 2.102 to the Berkeley Municipal Code to Establish a Labor Peace Policy Minimizing Labor/Management Conflict in Berkeley Marina Zone**  
**From: Councilmember Harrison (Author), Mayor Arreguin (Co-Sponsor), Councilmember Taplin (Co-Sponsor), Councilmember Bartlett (Co-Sponsor)**  
**Recommendation:** Adopt Ordinance Adding Chapter 2.102 to the Berkeley Municipal Code (BMC) to Establish a Labor Peace Policy minimizing labor/management conflict in Berkeley Marina Zone.  
**Financial Implications:** See report  
Contact: Kate Harrison, Councilmember, District 4, (510) 981-7140  
**Action:** Item 28 held over to April 11, 2023.

## Information Reports

29. **Fiscal Year 2023 Mid-Year Budget Update**  
**From: City Manager**  
Contact: Sharon Friedrichsen, Budget Manager, (510) 981-7000; Henry Oyekanmi, Finance, (510) 981-7300  
**Action:** Received and filed.
30. **LPO NOD: 1581 Le Roy Avenue/#LMSAP2022-0009**  
**From: City Manager**  
Contact: Jordan Klein, Planning and Development, (510) 981-7400  
**Action:** Received and filed.
31. **LPO NOD: 1325 Arch Street/#LMSAP2022-0013**  
**From: City Manager**  
Contact: Jordan Klein, Planning and Development, (510) 981-7400  
**Action:** Received and filed.
32. **LPO NOD: 1911 Fourth Street /#LMSAP2022-0014**  
**From: City Manager**  
Contact: Jordan Klein, Planning and Development, (510) 981-7400  
**Action:** Received and filed.
33. **2022 Disaster and Fire Safety Commission Work Plan**  
**From: Disaster and Fire Safety Commission**  
Contact: Keith May, Commission Secretary, (510) 981-3473  
**Action:** Received and filed.

**Public Comment – Items Not Listed on the Agenda - 1 speaker.**

## Adjournment

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

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

Adjourned at 9:07 p.m.

I hereby certify that the foregoing is a true and correct record of the regular meeting held on March 21, 2023.

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Mark Numainville, City Clerk

## Communications

### Hopkins Corridor

1. Jim Offel
2. Dan Leaverton
3. Wilbur Ressler
4. Anna Muessig
5. Susan Brooks
6. Bob Flasher

### BART Development

7. Jack Kurzweil
8. Dan Leaverton
9. Heath Maddox
10. Carol Gross
11. Phyllis Orrick
12. Mary Dorst
13. Kok Loong Lye
14. Kim Klein

### Eviction Moratorium

15. Teri Gerritz
16. Rose Hughes

### Crime

17. Seema Burke
18. Kimberly Damer
19. Taline T
20. Klara Budai



**910 Indian Rock**

21. Berkeley Architectural Heritage Association

**Bird Safe Ordinance**

22. Jan Ruchlis

23. Kelly Hammargren

24. Juliet Lamont

25. Sally Nelson

**Civic Center Vision Plan**

26. Wendy Alfsen

27. Lorraine and Jack Scanlin

**Berkeley Asphalt Operations**

28. Pear Michaels

**Council Meetings – Hybrid and In-Person**

29. generalmint@

**Viewpoint of City Manager**

30. Diana Bohn

**Disabilities**

31. Gregory Kalkanis

**3<sup>rd</sup> Party Delivery System**

32. Terri Nevins

33. Eric Wright

**Golden Bear Housing Safety Assessment**

34. Meryl Siegal

**Harriet Tubman Apartment Issues**

35. Darinxoso Oyamasela

36. Brandi Hutchinson

37. Cassandra Palanza

**Homelessness/Encampments/Winter Shelter**

38. Paul Eriksen

39. Moni Law

40. Paul Kealoha Blake

41. Carol Corradi

42. City Manager Dee Williams-Ridley

**COVID/Masking**

43. Moni Law

- 44. Ms. Omowale Fowles
- 45. Eric Friedman
- 46. Isabell Gaston

**In Memory of Judy Heumann**

- 47. Michai Freeman
- 48. Councilmember Bartlett

**Turtle Island Monument**

- 49. John Caner, Convener for Community for a Cultural Civic Center
- 50. George Petty

**URL's Only**

- 51. Vivian Warkentin (2)

**Supplemental Communications and Reports 1**

**Item #1: Resolution Reviewing and Ratifying the Proclamation of Local Emergency Due to the Spread of a Severe Acute Respiratory Illness Caused by a Novel (New) Coronavirus (COVID-19)**

- 52. Revised material, submitted by the City Manager's Office

**Item #26: Implement Residential Preferential Parking (RPP) Program on the 1600 Block of Fifth Street**

- 53. Revised material, submitted by Public Works

**Supplemental Communications and Reports 2**

**Item #8: Funding Recommendations and Joint Homekey Applications for the University Inn at 1461 University**

- 54. Revised material, submitted by Health, Housing and Community Services

**Item #18: Referral Response: Grant Program for Retaining and Improving Creative Spaces**

- 55. John-Mario Sevilla, on behalf of Luna Dance Institute

**Supplemental Communications and Reports 3**

**Item #13: Grant Funding Application for SolarAPP+ Integration**

- 56. Igor Tregub

**Item #26: Implement Residential Preferential Parking (RPP) Program on the 1600 Block of Fifth Street**

- 57. Presentation, submitted by Public Works

**Item #27: Berkeley Transit-First Policy Implementation Plan**

- 58. Presentation, submitted by Public Works

**Urgency Item**

**Authorizing the City Attorney to Submit a Letter in Support of the UC Regents  
Petition for Review in *Make UC a Good Neighbor v. Regents of University of  
California***

59. Urgent item, submitted by Mayor Arreguin and Councilmember Robinson

60. Becky O'Malley

61. Michael Fullerton

62. Erika Shore

63. Max Ventura

64. Diana Bohn





Office of the City Manager

CONSENT CALENDAR  
April 11, 2023

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: Henry Oyekanmi, Director, Finance  
 Subject: Formal Bid Solicitations and Request for Proposals Scheduled for Possible Issuance After Council Approval on April 11, 2023

RECOMMENDATION

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

FISCAL IMPACTS OF RECOMMENDATION

Total estimated cost of items included in this report are **\$120,000**.

| <u>PROJECT</u>                              | <u>Fund</u> | <u>Source</u> | <u>Amount</u>    |
|---------------------------------------------|-------------|---------------|------------------|
| Mini-Bulk Swimming Pool Treatment Chemicals | 011         | General Fund  | \$120,000        |
| <b>Total:</b>                               |             |               | <b>\$120,000</b> |

CURRENT SITUATION AND ITS EFFECTS

On May, 6, 2008, Council adopted Ordinance No. 7,035-N.S. effective June 6, 2008, which increased the City Manager’s purchasing authority for services to \$50,000. As a result, this required report submitted by the City Manager to Council is now for those purchases in excess of \$100,000 for goods; and \$200,000 for playgrounds and construction; and \$50,000 for services. If Council does not object to these items being sent out for bid or proposal within one week of them appearing on the agenda, and upon final notice to proceed from the requesting department, the IFB (Invitation for Bid) or RFP (Request for Proposal) may be released to the public and notices sent to the potential bidder/respondent list.

Formal Bid Solicitations and Request for Proposals  
Scheduled for Possible Issuance After Council  
Approval on April 11, 2023

CONSENT CALENDAR  
April 11, 2023

BACKGROUND

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

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

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

RATIONALE FOR RECOMMENDATION

Need for the services.

ALTERNATIVE ACTIONS CONSIDERED

None.

CONTACT PERSON

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

Attachments:

- 1: Formal Bid Solicitations and Request for Proposals Scheduled for Possible Issuance After Council Approval on April 11, 2023
  - a. Mini-Bulk Swimming Pool Treatment Chemicals

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

DATE SUBMITTED: April 11, 2023

| SPECIFICATION NO.  | DESCRIPTION OF GOODS / SERVICES BEING PURCHASED | APPROX. RELEASE DATE | APPROX. BID OPENING DATE | INTENDED USE                                                                                             | ESTIMATED COST   | BUDGET CODE TO BE CHARGED                                                                                 | DEPT. / DIVISION | CONTACT NAME & PHONE       |
|--------------------|-------------------------------------------------|----------------------|--------------------------|----------------------------------------------------------------------------------------------------------|------------------|-----------------------------------------------------------------------------------------------------------|------------------|----------------------------|
| 23-11583-C         | Mini-Bulk Swimming Pool Treatment Chemicals     | 4/12/2023            | 5/11/2023                | Purchase of mini-bulk chlorine, muriatic acid, and carbon dioxide<br><br>2-year contract (\$60,000/year) | \$120,000        | King Pool: 011-52-543-574-0000-000-461-642990<br><br>West Campus Pool: 011-52-543-575-0000-000-461-642990 | PRW Recreation   | Justin Pitcher<br>981-5123 |
| <b>DEPT. TOTAL</b> |                                                 |                      |                          |                                                                                                          | <b>\$120,000</b> |                                                                                                           |                  |                            |
| <b>TOTAL</b>       |                                                 |                      |                          |                                                                                                          | <b>\$120,000</b> |                                                                                                           |                  |                            |







Office of the City Manager

CONSENT CALENDAR

April 11, 2023

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

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

Subject: Contract No. 31900273 Amendment: Bay Area Community Services North County Housing Resource Center

RECOMMENDATION

Adopt a Resolution amending Contract No. 31900273 with Bay Area Community Services (BACS) North County Housing Resource Center (HRC) by increasing the not to exceed amount (NTE) by \$80,000 utilizing one-time grant funds. The amendment will increase the NTE amount from \$11,410,274 to \$11,490,274.

FISCAL IMPACTS OF RECOMMENDATION

The amendment will add \$80,000 with a total not-to-exceed amount \$11,490,274. The funding for this amendment is available in the FY2023 Adopted Budget in One-Time Fund (Fund 336).

CURRENT SITUATION AND ITS EFFECTS

The Isolation and Quarantine program operated by Alameda County demobilized on February 28, 2023. Amending the contract with BACS' North County HRC will allow BACS to utilize the flex fund to reimburse Berkeley shelters and homeless services providers for short-term hotel stays for any unhoused members or shelter residents who test positive for COVID-19 and are not able to isolate on site. This practice will aid in slowing the spread of COVID-19 in congregate living settings.

BACKGROUND

In response to the COVID-19 Pandemic, Alameda County mobilized an Isolation and Quarantine (I/Q) program providing short-term hotels stays for members of the unhoused community who test positive for COVID-19, this program demobilized on February 28, 2023.

Since March of 2020, Berkeley programs have referred 292 people to the I/Q Program. These programs include congregate and non-congregate shelters, transitional and interim housing, street outreach, substance use and Berkeley Mental Health. In calendar year 2022, the County's I/Q program enrolled 35 positive cases and 26 exposure cases from existing Berkeley non-congregate shelters and Transitional

Housing Program. During 2022 69% of the referrals for positive cases were from shelters that do not have existing on-site isolation spaces for residents who test positive for COVID-19.

Based on the number of positive cases since July 2020, the planned increase in the census at Berkeley shelters, and existing options for isolation at shelters, we estimate the cost of providing short-term hotel stays, transportation, and food for shelter residents who test positive for COVID-19 to be \$80,000.

#### ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

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

#### RATIONALE FOR RECOMMENDATION

The additional funding identified will aid in slowing the spread of COVID-19 in congregate living settings by providing the opportunity for shelter residents or unhoused community members who test positive for COVID-19 to safely isolate.

#### ALTERNATIVE ACTIONS CONSIDERED

Staff did not identify other alternatives that are consistent with both the project goals and CDC's COVID-19 guidance.

#### CONTACT PERSON

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

Attachment:

1. Resolution

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

CONTRACT NO. 31900273 AMENDMENT: BAY AREA COMMUNITY SERVICES  
NORTH COUNTY HOUSING RESOURCE CENTER

WHEREAS, on June 25, 2019, Council authorized the City Manager to enter into a contract with Bay Area Community Services (BACS) (Contract #31900273) to operate the North County Housing Resource Center (HRC).

WHEREAS, on June 30, 2020, Council authorized the City Manager to amend Contract #31900273 with BACS' North County HRC adding \$555,220 and a not to exceed amount of \$7,491,720.

WHEREAS, on June 29, 2021, Council authorized the City Manager to amend Contract #31900273 with BACS' North County HRC adding \$2,268,554 and a not to exceed amount of \$9,760,274.

WHEREAS, on June 28, 2022, Council authorized the City Manager to amend Contract #31900273 with BACS' North County HRC adding \$2,600,000 and a not to exceed amount of \$11,490,274.

WHEREAS, \$80,000.00 was allocated to increase the contract amount which will allow BACS to utilize the flex fund to reimburse Berkeley shelters for short-term hotel stays, three meals per day, and transportation to and from the hotel for residents who test positive for COVID-19 and are not able to isolate on site.

WHEREAS, BACS North County HRC has an established flex fund request process that will be used to reimburse shelters for these COVID-19 related expenses.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to amend contract No. 31900273 with BACS' North County HRC adding \$80,000 from One-Time Fund 336 for a total not to exceed amount of \$11,490,274.





Office of the City Manager

CONSENT CALENDAR  
April 11, 2023

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

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

Subject: Contract: JSI Research & Training Institute, Inc. for Community Health Assessment, Innovation, and Improvement Plan Consultant

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to execute a contract and any amendments with JSI Research & Training Institute, Inc. to serve as a Community Health Assessment, Innovation, and Improvement Plan consultant for the City of Berkeley's Health, Housing, and Community Services (HHCS) Department from May 1, 2023 to May 1, 2025 in an amount not to exceed \$249,413.00.

FISCAL IMPACTS OF RECOMMENDATION

Funding in the amount of \$249,413.00 for the Community Health Assessment, Innovation, and Improvement Plan consultant is available in the FY 2023 budget in the General Fund (Fund 011).

CURRENT SITUATION AND ITS EFFECTS

As a public health jurisdiction, the City's core public health functions include assessing the health of the community's population and identifying plans to improve it. Health, Housing, and Community Services (HHCS) issued a Request for Proposals for a Community Health Assessment, Innovation, and Improvement Plan consultant to conduct a landscape scan for partnership opportunities to reduce chronic racial disparities and improve Berkeley's public health strategy, conduct a Community Health Assessment (CHA), develop a Community Health Improvement Plan (CHIP), and design a Health Innovation and Equity District pilot program. JSI Research & Training Institute, Inc. was identified as the best-qualified vendor.

While a CHA and CHIP are critical to informing effective strategies to reduce health disparities, this project goes a step further by establishing a Health Innovation and Equity District Pilot, introduced by Councilmember Bartlett and passed by Berkeley City Council on March 27, 2018, in response to concerning health disparities documented in the City's Health Status Report of 2018. The scope of work includes evaluating and making recommendations for a pilot program that leverages and integrates efforts between the managed care system, for-profit organizations, philanthropy, and other key

stakeholders to create enhanced and innovative new partnerships to improve health outcomes.

The City issued RFP Specification No. 23-11562-C with proposals due no later than January 12, 2023. The City received three proposals. The selection committee was comprised of the Health Officer, an Epidemiologist, a Senior Management Analyst, Community Services Specialist III, and a senior program manager. Interviews were conducted with the two most qualified organizations before a selection was made.

HHCS' health equity work is a Strategic Plan Priority Project, advancing our goal to champion and demonstrate social and racial equity and achieving health equity.

### BACKGROUND

The State of California encourages all public health jurisdictions to complete regular Community Health Assessments and develop Community Health Improvement Plan. These are prerequisites for public health department accreditation, which has been discussed as a state priority.

The City of Berkeley is a thriving community with considerable wealth, high levels of educational attainment, and a rich culture that all contribute to a healthy community. However, Berkeley is not a city where all people are living long and healthy lives and achieving the highest possible level of health. In Berkeley, African American/Black and other people of color are more likely to die prematurely and experience a wide variety of adverse health conditions throughout their lives.

As reported in the 2018 City of Berkeley Health Status Report, a higher incidence of disease is linked to neighborhoods that have been historically under-resourced and overexposed to unhealthy conditions. These neighborhoods have more people living in poverty and more people of color than surrounding neighborhoods. Like other jurisdictions, these historic and ongoing health inequities have been exacerbated by the impacts of the COVID-19 pandemic. Communities of color, specifically African American/Black and Hispanic/Latinx residents, have a higher COVID-19 positivity rate, hospitalizations, and deaths compared to White residents.

Since 2018, extensive work has been done by HHCS to analyze and identify solutions to overcome the underlying issues that perpetuate these health inequities. HHCS programs serve individuals who are most impacted in Berkeley and continue to make progress toward solving health inequities that have existed and been worsened by the COVID-19 pandemic.

### ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

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

RATIONALE FOR RECOMMENDATION

The City conducted a competitive bid process and JSI Research & Training Institute, Inc., successfully met the bid requirements and ranked highest among all bidders given their applicable experience working on similar projects with other jurisdictions in California.

ALTERNATIVE ACTIONS CONSIDERED

None.

CONTACT PERSON

Lisa Hernandez, MD, MPH, Public Health Officer, HHCS, (510) 981-5308

Attachment:

1. Resolution

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

CONTRACT: JSI RESEARCH & TRAINING INSTITUTE, INC. FOR COMMUNITY HEALTH ASSESSMENT, INNOVATION, AND IMPROVEMENT PLAN CONSULTANT

WHEREAS, the City of Berkeley has issued an RFP to obtain a consultant to conduct a landscape scan for partnership opportunities to reduce chronic racial disparities, improve health equity, and strengthen Berkeley's public health strategy, conduct a Community Health Assessment (CHA), develop a Community Health Improvement Plan (CHIP), and design a Health Innovation and Equity District pilot program.

WHEREAS, the City conducted RFP Specification No. 23-11562-C with proposals due no later than January 12, 2023; and

WHEREAS, the City received three proposals in response to this RFP; and

WHEREAS, two finalists were invited to meet with the selection committee for a more in-depth review of their proposal and describe their past work with other jurisdictions in California, resulting in the selection of JSI Research & Training Institute, Inc. as the best-qualified vendor.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley to adopt a Resolution authorizing the City Manager to execute a contract and any amendments with JSI Research & Training Institute, Inc. from May 1, 2023 to May 1, 2025 in an amount not to exceed \$249,413.00.





Office of the City Manager

CONSENT CALENDAR

April 11, 2023

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

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

Subject: Contract: Easy Does It for Provision of Wheelchair Van Service for Seniors & the Disabled

RECOMMENDATION

Adopt a Resolution authorizing the City Manager, or her designee, to execute a contract and any amendments with Easy Does It in the amount of \$175,000 for the period of July 1, 2023 through June 30, 2026 for the provision of accessible wheelchair van services to clients of the Aging Services Division's Berkeley Rides for Seniors & the Disabled program.

FISCAL IMPACTS OF RECOMMENDATION

Funding for the Easy Does It contract will be from Measure BB Direct Local Distribution funds distributed by the Alameda County Transportation Commission. The total amount of the contract will be \$175,000. Funding is subject to appropriation in the FY2024, FY2025, and FY2026 budgets in Measure BB Fund 136.

City of Berkeley receives an annual allocation of Measure BB funds specifically for senior and disabled transportation needs.

CURRENT SITUATION AND ITS EFFECTS

Easy Does It provides accessible wheelchair van service to wheelchair customers enrolled in Berkeley Rides for Seniors & the Disabled program. The service shall include 7 day-a-week same-day and advance-scheduled curb-to-curb transportation, and when necessary, door-to-door and door through door service. Customers are transported to destinations within the City of Berkeley and within 15 miles of the jurisdictional boundaries of Berkeley, including Oakland, Richmond, Walnut Creek, San Rafael, Fremont and San Francisco.

BACKGROUND

Easy Does It has been providing lift-equipment accessible wheelchair van service to the City's wheelchair van program customers since 2005. Easy Does It is the only local lift-equipment accessible wheelchair van service provider and provides an essential service

to the City's wheelchair customers. For this reason, staff are recommending a contract with Easy Does It without conducting a competitive process.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

Easy Does It's wheelchair vans have the capacity for more than one wheelchair passenger, thus, passengers can potentially ride-share.

RATIONALE FOR RECOMMENDATION

Easy Does It provides an essential, demand-response transportation service to Berkeley community members who use wheelchairs, that enables and enhances independent living. In Fiscal Year 2022, Easy Does It provided almost 800 rides to Berkeley community members with wheelchairs. In the first two quarters of Fiscal Year 2023, Easy Does It provided a total of 600 van rides.

ALTERNATIVE ACTIONS CONSIDERED

If the City could not contract with Easy Does It to provide wheelchair van transportation, this would lead to a significant gap in transportation services for senior and disabled community members who use wheelchairs in Berkeley.

CONTACT PERSON

Tanya Bustamante, Aging Services Division Manager, HHCS, (510) 981-5178

Attachments:

1: Resolution

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

CONTRACT: EASY DOES IT FOR PROVISION OF ACCESSIBLE WHEELCHAIR  
VAN SERVICE FOR SENIORS AND THE DISABLED

WHEREAS, Berkeley Rides for Seniors and the Disabled is an Aging Services Division transportation services program funded by Measure BB by the Alameda County Transportation Commission; and

WHEREAS, Measure BB funds a wheelchair van program that provides wheelchair van vouchers exclusively to wheelchair users needing lift-equipment wheelchair accessible van service; and

WHEREAS, Easy Does It has been providing lift-equipment accessible wheelchair van service to the City of Berkeley's wheelchair customers since 2005; and

WHEREAS, funding is subject to appropriation in the FY2024, FY2025, and FY2026 budgets in the Measure BB Fund: HHAMBB2301-NonPersonn-Van Voucher-Regular and HHAMBB2301-NonPersonn-Van Voucher-High Medical Need Program.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager, or her designee, is authorized to execute an expenditure contract and any amendments or extensions thereto with Easy Does It in the amount of \$175,000 for the period July 1, 2023 through June 30, 2026 for the purpose of providing lift-equipment accessible wheelchair van services to the City of Berkeley's wheelchair customers. A record signature copy of said contract and any amendments shall be on file in the office of the City Clerk.





Office of the City Manager

CONSENT CALENDAR  
April 11, 2023

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

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

Subject: Contract No. 32100126 Amendment: Anjanette Scott LLC for Housing Consultant Services

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 32100126 with Anjanette Scott LLC increasing the contract by \$50,000 for consulting services in a total amount not to exceed \$150,000, with a contract end date of June 30, 2024.

FISCAL IMPACTS OF RECOMMENDATION

The total not-to-exceed amount of this contract will be \$150,000. Resources for the contract will be provided from General Fund allocated to the Department of Health, Housing and Community Services' Housing and Community Services Division (HHCS/HCS), which is currently available in the Fiscal Year 2023 Budget.

CURRENT SITUATION AND ITS EFFECTS

The City has a contract with Anjanette Scott LLC to provide project management services for the Housing Trust Fund program. These services include reviewing and underwriting project proposals, drafting loan documents, managing projects under development, reviewing draw requests, and supporting other work of the Housing Trust Fund and Below Market Rate programs as needed.

The current contract with Anjanette Scott LLC expires on June 30, 2023; though the City Manager is authorized to extend the contract by giving written notice. Staff will request an extension of the current contract to June 30, 2024. The contract was previously extended through a Council approved extension on March 8, 2022.

The City has a robust pipeline of affordable housing developments, and the work required to support the existing projects exceeds the capacity of current housing staff. Ms. Scott brings a high level of housing development experience and can support current needs while HCS increases its capacity.

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

BACKGROUND

Anjanette Scott LLC entered into the current contract with the City on February 7, 2021 to provide project management services to support the City’s affordable housing programs, particularly the Housing Trust Fund program. In response to the continued need for outside project management support, the contract was amended on August 1, 2021 to extend the contract and increase the total amount to \$50,000. Due to ongoing need for staffing support, Council approved an additional extension on March 8, 2022, adding \$50,000 to the contract for a new total not to exceed \$100,000.

The consultant participated in construction and management meetings for multiple Housing Trust Fund projects, reviewed project draw requests, reviewed and assessed funding applications received through the City’s 2022 Homekey Request for Proposals process, drafted loan documents for Housing Trust Fund projects, trained new and existing staff in affordable housing project management, and provided general project management support on housing projects as needed. The consultant has provided critical support in a time of unprecedented housing activity, and staff request extending the contract to ensure continuous support for housing programs and projects.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

There are no environmental impacts related to amending the consultant contract.

RATIONALE FOR RECOMMENDATION

In recent years, the City has funded an unprecedented number of affordable housing projects thanks to new affordable housing funding sources. The amount and complexity of project work now required exceeds HHCS/HCS’ current capacity. HHCS/HCS is completing a staffing study to evaluate the staffing levels and patterns needed to support this work, and recommend extending Anjanette Scott LLC’s contract in the meantime.

ALTERNATIVE ACTIONS CONSIDERED

If the Department is unable to amend and extend the contract with Anjanette Scott LLC, staff will not be able to adequately support the affordable housing projects in the City’s pipeline.

CONTACT PERSON

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

Attachments:

1: Resolution

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

CONTRACT NO. 32100126 AMENDMENT: PERSONAL SERVICES CONTRACT  
WITH ANJANETTE SCOTT LLC

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, on February 7, 2021, the Health, Housing and Community Services Department entered into a contract with Anjanette Scott LLC (contract # 32100126) to provide project management support to the City's affordable housing programs including the HTF program and Below Market Rate program as needed; and

WHEREAS, due to ongoing project management support needs, the City Manager approved an amendment to the contract on August 1, 2021, and on March 8, 2022, an additional amendment was approved by Council with Resolution 70,245-N.S for a combined total not to exceed \$100,000; and

WHEREAS, Anjanette Scott LLC continues to provide critical support to the affordable housing programs, and staff identified an ongoing need to provide coverage and support to housing developments with City funding reservations.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that City Manager is authorized to amend Contract No. 32100126 with Anjanette Scott LLC for personal services to add up to \$50,000 for a total not to exceed amount of up to \$150,000, and extend the contract to June 30, 2024.

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  
April 11, 2023

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: Aram Kouyoumdjian, Director of Human Resources  
 Subject: Contract No. 32000224 Amendment: GovtInvest Labor Costing, Pension & OPEB Analysis Software

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to execute a contract amendment to Contract No. 32000224 with GovInvest for a labor costing, pension and OPEB (Other Post-Employment Benefits) analysis software system, increasing the amount of the contract by \$150,000 to cover 3 years of subscription access to this service for a revised total contract amount not to exceed \$200,000.

FISCAL IMPACTS OF RECOMMENDATION

GovInvest was first implemented via Contract No. 32000224, which was amended in December 2022 to add \$41,000 to the original contract amount of \$9,000 to cover incurred expenditures for licenses, training, and support services. An additional \$150,000 is presently needed to cover the costs of continued subscription access to the GovInvest software for a 3-year span.

Funding for the amendment and additional years will be included in the General Fund budget code 011-34-343-000-0000-000-412-612990.

|                                           |                  |
|-------------------------------------------|------------------|
| <b>Contract No. 32000224</b>              |                  |
| Original Contract Amount (March 2020)     | \$9,000          |
| Previous Amendment Amount (December 2022) | \$41,000         |
| Proposed Increase (This Amendment)        | \$150,000        |
| <b>Total New Contract Amount</b>          | <b>\$200,000</b> |

CURRENT SITUATION AND ITS EFFECTS

The Human Resources Department’s Employee Relations Division is responsible for negotiating labor contracts for 7 bargaining units representing approximately 1,500 employees within the City. The GovInvest software is a sophisticated tool that provides comprehensive financial forecasting of labor, pension & OPEB costs associated with bargaining proposals.

BACKGROUND

Prior to contracting with GovInvest, the City's method of financial forecasting of labor, pension & OPEB costs involved Microsoft spreadsheets which are no longer able to meet the City's complex business needs in this regard and invite a higher frequency of human error.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

Continued use of the GovInvest software allows Human Resources to store information in an electronic database, which reduces the use of paper.

RATIONALE FOR RECOMMENDATION

GovInvest offers a sophisticated solution in managing and retaining financial forecasting of labor, pension & OPEB costs to accurately prepare the City's financial proposals during collective bargaining while mitigating or minimizing risk. This amendment will permit the Human Resources Department to continue to use this valuable system for an additional 3 years, during which time all 7 of the City's labor contracts will become due for negotiation of successor agreements.

ALTERNATIVE ACTIONS CONSIDERED

No alternative action considered.

CONTACT PERSON

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

Attachments:

1: Resolution

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

CONTRACT NO. 32000224 AMENDMENT: GOVINEST LABOR COSTING, PENSION  
& OPEB ANALYSIS SOFTWARE

WHEREAS, the Human Resources Department's Employee Relations Division is currently using the GovInvest software to provide comprehensive financial forecasting of labor, pension & OPEB costs; and

WHEREAS, an additional \$150,000 is needed to cover the cost of subscription access to the software through December 31, 2025; and

WHEREAS, funds are available and will be budgeted in future fiscal years in an amount not to exceed \$200,000 through December 31, 2025 in budget code 011-34-343-000-0000-000-412-612990.

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. 32000224 with GovInvest to increase the contract amount by \$150,000 for a revised total not to exceed \$200,000 through December 31, 2025. A record signature copy of said contract and any amendments to be on file in the Office of the City Clerk.





Office of the City Manager

CONSENT CALENDAR

April 11, 2023

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Aram Kouyoumdjian, Director of Human Resources

Subject: Side Letter of Agreement – Service Employees International Union, Local 1021 Community Services & Part-Time Recreation Leaders Association

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to execute and implement a Side Letter of Agreement with Service Employees International Union, Local 1021 Community Services & Part-Time Recreation Leaders Association (PTRLA) to modify Section 15.6 of the Memorandum of Agreement regarding Hazardous Substance Special Assignment Pay. Effective July 7, 2022, employees who are regularly assigned to perform services in unhoused settings throughout the service area shall receive a three percent (3%) salary differential to their base pay for all actual hours worked in the field and performing duties in unhoused settings.

This Resolution follows Council consideration of this item in Closed Session on December 12, 2022.

FISCAL IMPACTS OF RECOMMENDATION

The Side Letter of Agreement will result in an expenditure of approximately \$60,000 this fiscal year. The cost of the additional contribution can be absorbed in the current general fund.

CURRENT SITUATION AND ITS EFFECTS

There are five (5) classifications that perform services in active encampments: Behavioral Health Clinician I (2058), Behavioral Health Clinician II (2060/2061), Social Services Specialist (2199), Code Enforcement Officer I (3015), and Code Enforcement Officer II (3014), a total of approximately 43 combined active employees who do not receive a differential for working in unhoused settings.

BACKGROUND

On July 29, 2021, Council approved Resolution No. 69,990-N.S., authorizing the City Manager to execute a new Memorandum of Agreement (MOA) for the period June 27, 2021 through June 26, 2024 with SEIU, Local 1021 Community Services & PTRLA. The MOA specified that the City would complete a review of providing hazardous pay to this unit. The City met with representatives of the Union to discuss the results of the review and reached a tentative agreement via a Side Letter of Agreement.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

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

RATIONALE FOR RECOMMENDATION

The recommendation compensates, through a pay differential, select job classifications for specialized work in unhooded settings, thereby ensuring fair and equitable treatment of employees who perform assignments that carry increased risk of exposure to hazardous substances.

ALTERNATIVE ACTIONS CONSIDERED

None.

CONTACT PERSON

Aram Kouyoumdjian, Director of Human Resources, 510-981-6807  
Dawud Brewer, Employee Relations Manager, 510-981-6821

Attachments:

1: Resolution

Exhibit A: Side Letter of Agreement Between the City of Berkeley and Service Employees International Union Local 1021 Community Services & Part-Time Recreation Leaders Association

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

SIDE LETTER OF AGREEMENT – SERVICE EMPLOYEES INTERNATIONAL UNION  
COMMUNITY SERVICES & PART-TIME RECREATION LEADERS ASSOCIATION

WHEREAS, on July 29, 2021, the City Council adopted Resolution No. 69,990-N.S. that authorized the City Manager to execute and implement a three-year Memorandum of Agreement with the Service Employees International Union (SEIU) Local 1021 Community Services & Part-Time Recreation Leaders Association (PTRLA) that set forth the wages, hours, and other terms and conditions of employment for employees represented by the Union; and

WHEREAS, Section 15.6, effective July 7, 2022, provides that employees who are regularly assigned to perform services in unhoused settings throughout the service area shall receive a three percent (3%) salary differential to their base pay for all actual hours worked in the field and performing duties in unhoused settings; and

WHEREAS, representatives of the City and representatives of SEIU Local 1021 Community Services & PTRLA have met and conferred in good faith and have reached a tentative agreement on a Side Letter of Agreement to the Memorandum of Agreement attached hereto as Exhibit A and made a part hereof;

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to execute and implement the Side Letter of Agreement (Exhibit A), which is attached hereto and made a part of hereof with SEIU Local 1021 Community Services & PTRLA pertaining to the specific sections set forth in the Side Letter of Agreement.

BE IT FURTHER RESOLVED that a copy of the executed Side Letter of Agreement be filed in the Office of the City Clerk.

Exhibit A: Side Letter of Agreement Between the City of Berkeley and Service Employees International Union Local 1021 Community Services & Part-Time Recreation Leaders Association



Human Resources Dept.

December 13, 2022

Julio Corral  
Labor Representative  
SEIU Local 1021  
100 Oak Street  
Oakland, CA 94607

**Re: Letter of Understanding – 15.6 Hazardous Substance Special Assignment Pay**

Dear Mr. Julio Corral:

This letter is to confirm the agreement reached between the City of Berkeley (the “City”) and Service Employees International Union, Local 1021 Community Services & PTRLA (the “Union”), regarding the above referenced matter.

1. Section 15.6 – Hazardous Substance Special Assignment Pay, of the current memorandum of understanding states:

Beginning no later than 90 days after adoption of the successor contract, the City agrees to conduct a job audit of the Behavioral Health Clinician I (24780), Behavioral Health Clinician II (24790), Social Services Specialist (24810), and Code Enforcement Officer I (33090), Code Enforcement Officer II (33100) classifications who perform services in active encampments through the city and the parties shall meet and confer over the results of the City’s review. The Union believes employees in these classifications who perform services in an active encampment should receive a salary differential to base pay for hours worked on assignment.

2. The parties agreed to modify Section 15.6 – Hazardous Substance Special Assignment Pay, as follows:

Employees who are regularly assigned to perform services in unhoued settings throughout the service area shall receive a three percent (3%) salary differential to their base pay for all actual hours worked in the field and performing duties in unhoued settings.

This differential shall be retroactively applied, to active employees who were employed and remained employed with the city effective the period containing July 7, 2022. Active employees who were hired after July 7, 2022, shall only receive retroactive compensation from the date they were employed. Payment for this retroactive payment shall occur within thirty (30) days of the signing the side letter agreement to add this differential.

This Agreement does not establish a precedent, nor does it interpret any employee rights under the language of the Labor Agreements, the Personnel Rules and Regulations, or any applicable policies and procedures of City departments or the City of Berkeley, except as expressly stated herein.

This Agreement memorializes and constitutes the entire understanding between the parties as to all matters referred to or included herein and supersedes and replaces all prior negotiations, proposed discussion, whether written or oral.

If this is your understanding of the agreement reached, please sign as indicated below.

Sincerely,

Dawud Brewer  
Employee Relations Manager



WHEREFORE, the parties by and through their authorized agents and representatives agree to the terms of this Side Letter Agreement.

**AGREED TO FOR THE CITY:**

\_\_\_\_\_  
Dee Williams-Ridley  
City Manager

**AGREED TO FOR THE UNION:**

\_\_\_\_\_  
Julio Corral  
Eastbay Field Supervisor

**APPROVED AS TO FORM:**

\_\_\_\_\_  
James Chang  
Deputy City Attorney

\_\_\_\_\_  
Peter Masiak  
East Bay Field Director





Office of the City Manager

CONSENT CALENDAR

April 11, 2023

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Kevin Fong, Director, Information Technology

Subject: Contract No. 31900122-1 Amendment: Rolling Orange, Inc. for Additional Website Maintenance and Support

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 31900122-1 with Rolling Orange, Inc. for additional website maintenance and support for an amount not-to-exceed \$105,000 and a total contract value not-to-exceed \$674,300 from March 1, 2019 to June 30, 2025.

FISCAL IMPACTS OF RECOMMENDATION

Funding for the additional professional services is available in the Fiscal Year (FY) 2023 and 2024 IT Cost Allocation fund as outlined below. Spending in future years for this amendment is subject to Council approval of the proposed citywide budget and annual appropriation ordinances.

\$52,500 FY 2023: Professional Services  
 Budget Code: 680-35-361-000-0000-000-472-612990-  
 (IT Cost Allocation, Business Applications, Professional Services)

\$52,500 FY 2024: Professional Services  
 Budget Code: 680-35-361-000-0000-000-472-612990-  
 (IT Cost Allocation, Business Applications, Professional Services)

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**\$105,000 FY 2023 and FY 2024: Total Professional Services**

CURRENT SITUATION AND ITS EFFECTS

The City partnered with Rolling Orange to launch a new website in May 2022 (<https://berkeleyca.gov>). Since the launch, the Rolling Orange has worked extensively with the City to provide content management support, software bug fixes, and security patches. Rolling Orange also provides emergency support related to site availability, performance, and functionality. The City seeks additional spending authority to continue using Rolling Orange as our website support partner.

The website is a Strategic Plan Priority, advancing our goal to be a customer-focused organization that provides excellent, timely, easily accessible service and information to the community.

### BACKGROUND

In February 2018, the City published Request for Proposal (RFP) No. 17-1118-C seeking a website redesign and new web content management system with secure, high-performance offsite hosting.

The City received twenty-five (25) responses. A multi-departmental team evaluated the proposals and conducted two rounds of interviews and software demonstrations. Rolling Orange was selected for the project after receiving the highest scores from both the evaluation team and other stakeholders who were invited to attend the demonstrations.

In October of 2018, by resolution No. 68,651-N.S., Council approved the City Manager to enter into a contract with Rolling Orange for Website Redesign, Web Content Management System and Support.

In early 2019, Rolling Orange began work with City staff to create a new website geared towards serving the community. In May, 2022, the City launched the new website.

### ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

The improvements in website ease-of-use and availability of online services helps reduce travel associated with on-site visits to City offices. The improved functionality of the website has increased the efficiency of internal processes by reducing paper-based processes resulting in an environmentally sound and cost-effective information technology infrastructure.

Additionally, moving the website from onsite to offsite hosting has reduced the City's server and storage computing needs as well as ongoing maintenance needed to maintain the equipment. It also provides redundancy in case of a disaster such as earthquake, etc.

### RATIONALE FOR RECOMMENDATION

Rolling Orange was selected in an RFP (No. 17-1118-C) by a cross departmental team as the best provider for Website Redesign, Web Content Management System and Support. Rolling Orange has provided excellent implementation services and continues to provide the same level of ongoing technical support.

### ALTERNATIVE ACTIONS CONSIDERED

Alternative actions were not considered as Rolling Orange has provided an expert level of service and the City does not recommend proceeding without support.

Contract No. 31900122-1 Amendment:  
Rolling Orange, Inc. for Additional Website Redesign Services

CONSENT CALENDAR  
April 11, 2023

CONTACT PERSON

Kevin Fong, Director, Information Technology, 510-981-6541

Attachments:

1: Resolution

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

CONTRACT NO. 31900122-1 AMENDMENT: ROLLING ORANGE, INC. FOR WEBSITE REDESIGN, WEB CONTENT MANAGEMENT SYSTEM (CMS), AND SUPPORT

WHEREAS, on February 27, 2018, the City issued a Request for Proposals (RFP) for a website redesign and web content management system and received twenty-five qualifying vendor responses; and

WHEREAS, the RFP evaluation committee evaluated each proposal and determined that the Rolling Orange, Inc. proposal best met the City's operational, technological, and fiscal requirements; and

WHEREAS, on October 30, 2018, by Resolution No. 68651-N.S., Council authorized the City Manager to execute a contract with Rolling Orange for Website Redesign, Web Content Management System and Support; and

WHEREAS, the City launched the new website in May of 2022; and

WHEREAS, funding for the maintenance and support is available in Fiscal Year (FY) 2023 and 2024 IT Cost Allocation Fund, and spending in future years for this amendment is subject to Council approval of the proposed citywide budget and annual appropriation ordinances.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to amend Contract No. 31900122-1 with Rolling Orange, Inc. for website redesign and web content management system, increasing the amount by \$105,000 for a total contract amount not to exceed \$674,300 from March 1, 2019 to June 30, 2025.



Office of the City Manager

CONSENT CALENDAR  
April 11, 2023

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: Memorial Bench at the Berkeley Marina in memory of Sophia Pritzos

RECOMMENDATION

Adopt a Resolution accepting a cash donation in the amount of \$3,400 for a memorial bench to be placed at the Berkeley Marina in memory of Sophia Pritzos.

FISCAL IMPACTS OF RECOMMENDATION

The value of a single bench and memorial plaque is \$3,400, which covers the purchasing and installation costs performed by the City. The cash donation will be deposited into Parks Tax Fund donation revenue budget code 138-52-542-568-0000-000-000-481110 and will be appropriated in FY2023 as part of the Second Amendment to the FY 2023 Annual Appropriations Ordinance.

CURRENT SITUATION AND ITS EFFECTS

The family and friends of Sophia Pritzos, former City employee at the Berkeley Marina, wish to donate a memorial bench in their memory to be placed at the Berkeley Marina with a cash donation of \$3,400. Per the City's Park Bench Donation Policy, individuals may donate memorial benches to the City's parks in selected locations, subject to the approval of the Director of the Parks Recreation & Waterfront Department, and pay for all associated costs, subject to Council disclosure and approval of the gift donation. The Director has determined that the proposed donation complies with the City's Bench Donation Policy as described in Resolution No. 64,148-N.S. and has approved the donation, subject to Council approval.

BACKGROUND

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

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACT

The City's vendor for benches, Dumor, Inc., makes its priority to purchase only sustainably-harvested wood derived from stringently-regulated timber source locations, including California, Oregon, Washington and British Columbia. This policy reduces solid waste volumes in landfills, helps conserve natural resources and limits the environmental effects resulting from the extraction of virgin materials. The benches therefore comply with the City's environmentally preferable purchasing policy, specifically section 3.7 Forest Conservation.

CONTACT PERSON

Alexandra Endress, Waterfront Manager, 510-981-6737

Attachments:

1: Resolution



RESOLUTION NO. \_\_\_\_\_ -N.S.

DONATION: MEMORIAL BENCH AT THE BERKELEY MARINA IN MEMORY OF  
SOPHIA PRITZOS

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

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

WHEREAS, the family and friends of Sophia Pritzos wish to donate a memorial bench in her memory to be placed at the Berkeley Marina with a cash donation of \$3,400; and

WHEREAS, per the City's Park Bench Donation Policy, individuals may donate memorial benches to the City's parks in selected locations, subject to the approval of the Director of the Parks Recreation & Waterfront Department, and pay for all associated costs, subject to Council disclosure and approval of the gift donation; and

WHEREAS, the Director has determined that the proposed donation complies with City's Bench Donation Policy as described in Resolution No. 64,148-N.S. and has approved the proposed donation; and

WHEREAS, the cash donation will be deposited into Marina Fund donation revenue budget code 608-52-544-591-0000-000-000-481110 and will be appropriated in FY 2023 as part of the Second Amendment to the FY 2023 Annual Appropriations Ordinance.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that a cash donation in the amount of \$3,400 for a memorial bench to be placed at the Berkeley Marina in memory of Sophia Pritzos is hereby accepted.





Office of the City Manager

CONSENT CALENDAR

April 11, 2023

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

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

Subject: Lease Amendment: Cazadero Performing Arts Camp (CPAC),  
5385 Cazadero Hwy, Cazadero, CA 95421

RECOMMENDATION

Adopt first reading of an Ordinance authorizing the City Manager to execute an amendment to a lease agreement with Cazadero Performing Arts Camp (CPAC), at 5385 Cazadero Hwy, Cazadero, CA 95421, for City to disburse up to \$400,000 to tenant to implement capital improvements to satisfy City's obligations under the lease.

FISCAL IMPACTS OF RECOMMENDATION

The total budget required to complete capital improvements that are the City's obligation under the lease is approximately \$400,000. In December 2020, Council included Cazadero projects in the Phase 2 list, authorizing the use of Measure T1 to fund these improvements. Funding in the amount of \$400,000 is available in the Measure T1 Fund (Fund 511).

CURRENT SITUATION AND ITS EFFECTS

CPAC has been operating at the City-owned property at 5385 Cazadero Hwy, Cazadero, CA for the past 60 years. On December 1, 2020, Council adopted Ordinance No. 7,737-N.S., extending their lease term for 25 years, with one 10-year option. The lease identified \$1.2 million in high priority capital improvements to be implemented over the first 10 years, with responsibility shared between the City and the tenant (see Exhibit B). The estimated value of the improvements for the tenant was approximately \$800,000 and \$400,000 for the City.

On December 15, 2020, Council adopted the final list of projects for implementation in Phase 2 of the Measure T1 Infrastructure Bond Program. The project list includes dining hall and ADA improvements at Cazadero Camp and the budget allocated is \$400,000.

This amendment provides funds for CPAC to complete the City's required improvements. Upon City's approval, up to \$300,000 will be advanced; the remaining \$100,000 will be disbursed upon project completion. The City and tenant agree that this disbursement satisfies the City's obligations towards capital improvements under the lease.

**BACKGROUND**

The property at 5385 Cazadero Hwy, Cazadero, CA was acquired by the City in 1927. From the 1930s to the 1950s, the property was used much like Echo Lake Camp and Tuolumne Camp to offer Berkeley residents recreational and family camp opportunities. In 1959, Bob Lutt, Berkeley High Band Director, became the operator of the Camp, and started a music camp. The City maintained the facilities until 1978, when Prop 13 cut funding for recreation programs statewide, and the budget for the Camp was significantly stripped away. From 1979 through the 80s, the City leased the property to Camps Inc. During that period, the buildings significantly deteriorated.

In 1995, Berkeley-based non-profit CPAC negotiated the current 25-year lease agreement with the City. This transferred responsibility to the tenant to maintain and improve camp structures. Today the camp serves over 1,200 young musicians each year, ages 10-18, from across the Bay Area and beyond.

The rent is \$45,000/year, increased annually based on CPI. CPAC will complete capital and ADA improvements to the property estimated at approximately \$800,000 for the first 10 years, and will invest at similar levels in future years. Tenant will complete tree maintenance up to \$15,000/year. Tenant will also offer \$10,000-\$20,000 in scholarships. Revenue from this lease will be deposited into the Camps Fund, budget code 330-5995-363.30-01.

**ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS**

This lease amendment with Cazadero Performing Arts Camp will enable the Camp to continue providing opportunities for Berkeley residents to engage in the natural environment.

**RATIONALE FOR RECOMMENDATION**

City and Tenant agree that the most cost-effective and timely way to complete the Cazadero Camp improvements is for Tenant to implement those improvements subject to approval and oversight by City.

**CONTACT PERSON**

Scott Ferris, Director, Parks, Recreation & Waterfront, 981-6711  
Christina Erickson, Deputy Director, Parks, Recreation & Waterfront, 981-6703

**Attachments:**

- 1: Ordinance  
Exhibit A: Lease Amendment

ORDINANCE NO. -N.S.

LEASE AMENDMENT TO CAZADERO PERFORMING ARTS CAMP FOR THE  
PROPERTY AT 5385 CAZADERO HWY, CAZADERO, CA 95421

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

Section 1.

The City Manager or designee is hereby authorized to execute an amendment to a lease agreement, with Cazadero Performing Arts Camp, for the property at 5385 Cazadero Hwy, Cazadero, CA 95421. Such lease amendment shall be on substantially the same terms as set forth in Exhibit A.

Section 2.

On December 15, 2020, Council adopted the final list of projects for implementation in Phase 2 of the Measure T1 Infrastructure Bond Program. The main provisions of this amendment to authorized the disbursement of Measure T1 Funds, up to \$400,000 to Cazadero Performing Arts Camp for implementation of projects list in Phase 2. This amendment provides funds for Cazadero Performing Arts Camp to manage and complete the City's required improvements.

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.

Exhibit A: Lease Amendment

Exhibit A: Lease Amendment

AMENDMENT TO LEASE AGREEMENT

This lease amendment ("**Amendment**") is made as of \_\_\_\_ May 2023 between the CITY OF BERKELEY ("**Landlord**") and Cazadero Performing Arts Camp ("**Tenant**"), who agree as follows:

This Amendment is made with reference to the following facts and objectives, to which Landlord and Tenant respectively acknowledge and agree:

A. Landlord and Tenant entered into a Lease Agreement effective March 1, 2021 ("**Lease**") to use and manage the Landlord's property located at 5385 Cazadero Hwy, Cazadero, CA 95421 ("**Cazadero Camp**"), as set forth in the Lease. A copy of the Lease is attached hereto as Exhibit A.

B. The Initial Term of the Lease expires on December 31, 2045, subject to a 10-year option to renew.

C. The Lease provides for specified Capital Improvements and Repairs at Cazadero Camp.

1. Tenant is required to complete property improvements as set forth in Table 1 of the Lease during the first 10 years of the Term. The cost of such Tenant property improvements is estimated at \$815,843.
2. Landlord agreed to make its best efforts to complete property improvements as set forth in Table 2 of the Lease and further agreed that inability to fund such property improvements on or before February 28, 2026 would entitle Tenant to a rent reduction for the period from March 1, 2026 through February 28, 2031. The cost of such Landlord property improvements is estimated at \$404,710.

D. On December 15, 2020, Landlord's City Council adopted the final list of projects for implementation in Phase 2 of the Measure T1 Infrastructure Bond Program; the project list includes dining hall and ADA improvements at Cazadero Camp with a budget allocated of \$400,000 ("**Cazadero Camp T1 Funds**").

E. Landlord and Tenant agree that the most cost-effective and timely way to complete the Cazadero Camp dining hall and ADA improvements is for Tenant to implement those improvements subject to approval and oversight by Landlord.

Therefore, Landlord and Tenant agree to amend the Lease as follows:

1. Section 3. "Capital Improvements and Repairs", subsection c., of the Lease is deleted in its entirety and replaced by the following:

- c. Landlord will disburse Cazadero Camp T1 Funds in an amount not to exceed \$400,000 to Tenant, and Tenant shall use such funds to manage and complete the property improvements set forth in Table 2. Landlord and Tenant agree that such disbursement of the Cazadero Camp T1 Funds satisfies Landlord's obligations towards capital improvements under the Lease.

The Cazadero Camp T1 Funds will be disbursed according to the following schedule:

- Tenant will develop project scopes and budgets to complete the property improvements set forth in Table 2 and submit it to Landlord for review.
- Upon Landlord's approval of each project scope and budget, the lesser of 75% of the estimated project costs or \$300,000 will be advanced.
- Tenant will submit to Landlord all permits, invoices, and payment receipts.
- The lesser of any remaining project costs actually incurred or \$100,000 will be paid to Tenant upon completion each project, subject to Landlord's inspection and approval.

Tenant expressly acknowledges and agrees that all work must be completed in time for Landlord to disburse payments by December 31, 2025. Tenant further expressly acknowledges and agrees that total payments will not exceed \$400,000. Notwithstanding the foregoing, if any of the capital improvements set forth in Table 2 cannot be completed solely with the Cazadero Camp T1 Funds, Landlord and Tenant shall meet and negotiate in good faith to identify the best strategy for completing the work.

**IN WITNESSS WHEREOF, City** and Lessee have executed this Amendment as of the date written on the first paragraph above.

CITY OF BERKELEY

By:

\_\_\_\_\_  
City Manager City Attorney

REGISTERED BY:

\_\_\_\_\_  
City Auditor Deputy City Clerk

LESSEE:

\_\_\_\_\_  
BY:

Title:

\_\_\_\_\_  
City of Berkeley Business License No.





Office of the City Manager

CONSENT CALENDAR  
April 11, 2023

To: Honorable Mayor and Members of the City Council  
From: Dee Williams-Ridley, City Manager  
Submitted by: Scott Ferris, Director, Department of Parks, Recreation, and Waterfront  
Subject: Contract: Power Engineering Construction for the Selective Timber Pile Replacement Project at the Berkeley Marina

RECOMMENDATION

Adopt a Resolution:

1. Approving the plans and specifications for the Berkeley Marina Selective Pile Replacement Project (Bid Specification No. 23-11567-C); and
2. Accepting the bid of Power Engineering Construction as the lowest responsive and responsible bidder on the Project; and
3. Authorizing the City Manager to execute a contract and any amendments, extensions or other change orders until completion of the project in accordance with the approved plans and specifications, with Power Engineering Construction, for the Berkeley Selective Piling Replacement Project, in an amount not to exceed \$3,175,000, which includes a contract amount consisting of base bid plus allowance of \$2,710,690 and a 17.13% contingency in the amount of \$464,310.

FISCAL IMPACTS OF RECOMMENDATION

Funding is available in the following budgets: FY 2023/ FY 2024 CIP Fund (Fund 501), FY 2023 Measure T1 Fund Phase 2 (Fund 511), and FY 2024 Marina Fund (Fund 608). We will partially encumber the contract amount in FY 2023 and encumber the remaining balance when funding is available in FY 2024. No other funding is required, and no other projects will be delayed due to this expenditure.

|                                             |                    |
|---------------------------------------------|--------------------|
| Power Engineering Construction (lowest bid) | \$2,710,690        |
| 17.13% Contingency                          | \$464,310          |
| <b>Total construction cost</b>              | <b>\$3,175,000</b> |

| <b>Budget by Fund</b>  | <b>FY 2023</b>     | <b>FY 2024</b>   | <b>Total</b>       |
|------------------------|--------------------|------------------|--------------------|
| CIP (Fund 501)         | \$1,050,000        | \$650,000        | \$1,700,000        |
| Measure T1 (Fund 511)  | \$1,200,000        |                  | \$1,200,000        |
| Marina Fund (Fund 608) |                    | \$275,000        | \$275,000          |
| <b>Total</b>           | <b>\$2,250,000</b> | <b>\$925,000</b> | <b>\$3,175,000</b> |

CURRENT SITUATION AND ITS EFFECTS

Berkeley Marina Selective Timber Pile Replacement Project is a Strategic Plan Priority Project, advancing our goal to provide state-of-the-art, well-maintained infrastructure, amenities, and facilities.

On January 20, 2023, the Berkeley Marina Selective Timber Pile Replacement Project was advertised for competitive bids. On February 23, 2023, three (3) bids were received (See Attachment 2: Bid Abstract Summary). Staff reviewed the bid results and the Contractor’s references, and has determined that the bid from Power Engineering Construction is the lowest responsive and responsible bidder.

The Living Wage Ordinance does not apply to this project since Public Works construction contracts are, pursuant to City policy, subject to State prevailing wage laws. Contractor will submit a Certification of Compliance with the Equal Benefits Ordinance. The Community Workforce Agreement applies to this project because the estimated value of the project exceeds \$500,000. As a result, the successful bidder and all subcontractors will be required to sign an agreement to be bound by the terms of the Agreement.

Construction is expected to begin in June, 2023 and be completed by October, 2023.

BACKGROUND

The Berkeley Marina is one of the largest marinas in the East Bay. It is a highly valued community resource offering recreational opportunities and open space amenities for both local residents and visitors throughout the Bay Area. It contains a range of facilities: a hotel, restaurants, marina-related offices, 1,000 boat slips, the historic Berkeley Municipal Pier, and the trails and open space at Cesar Chavez Park and McLaughlin Eastshore State Park.

The purpose of this project is to replace selective treated timber piles throughout the marina with new, more durable, biologically inert concrete piles. Many timber piles within the marina have failed, breaking at the waterline or below. These failed piles have caused damage to city infrastructure and privately-owned boats and leave slips that could be generating revenue out of service.

In 2020 the City hired a consultant to perform a pile condition assessment for all piles within Berkeley Marina. Of 228 timber piles throughout the marina, 67 were found to

have major or severe damage, or were stubs. An additional 41 were found to be in moderate condition. This project will replace 58 of the most damaged piles, remove 14 broken hazardous piles, install one new pile in a new location, and repair one pile beneath a restroom building with a fiberglass jacket.

This project encompasses removing failed timber piles and replacing them with new concrete piles in locations where piles have suffered major damage and provide the most structural benefit to the docks. New piles guides will be installed at the end of finger docks to allow for the new piles. The new piles will reinforce the docks, allowing them to withstand tidal fluctuations, inclement weather, and waves.

#### ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

The construction contract includes requirements to comply with the City's Environmentally Preferable Purchasing Policy. The work will also comply with the conditions contained in the Bay Conservation Development Commission (BCDC) Permit, US Army Corps of Engineers Permit, and San Francisco Bay Regional Water Quality Control Board Permit.

#### RATIONALE FOR RECOMMENDATION

This project is part of the City's ongoing effort to update and maintain the deteriorated infrastructure at the Berkeley Marina.

#### ALTERNATIVE ACTIONS CONSIDERED

None

#### CONTACT PERSON

Scott Ferris, Director, Parks Recreation & Waterfront, 981-6700  
Nelson Lam, Supervising Civil Engineer, PRW, 981-6395

#### Attachments:

- 1: Resolution
- 2: Bid Abstract Summary

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

CONTRACT: ENGINEERING CONSTRUCTION FOR THE BERKELEY MARINA  
SELECTIVE TIMBER PILE REPLACEMENT PROJECT

WHEREAS, existing treated timber piles in the Berkeley Marina are failing and are in need replacement to continue to provide structural stability to the docks; and

WHEREAS, the City has neither the labor nor the equipment necessary to undertake this project; and

WHEREAS, an invitation for bids was duly advertised on January 20, 2023, bids were opened on February 23, 2023, and the City received three (3) bids; and

WHEREAS, the bid from Power Engineering Construction was the lowest responsive, responsible bid of \$2,710,690, and references for Power Engineering Construction were provided and checked out satisfactorily; and

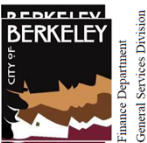
WHEREAS, funding is available in the FY 2023/ FY 2024 CIP Fund (Fund 501), FY 2023 Measure T1 Fund Phase 2 (Fund 511), and FY 2024 Marina Fund (Fund 608).

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the Plans and Specification No. 23-11567-C for the Berkeley Marina Selective Timber Pile Replacement Project are approved.

BE IT FURTHER RESOLVED that the Council of the City of Berkeley authorizes the City Manager to execute a contract and any amendments, extensions, or change orders until completion of the project in accordance with the approved plans and specifications with Power Engineering Construction for the Berkeley Marina Selective Timber Pile Replacement Project in an amount not to exceed \$3,175,000, which includes a contract amount consisting of base bid plus allowance of \$2,710,690 and a 17.13% contingency in the amount of \$464,310 for unforeseen circumstances. A record signature copy of the agreement and any amendments to be on file in the Office of the City Clerk.

April 11, 2023

Attachment 2 - Bid Abstract



City of Berkeley  
Abstract of Bid Worksheet

Finance Department  
General Services Division

Bid Date: 2/23/2023  
Spec. #: 23-11667-C

FOR: Berkeley Marina Selective Timber Pile Replacement

|    | Bidders           | Base Bid        | Additive Amount | Allowance    | required w/ bid |          |           |                | CERTS |               |
|----|-------------------|-----------------|-----------------|--------------|-----------------|----------|-----------|----------------|-------|---------------|
|    |                   |                 |                 |              | Addenda (1)     | Bid Bond | Reg / Exp | Subcontractors |       | Non-Collusion |
| 1  | Power Engineering | \$ 2,650,890.00 | \$ 2,607,790.00 | \$ 60,000.00 | X               | X        | X         | X              | X     | X             |
| 2  | The Dutra Group   | \$ 3,015,840.00 | \$ 1,950,920.00 | \$ 60,000.00 | X               | X        | X         | X              | X     | X             |
| 3  | Lind Marine       | \$ 2,671,147.00 | \$ 1,145,548.00 | \$ 8,000.00  | X               | X        | X         | X              | X     | X             |
| 4  |                   |                 |                 |              |                 |          |           |                |       |               |
| 5  |                   |                 |                 |              |                 |          |           |                |       |               |
| 6  |                   |                 |                 |              |                 |          |           |                |       |               |
| 7  |                   |                 |                 |              |                 |          |           |                |       |               |
| 8  |                   |                 |                 |              |                 |          |           |                |       |               |
| 9  |                   |                 |                 |              |                 |          |           |                |       |               |
| 10 |                   |                 |                 |              |                 |          |           |                |       |               |

Bid Recorder: Darryl Sweet  
 Bid Opener: Darryl Sweet  
 Project Manager: Taylor Lancelot

2/23/2023  
 2/23/2023  
 2/24/2023

2180 Milvia Street, Berkeley, CA 94704 Tel: 510.981.7320 TDD: 510.981.6903  
 finance@cityofberkeley.info





Office of the City Manager

CONSENT CALENDAR

April 11, 2023

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. 10785 Amendment: West Coast Arborist, Inc for Tree Removal and Pruning Service

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to amend Contract No. 10785 with West Coast Arborist, Inc. for tree removal and pruning service by increasing the contract amount by \$100,000 for a not-to-exceed amount of \$1,290,000.

FISCAL IMPACTS OF RECOMMENDATION

Funding for this contract amendment of \$100,000 is available in the Fiscal Year (FY) 2023 Parks Tax Fund budget allocation (138-52-542-566-0000-000-461-612990).

CURRENT SITUATION AND ITS EFFECTS

The City currently has a contract with West Coast Arborist to perform various tree services, primarily consisting of tree and stump removals and tree pruning throughout the city on the public right of way, street medians, pathways, and in public parks. To date, staff has identified trees to be removed and pruned to maintain a healthy urban forest and to improve public safety. A contract amendment for this work will bring the contract total to a not to exceed \$1,290,000.

BACKGROUND

In September of 2017, the City conducted a competitive bidding process to solicit tree removal and pruning services (Specifications No. 17-11124-C). On September 28, 2017 the City received four bids. West coast Arborists, Inc. received the best score according to the criteria described in the Request For Proposals. The City determined that West Coast Arborist Inc. was a qualified firm and executed contract No. 10785. In March of 2020, the contract terms were extended from November 26, 2020 to November 25, 2022 and the contract value increased from \$640,000 to \$940,000 as provided in Resolution No. 68,189-N.S. In September 2021 the contract value increased from \$940,000 to \$1,190,000 and extended to November 24, 2023 as provided in Resolution No. 70,022-N.S.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

The maintenance of the urban forest is essential in meeting the City's Climate Action Goals in the form of carbon sequestration, oxygen production, and storm water retention.

RATIONALE FOR RECOMMENDATION

Staff has identified trees to be removed at various parks, on City paths, and along the public right of way which will reduce the risk of hazardous trees and improve public safety. Staff has also identified trees to be pruned to improve the health and safety of the urban forest. The City does not have the in-house labor or equipment resources to complete these jobs in an efficient manner. Staff determined that West Coast Arborist, Inc. meets the requirements of the contract and this service will expand the capacity to respond to emergencies, such as extreme or prolonged storms.

ALTERNATIVE ACTIONS CONSIDERED

None

CONTACT PERSON

Bruce Pratt, Parks Superintendent, 981-6632

Dan Gallagher, Senior Forestry Supervisor, 981-6687

Attachments:

1: Resolution



RESOLUTION NO. -N.S.

CONTRACT NO. 10785 AMENDMENT: WEST COAST ARBORIST, INC. FOR TREE  
REMOVAL AND PURNNING SERVICE

WHEREAS, the Urban Forestry Unit of the Parks, Recreation and Waterfront Department contracts with private companies for the removal of public trees that are dead, diseased, dying, hazardous to life or property, or causing substantial property damage; and the pruning of specific public trees to improve their safety and

WHEREAS, on September 28, 2017, the City determined that West Coast Arborists, Inc received the best score according to the criteria described in the Request For Proposals; and

WHEREAS, in March of 2020, the contract terms were extended from November 26, 2020 to November 25, 2022 and the contract value increased from \$640,000 to \$940,000 as provided in Resolution No. 68,189-N.S.; and

WHEREAS, in September of 2021, the contract value increased from \$940,000 to \$1,190,000 and extended to November 24, 2023 as provided in Resolution No. 70,022-N.S.; and

WHEREAS, staff has identified trees to be removed or pruned to improve the health and safety of the urban forest; and

WHEREAS, funding for this contract amendment of \$100,000 is available in the Fiscal Year (FY) 2023 budget from the Parks Tax Fund (138-52-542-566-0000-000-461-612990).

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager or her designee is hereby authorized to execute a contract amendment with West Coast Arborists, Inc. in the amount not to exceed \$100,000 for a total contract amount not to exceed \$1,290,000. A record signature copy of said contract amendment to be on file in the Office of the City Clerk.





Office of the City Manager

CONSENT CALENDAR  
April 11, 2023

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Jennifer Louis, Interim Chief of Police

Subject: Accept Grant Funding From the Board of State and Community Corrections (BSCC) Officer Wellness and Mental Health Grant Award Program

RECOMMENDATION

Adopt a Resolution authorizing the City Manager, or designee, to accept the Board of State and Community Corrections (BSCC) Officer Wellness and Mental Health Grant Award. The total funding awarded to the Berkeley Police Department is \$106,014.48 for the period July 01, 2022, to December 1, 2025. Funds for the grant will be used to enhance officer wellness and resilience by providing mental health resources.

FISCAL IMPACTS OF RECOMMENDATION

There is no fiscal impact for adopting the authorizing resolution to accept funding. There is no match requirement and/or leveraging of funds requirement. The total funding available for this project is \$106,014.48, which will be deposited and expensed from the One-Time Grant: No Capital Expenditure revenue budget code: 336-71-704-816-0000-000-000-432110. The grant funding was received in March 2023. If this grant funding is approved by the City Council, the BPD anticipates appropriating up to \$70,000 in FY 2023 as part of the Second Amendment to the FY 2023 Annual Appropriations Ordinance to support contracts and related training. The remaining \$36,014.48 will be appropriated as part of the FY 2024 Mid-Biennial Budget Update Annual Appropriations Ordinance. The technical start date of the grant term aligns with the effective date of the Budget Act of 2022 (Assembly Bill 178, Chapter 45, Statutes of 2022) that made appropriations for the 2022-2023 fiscal year.

CURRENT SITUATION AND ITS EFFECTS

Securing BCSS grant funding is a Strategic Plan Priority Project, advancing our goal to create a resilient, safe, connected, and prepared City. The funding will allow BPD to prioritize employee well-being, which aligns with recommendation 5.2, Invest in Mental & Physical Health Services for Employees on the City Manager's Employer of Choice Roadmap.

Currently, the Berkeley Police Department contracts with The Psychological Safety Family Counseling Group (PSFCG) for crisis intervention and critical incident stress

management services. While the contract does provide ongoing training for Peer Support Team members, this service is generally reactionary and triggered by an event that has caused potential trauma to our employees. In order to be proactive in advocating for the mental health and resilience of our employees, it is imperative that we continue to add to our wellness toolkit by adding programs that have a successful track record of addressing the stressors of police work.

### BACKGROUND

The Berkeley Police Department lost an officer to suicide in July 2017. The impact of the loss on our organization was tremendous. As an agency, we are continually looking for opportunities to invest in the mental and emotional wellbeing of our employees. Data shows that police officers are at a heightened risk for suicide, due to experiencing such risk factors as exposure to violence, suicide, or other job-related stressors; depression, anxiety, or other mental illness; substance abuse; domestic abuse; access to means to kill oneself and poor physical health. Police Department employees face stress on a daily basis, but the inability to de-stress or decompress has serious consequences for their overall health.

In November 2017, BPD implemented a Wellness and Resilience Group to find ways to address the physical, emotional, mental and financial struggles some of our employees have shouldered alone. The Wellness Group members are comprised of both sworn and professional staff who meet monthly. Members of the Wellness Group have attended wellness seminars across the United States in an effort to bring the most valuable information back to our employees. This team has researched ways to incorporate a healthy lifestyle and mindfulness into the daily lives of police department employees. The Department has also sent officers to training seminars such as Blue Courage and Mindful Badge to provide education into mindfulness-based stress reduction.

In 2020, BPD contracted with the Psychological Services Group, now PSFCG, for critical incident stress management, and peer support training. In 2021, with the guidance of PSFCG staff, we adopted a new peer support policy, and created and trained new peer support officers. Peer Support Team members are available 24/7 in the event of a critical incident and to provide resources to employees in need.

In June 2021, BPD participated in a National Wellness Survey for public safety personnel. The survey was conducted by the U.S. Marshals Service, Fairfax County PD, and Nova Southeastern University. The survey was designed to assess the impact of public safety work on individual well-being. Of the 199 employees (sworn officers and public safety dispatchers) invited to complete the survey, 48 (24%) participated. The survey found in part that 52% of respondents indicated some degree of depression, 73% were feeling discouraged about the future, 10% received scores representing clinical significance on the PTSD checklist, 60% reported being bothered by a stressful event or experience within the past month, and 44% reported trouble with sleep.

The data indicates that BPD must remain vigilant in the pursuit of providing ongoing and intentional wellness and mental health services to our employees to build healthy habits from day one in the career. This will aid in the reduction of stigma around seeking help and will also foster a climate of well-being for our employees.

The Officer Wellness and Mental Health Grant Program through BSCC, has provided \$50 million for city and county law enforcement agencies for the purpose of improving officer wellness and expanding mental health sources. The allocations of funds was determined by the number of peace officers employed by BPD. There are 394 agencies receiving funds from this grant program.

#### ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

None identified.

#### RATIONALE FOR RECOMMENDATION

The purpose of this grant funding is to establish or expand officer wellness units, peer support units, services provided by a license mental health professional, counselor or other professional that works with law enforcement, expand multiagency mutual aid programs focused on officer wellness and mental health, or other programs and services that are evidence-based or have a successful track record of enhancing officer wellness.

This grant will enable to BPD to acquire additional wellness and mental health services for our police officers at this critical time. Officers are pushed to capacity due to low staffing levels, the social pressures involved in navigating a career in law enforcement in today's evolving culture, and the trauma of everyday police work.

#### ALTERNATIVE ACTIONS CONSIDERED

If we do not accept the grant, it will be returned to the state's general fund. BPD would be limited to City funds to develop and implement new wellness and mental health solutions.

#### CONTACT PERSON

Lieutenant Jen Tate, Police, Traffic Bureau, (510) 981-5983

#### Attachments:

- 1: Resolution: Board of State and Community Corrections Grant Award
- 2: BSCC Grant Announcement

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

ACCEPTANCE OF BOARD OF STATE AND COMMUNITY CORRECTIONS (BSCC)  
OFFICER WELLNESS AND MENTAL HEALTH GRANT FY2022/2023

WHEREAS, the Budget Act of 2022 made appropriations for the support of state government for the 2022-2033 fiscal year; and

WHEREAS, in accordance with Assembly Bill 178, Chapter 45, Statutes of 2022, Item 5227-121-0001, Officer Wellness and Mental Health Grant funding has been made available to all city and county law enforcement agencies employing officers described in Section 830.1 of the Penal Code; and

WHEREAS, funding allocation and disbursement of grant funds was announced by BSCC Chair Linda Penner in a memo that was sent to all police chiefs and sheriffs; and

WHEREAS, the Berkeley Police Department has been awarded \$106,014.48 from BSCC for the purpose of improving officer wellness and expanding mental health sources, which will directly benefit the well-being of Berkeley police officers; and

WHEREAS, the grant funding was received in March 2023. If this grant funding is approved by the City Council, the BPD anticipates appropriating up to \$70,000 in FY 2023 as part of the Second Amendment to the FY 2023 Annual Appropriations Ordinance to support contracts and related training. The remaining \$36,014.48 will be appropriated as part of the FY 2024 Mid-Biennial Budget Update Annual Appropriations Ordinance.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager, or designee, is hereby authorized to accept the funding, and any follow up amendments with the Board of State and Community Corrections for the BSCC Officer Safety and Wellness in an amount of \$106,014.48 for the term of July 1, 2022 through December 1, 2025.



**DATE:** December 21, 2022  
**TO:** Police Chiefs and Sheriffs  
**FROM:** Linda Penner, Chair  
**SUBJECT: OFFICER WELLNESS AND MENTAL HEALTH GRANT AWARD**

I am pleased to let you know that the BSCC has begun processing the Officer Wellness and Mental Health grants, which were included in the Budget Act of 2022. All eligible law enforcement agencies will receive their payment by February 15, 2023. This memorandum provides further information about the purposes of the grant, and requests your assistance in identifying the person in your agency who will be responsible for required data reporting.

This disbursement is being made in accordance with Assembly Bill 178, Chapter 45, Statutes of 2022, Item 5227-121-0001. This funding is available to all city and county law enforcement agencies employing officers described in Section 830.1 of the Penal Code. The Officer Wellness grant is for the purpose of improving officer wellness and expanding mental health sources as follows:

1. Establishing officer wellness units or expanding existing officer wellness units.
2. Establishing peer support units or expanding peer support units.
3. Services provided by a licensed mental health professional, counselor, or other professional that works with law enforcement.
4. Expanding multiagency mutual aid programs focused on officer wellness and mental health.
5. Other programs or services that are evidence based or have a successful track record of enhancing officer wellness.

For further information about this funding and to identify the amount of funding allocated to your agency, please visit the Board of State and Community Corrections' webpage for the Officer Wellness and Mental Health Grant available at <https://www.bscc.ca.gov/officer-wellness-and-mental-health-grant-program/>.

Provision 2 of the Budget Act requires each grant recipient to submit an expenditure report and a final impact report no later than December 1, 2025. Additionally, grant recipients will submit a brief annual expenditure report. Reports will be provided to the Commission on Peace Officer Standards and Training (POST). Detailed information regarding reporting requirements and reporting requirement webinars will be sent out in early 2023.

Please send the name and email address of the individual(s) within your agency who will be responsible for the implementation and reporting requirements for this grant to [OfficerWellnessGrant@bscc.ca.gov](mailto:OfficerWellnessGrant@bscc.ca.gov) by February 28, 2023 so they may receive additional information regarding detailed reporting requirements, webinars, and deadlines.

If you have any questions regarding this funding distribution, please email [OfficerWellnessGrant@bscc.ca.gov](mailto:OfficerWellnessGrant@bscc.ca.gov) and a BSCC staff member will respond.

Sincerely,



LINDA PENNER  
Chair  
Board of State & Community Corrections



## Officer Wellness and Mental Health Grant Program Funding Distribution Schedule

| COUNTY              | AGENCY NAME                | AWARD AMOUNT  |
|---------------------|----------------------------|---------------|
| ALAMEDA COUNTY      | ALAMEDA CO SD/CORONER      | \$ 709,103.49 |
| ALAMEDA COUNTY      | ALAMEDA PD                 | \$ 47,741.62  |
| ALAMEDA COUNTY      | ALBANY PD                  | \$ 20,000.00  |
| ALAMEDA COUNTY      | BAY AREA RAPID TRANSIT PD  | \$ 145,331.11 |
| ALAMEDA COUNTY      | BERKELEY PD                | \$ 106,014.48 |
| ALAMEDA COUNTY      | EAST BAY REG PARK DPS      | \$ 37,912.46  |
| ALAMEDA COUNTY      | EMERYVILLE PD              | \$ 28,000.00  |
| ALAMEDA COUNTY      | FREMONT PD                 | \$ 117,949.89 |
| ALAMEDA COUNTY      | HAYWARD PD                 | \$ 113,737.39 |
| ALAMEDA COUNTY      | LIVERMORE PD               | \$ 63,187.44  |
| ALAMEDA COUNTY      | NEWARK PD                  | \$ 34,402.05  |
| ALAMEDA COUNTY      | OAKLAND PD                 | \$ 483,032.87 |
| ALAMEDA COUNTY      | PIEDMONT PD                | \$ 15,000.00  |
| ALAMEDA COUNTY      | PLEASANTON PD              | \$ 54,762.45  |
| ALAMEDA COUNTY      | SAN LEANDRO PD             | \$ 49,847.87  |
| ALAMEDA COUNTY      | UNION CITY PD              | \$ 47,039.54  |
| ALPINE COUNTY       | ALPINE CO SO               | \$ 15,000.00  |
| AMADOR COUNTY       | AMADOR CO SO/CORONER       | \$ 32,997.89  |
| AMADOR COUNTY       | IONE PD                    | \$ 15,000.00  |
| AMADOR COUNTY       | JACKSON PD                 | \$ 15,000.00  |
| AMADOR COUNTY       | SUTTER CREEK PD            | \$ 15,000.00  |
| BUTTE COUNTY        | BUTTE CO SO/CORONER        | \$ 122,162.38 |
| BUTTE COUNTY        | CHICO PD                   | \$ 65,293.69  |
| BUTTE COUNTY        | GRIDLEY PD                 | \$ 15,000.00  |
| BUTTE COUNTY        | OROVILLE PD                | \$ 15,000.00  |
| BUTTE COUNTY        | PARADISE PD                | \$ 15,000.00  |
| CALAVERAS COUNTY    | ANGELS CAMP PD             | \$ 15,000.00  |
| CALAVERAS COUNTY    | CALAVERAS CO SD            | \$ 40,018.71  |
| COLUSA COUNTY       | COLUSA COUNTY SD           | \$ 25,000.00  |
| COLUSA COUNTY       | COLUSA PD                  | \$ 15,000.00  |
| COLUSA COUNTY       | WILLIAMS PD                | \$ 15,000.00  |
| CONTRA COSTA COUNTY | ANTIOCH PD                 | \$ 77,229.09  |
| CONTRA COSTA COUNTY | BRENTWOOD PD               | \$ 46,337.46  |
| CONTRA COSTA COUNTY | CLAYTON PD                 | \$ 15,000.00  |
| CONTRA COSTA COUNTY | CONCORD PD                 | \$ 93,376.99  |
| CONTRA COSTA COUNTY | CONTRA COSTA CO SO/CORONER | \$ 435,993.33 |
| CONTRA COSTA COUNTY | EL CERRITO PD              | \$ 25,000.00  |
| CONTRA COSTA COUNTY | HERCULES PD                | \$ 20,000.00  |
| CONTRA COSTA COUNTY | KENSINGTON PD              | \$ 15,000.00  |
| CONTRA COSTA COUNTY | MARTINEZ PD                | \$ 28,000.00  |
| CONTRA COSTA COUNTY | MORAGA PD                  | \$ 15,000.00  |
| CONTRA COSTA COUNTY | OAKLEY PD                  | \$ 28,000.00  |
| CONTRA COSTA COUNTY | PINOLE PD                  | \$ 20,000.00  |
| CONTRA COSTA COUNTY | PITTSBURG PD               | \$ 62,485.36  |
| CONTRA COSTA COUNTY | PLEASANT HILL PD           | \$ 30,891.64  |
| CONTRA COSTA COUNTY | RICHMOND PD                | \$ 83,547.84  |
| CONTRA COSTA COUNTY | SAN PABLO PD               | \$ 37,912.46  |
| CONTRA COSTA COUNTY | SAN RAMON PD               | \$ 46,337.46  |
| CONTRA COSTA COUNTY | WALNUT CREEK PD            | \$ 51,252.03  |



| COUNTY           | AGENCY NAME         | AWARD AMOUNT  |
|------------------|---------------------|---------------|
| DEL NORTE COUNTY | CRESCENT CITY PD    | \$ 15,000.00  |
| DEL NORTE COUNTY | DEL NORTE COUNTY SO | \$ 15,000.00  |
| EL DORADO COUNTY | EL DORADO CO SO     | \$ 117,247.80 |
| EL DORADO COUNTY | PLACERVILLE PD      | \$ 15,000.00  |
| EL DORADO COUNTY | SOUTH LAKE TAHOE PD | \$ 28,000.00  |
| FRESNO COUNTY    | CLOVIS PD           | \$ 73,718.68  |
| FRESNO COUNTY    | COALINGA PD         | \$ 15,000.00  |
| FRESNO COUNTY    | FIREBAUGH PD        | \$ 15,000.00  |
| FRESNO COUNTY    | FOWLER PD           | \$ 15,000.00  |
| FRESNO COUNTY    | FRESNO CO SO        | \$ 288,555.97 |
| FRESNO COUNTY    | FRESNO PD           | \$ 557,453.63 |
| FRESNO COUNTY    | HURON PD            | \$ 15,000.00  |
| FRESNO COUNTY    | KERMAN PD           | \$ 25,000.00  |
| FRESNO COUNTY    | KINGSBURG PD        | \$ 20,000.00  |
| FRESNO COUNTY    | MENDOTA PD          | \$ 15,000.00  |
| FRESNO COUNTY    | ORANGE COVE PD      | \$ 15,000.00  |
| FRESNO COUNTY    | PARLIER PD          | \$ 15,000.00  |
| FRESNO COUNTY    | REEDLEY PD          | \$ 25,000.00  |
| FRESNO COUNTY    | SANGER PD           | \$ 28,000.00  |
| FRESNO COUNTY    | SELMA PD            | \$ 28,000.00  |
| GLENN COUNTY     | GLENN CO SO/CORONER | \$ 30,891.64  |
| GLENN COUNTY     | ORLAND PD           | \$ 15,000.00  |
| HUMBOLDT COUNTY  | ARCATA PD           | \$ 20,000.00  |
| HUMBOLDT COUNTY  | EUREKA PD           | \$ 28,000.00  |
| HUMBOLDT COUNTY  | FERNDALE PD         | \$ 15,000.00  |
| HUMBOLDT COUNTY  | FORTUNA PD          | \$ 15,000.00  |
| HUMBOLDT COUNTY  | HUMBOLDT CO SO      | \$ 128,481.13 |
| HUMBOLDT COUNTY  | RIO DELL PD         | \$ 15,000.00  |
| IMPERIAL COUNTY  | BRAWLEY PD          | \$ 20,000.00  |
| IMPERIAL COUNTY  | CALEXICO PD         | \$ 20,000.00  |
| IMPERIAL COUNTY  | CALIPATRIA PD       | \$ 15,000.00  |
| IMPERIAL COUNTY  | EL CENTRO PD        | \$ 28,083.31  |
| IMPERIAL COUNTY  | IMPERIAL CO SO      | \$ 63,187.44  |
| IMPERIAL COUNTY  | IMPERIAL PD         | \$ 15,000.00  |
| IMPERIAL COUNTY  | WESTMORLAND PD      | \$ 15,000.00  |
| INYO COUNTY      | BISHOP PD           | \$ 15,000.00  |
| INYO COUNTY      | INYO COUNTY SO      | \$ 28,000.00  |
| KERN COUNTY      | ARVIN PD            | \$ 15,000.00  |
| KERN COUNTY      | BAKERSFIELD PD      | \$ 305,405.96 |
| KERN COUNTY      | BEAR VALLEY PD      | \$ 15,000.00  |
| KERN COUNTY      | CALIFORNIA CITY PD  | \$ 15,000.00  |
| KERN COUNTY      | DELANO PD           | \$ 33,699.97  |
| KERN COUNTY      | KERN COUNTY SO      | \$ 501,989.10 |
| KERN COUNTY      | MCFARLAND PD        | \$ 15,000.00  |
| KERN COUNTY      | RIDGECREST PD       | \$ 25,000.00  |
| KERN COUNTY      | SHAFTER PD          | \$ 25,000.00  |
| KERN COUNTY      | STALLION SPRINGS PD | \$ 15,000.00  |
| KERN COUNTY      | TAFT PD             | \$ 15,000.00  |
| KERN COUNTY      | TEHACHAPI PD        | \$ 15,000.00  |
| KINGS COUNTY     | AVENAL PD           | \$ 15,000.00  |
| KINGS COUNTY     | CORCORAN PD         | \$ 15,000.00  |
| KINGS COUNTY     | HANFORD PD          | \$ 42,827.04  |



Peace and Justice Commission

CONSENT CALENDAR  
APRIL 11, 2023

To: Honorable Mayor and Members of the City Council  
 From: Peace and Justice Commission  
 Submitted by: Grace Morizawa, Chairperson, Peace and Justice Commission  
 Subject: Support March 21, 2023 Day of Action Urging Banks to Divest from Fossil Fuel Businesses

RECOMMENDATION:

Adopt a resolution that the City of Berkeley Council support the Tuesday March 21, 2023 nation-wide day of action to tell banks to divest from fossil fuel projects, and encourage Berkeley's residents to support and participate in local actions on that date.

CURRENT SITUATION AND ITS EFFECTS:

The national group, Third Act, founded by activist Bill McKibben to rally older Americans against climate change, will hold a series of intergenerational rallies on Tuesday, March 21, 2023 to which the general public is invited, with the following purpose: to "make visible the invisible connection between cash and carbon. We will pressure the big, dirty fossil-fueled banks – Bank of America, Chase, Citibank, and Wells Fargo – to move their investments out of fossil fuels by moving our money out of their banks;" and nearby rallies will take place at Piedmont Avenue and 41<sup>st</sup> Street in Oakland at 9:30 AM and in Albany, San Francisco, Sacramento, San Rafael, Sebastopol, and other locations.

1000 Grandmothers for Future Generations is among the groups participating in the March 21 rallies, and the Grandmothers state: "We are elder women and allies stepping up to the urgency of the climate crisis. We act in support of the rights of Native Americans and other frontline communities. We believe that we cannot address the climate crisis without addressing systemic racism. That is what climate justice means to us."

At its regular meeting February 6, 2023, the Peace and Justice Commission adopted the following recommendation proposing City Council support the Day of Action on March 21 and encourage Berkeley's residents to participate in local actions.

M/S/C: Jaquin, Lippman.

Ayes: Jacquin, Lippman, Lee, Leon-Maldonado, Morizawa.

Noes: None.

Abstain: Gussmann, Maran.

Absent: Bohn.

### FISCAL IMPACTS OF RECOMMENDATION

None

### ENVIRONMENTAL SUSTAINABILITY

According to the Environmental and Energy Study Institute, “Air pollution from burning fossil fuels can cause multiple health issues, including asthma, cancer, heart disease, and premature death. Globally, fossil fuel pollution is responsible for one in five deaths. In the United States, 350,000 premature deaths in 2018 were attributed to fossil fuel-related pollution. The annual cost of the health impacts of fossil fuel-generated electricity in the United States is estimated to be up to \$886.5 billion....

“The environmental and health impacts of fossil fuels disproportionately harm communities of color and low-income communities. Black and Latinx Americans are exposed to 56 and 63 percent more particulate matter pollution, respectively, than they produce.”

### BACKGROUND

On May 30, 2017, after revelations about illegal behavior by Wells Fargo, today one of the major investors in climate-destroying loans, the Berkeley City Council resolved to divest from Wells Fargo and to re-invest in financial institutions that “adhere to fair, socially and environmentally responsible banking.”

### RATIONALE FOR RECOMMENDATION

The National Whistleblower Campaign states that “while fossil fuel companies and deforestation-linked companies are the primary drivers of climate change, most companies in these industries could not operate without support from major financial institutions. Banks provide loans that allow these companies to expand, and investment banks also provide underwriting services that help companies to issue new stocks and obtain debt financing through corporate bonds.

“In the five years since the Paris Agreement was signed, the world’s 60 largest commercial banks have provided more than USD 3.8 trillion for fossil fuels through lending and underwriting. Since the Paris Agreement was signed, financial institutions have also increased their funding for commodities linked to deforestation by 40%, providing USD 153.9 billion in financing for forest-risk commodities.”

### ALTERNATIVE ACTIONS CONSIDERED

None

Support March 21, 2023 Day of Action Urging Banks to Divest from Fossil Fuel Businesses

Consent Calendar  
April 11, 2023

CITY MANAGER

The City Manager takes no position on this recommendation.

CONTACT PERSON

Grace Morizawa, Chairperson, Peace and Justice Commission

Okeya Vance-Dozier Commission Secretary, (510) 981-7239

Attachment 1: Resolution

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

Resolution Supporting March 21, 2023 Day of Action Urging Banks to Divest from Fossil Fuel Businesses

WHEREAS, the Peace and Justice Commission advises the City Council on all matters relating to the City of Berkeley's role in issues of peace and social justice (Berkeley Municipal Code Chapter 3.68.070); and

WHEREAS, according to the Environmental and Energy Study Institute,<sup>1</sup> "Air pollution from burning fossil fuels can cause multiple health issues, including asthma, cancer, heart disease, and premature death. Globally, fossil fuel pollution is responsible for one in five deaths. In the United States, 350,000 premature deaths in 2018 were attributed to fossil fuel-related pollution.<sup>2</sup> The annual cost of the health impacts of fossil fuel-generated electricity in the United States is estimated to be up to \$886.5 billion....<sup>3</sup>

"The environmental and health impacts of fossil fuels disproportionately harm communities of color and low-income communities. Black and Latinx Americans are exposed to 56 and 63 percent more particulate matter pollution, respectively, than they produce;"<sup>4</sup> and

WHEREAS, the National Whistleblower Campaign states that "while fossil fuel companies and deforestation-linked companies are the primary drivers of climate change, most companies in these industries could not operate without support from major financial institutions.<sup>5</sup> Banks provide loans that allow these companies to expand, and investment banks also provide underwriting services that help companies to issue new stocks and obtain debt financing through corporate bonds....

"In the five years since the Paris Agreement was signed, the world's 60 largest commercial banks have provided more than USD 3.8 trillion for fossil fuels through

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<sup>1</sup> "Fact Sheet | Climate, Environmental, and Health Impacts of Fossil Fuels," Dec. 17, 2021, <https://www.eesi.org/papers/view/fact-sheet-climate-environmental-and-health-impacts-of-fossil-fuels-2021>

<sup>2</sup> "Fossil fuel air pollution responsible for 1 in 5 deaths worldwide," Harvard T.H. Chan School of Public Health, Center for Climate Change and the Global Environment, Feb. 9, 2021, <https://www.hsph.harvard.edu/c-change/news/fossil-fuel-air-pollution-responsible-for-1-in-5-deaths-worldwide/>

<sup>3</sup> "Economic value of U.S. fossil fuel electricity health impacts," NIH National Library of Medicine, Feb. 2013, <https://pubmed.ncbi.nlm.nih.gov/23246069/>

<sup>4</sup> "Inequity in consumption of goods and services adds to racial-ethnic disparities in air pollution exposure," National Academy of Sciences, March 11, 2029 <https://www.pnas.org/doi/10.1073/pnas.1818859116>

<sup>4</sup> <https://www.clientearth.org/media/w1qdlnmk/clientearth-position-paper-to-the-ec-deforestation-public-consultation.pdf>

<sup>5</sup> <https://www.whistleblowers.org/the-role-of-banking-in-climate-change/>



lending and underwriting.<sup>6</sup> Since the Paris Agreement was signed, financial institutions have also increased their funding for commodities linked to deforestation by 40%, providing USD 153.9 billion in financing for forest-risk commodities;<sup>7</sup> and

WHEREAS, on May 30, 2017, after revelations about illegal behavior by Wells Fargo, today one of the major investors in climate-destroying loans, the Berkeley City Council resolved to divest from Wells Fargo and to re-invest in financial institutions that “adhere to fair, socially and environmentally responsible banking;”<sup>8</sup> and

WHEREAS, the national group Third Act, founded by activist Bill McKibben to rally older Americans against climate change, will hold a series of intergenerational rallies on Tuesday, March 21, 2023 to which the general public is invited, with the following purpose: to “make visible the invisible connection between cash and carbon. We will pressure the big, dirty fossil-fueled banks – Bank of America, Chase, Citibank, and Wells Fargo – to move their investments out of fossil fuels by moving our money out of their banks;”<sup>9</sup> and nearby rallies will take place at Piedmont Avenue and 41<sup>st</sup> Street in Oakland at 9:30 AM and in Albany, San Francisco, Sacramento, San Rafael, Sebastopol, and other locations;<sup>10</sup> and

WHEREAS, 1000 Grandmothers for Future Generations is among the groups participating in the March 21 rallies, and the Grandmothers state: “We are elder women and allies stepping up to the urgency of the climate crisis. We act in support of the rights of Native Americans and other frontline communities. We believe that we cannot address the climate crisis without addressing systemic racism. That is what climate justice means to us.”<sup>11</sup>

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<sup>6</sup> “The Role of Banking in Climate Change,” Published by a consortium of environmental groups including the Sierra Club, Indigenous Environmental Network and Rainforest Action among others. March 24, 2021. <https://www.bankingonclimatechaos.org/bankingonclimatechaos2021/>

<sup>7</sup> <https://www.clientearth.org/media/w1qdlnmk/clientearth-position-paper-to-the-ec-deforestation-public-consultation.pdf>

<sup>8</sup> “Policy not to do business with financial institutions that employ unethical practices, invest in environmentally unsustainable endeavors and practices that undermine the health and rights of Indigenous people and those of disadvantaged populations, and to end all financial relationships with Wells Fargo,” May 30, 2017, Berkeley City Council, <https://records.cityofberkeley.info/PublicAccess/paFiles/cqFiles/index.html>; search fields: Search Type: “Resolution Query”; Search Terms: “Fargo”; Search Start and End dates: 5-30-2017

<sup>9</sup> <https://thirdact.org/>  
and

<https://vtdigger.org/2021/09/02/bill-mckibben-launches-third-act-to-rally-older-americans-around-climate-change/>

<sup>10</sup> <https://thirdact.org/national-day-of-action/>

<sup>11</sup> 1000 Grandmothers for Future Generations, <https://www.1000grandmothers.com/#:~:text=1000%20Grandmothers%20for%20Future%20Generations&text=We%20are%20elder%20women%20and,crisis%20without%20addressing%20systemic%20racism>

Support March 21, 2023 Day of Action Urging Banks to Divest from Fossil Fuel Businesses

Consent Calendar  
April 11, 2023

NOW THEREFORE, BE IT RESOLVED that the Council of the City of Berkeley supports the Tuesday March 21, 2023 nation-wide day of action to tell banks to divest from fossil fuel projects, and encourages Berkeley's residents to support and participate in local actions.





Sugar-Sweetened Beverage  
Product Panel of Experts (SSBPPE)

CONSENT CALENDAR

April 11, 2023

To: Honorable Mayor and Members of the City Council

From: Sugar-Sweetened Beverage Product Panel of Experts Commission

Submitted by: Joy Moore, Chairperson, SSBPPE Commission

Subject: Allocation of \$3 Million Over Two Years, FY 2024 and FY 2025, to Reduce Consumption and Health Impacts of Sugar-Sweetened Beverages (SSBs).

RECOMMENDATIONS

Adopt a Resolution allocating \$3 million from the General Fund in FY2024 (July 1, 2023 through June 30, 2024) and FY2025 (July 1, 2024 through June 30, 2025) that shall be invested in a grant program administered and coordinated by the Department of Health, Housing, and Community Services' (HHCS) Public Health Division (HHCS/PHD) consistent with the Sugar-Sweetened Beverage Product Panel of Experts (SSBPPE) Commission's goals to reduce the consumption of sugar sweetened beverages (SSB) in Berkeley and to address the health effects of SSB consumption. The total of \$3 million will be distributed in two installments of \$1.5 million per year for FY2024 and FY2025. In each of these years, the funds will be distributed as follows:

- a. Direct the City Manager to award up to 42.5% of the allocated funds to Berkeley Unified School District (BUSD) through a grant proposal to reduce the consumption of sugar-sweetened beverages (SSBs) through the implementation and enhancement of the BUSD cooking and gardening programs. The BUSD funding process is separate from the RFP process for the general community-based organization funding process and shall be guided by the SSBPPE Commission's Criteria for BUSD Funding (Attachment 2).
- b. Direct the City Manager to award at least 42.5% of the allocated funds through an RFP process managed by HHCS/PHD for grants to community-based organizations consistent with the SSBPPE Commission's goals to reduce the consumption of SSBs and to address the effects of SSB consumption. The community-based organization funding RFP process is separate from the BUSD funding process and shall be guided by the SSBPPE Commission's Criteria for Community Agency Grants (Attachment 3).
- c. Direct the City Manager to utilize up to 15% of the allocated funds to support HHCS/PHD to coordinate and monitor the grant process, coordinate the overall program evaluation, and produce an annual report that disseminates

process and outcome data from the epidemiologist resulting from the SSBPPE Commission funding program as well as pay certain City of Berkeley Finance Department costs related to the sugary drink tax.

POLICY COMMITTEE RECOMMENDATION

On February 23, 2023, the Budget and Finance Committee took the following action: M/S/C (Harrison/Arreguín) To forward the item to Council with a Qualified Positive Recommendation to approve staff’s recommendation, with an additional amount of \$35,590 in FY24 and FY25, and any additional revenues beyond the projected amounts being prioritized for grants. Vote: All Ayes.

FISCAL IMPACTS OF RECOMMENDATION

Measure D, passed in November of 2014, created two provisions, namely: a) a 1 cent per ounce tax on sugary drinks distributed in Berkeley and b) creation of a Panel of Experts Commission. The collection of this tax commenced in May of 2015 and is being deposited into the City’s General Fund. The SSBPPE Commission’s recommendation to Council for allocation of \$3 million for FY2024 and FY2025 is independent of the amount of tax collected from the distribution of SSB in Berkeley. This request will create a liability of \$3 million for the City’s General Fund in FY2024 and FY2025.

CURRENT SITUATION AND ITS EFFECTS

On October 20, 2022, the SSBPPE Commission approved the recommendation to the Berkeley City Council for allocation of \$3 million for the period FY2024 and FY2025, to be made available to invest in grants programs to reduce the consumption of sugary drinks and address the health consequences of the consumption of sugary drinks and moved to adopt their recommendation to Council as follows:

Key elements of the resolution include:

- 1) Direct the City Manager to award up to 42.5% of the allocated funds to BUSD through a grant proposal to reduce the consumption of SSBs.
- 2) Direct the City Manager to award at least 42.5% of the allocated funds through an RFP process managed by the HHCS/PHD for grants to community-based organizations consistent with the SSBPPE Commission’s goals.
- 3) Direct the City Manager to utilize up to 15% of the allocated funds to support HHCS/PHD to:
  - a. Coordinate and monitor the grant process,
  - b. coordinate the overall program evaluation, and
  - c. produce an annual report that disseminates process and outcome data from the epidemiologist resulting from the SSBPPE Commission funding program as well as,
  - d. pay certain City of Berkeley Finance Department costs related to the sugary drink tax.

**Action:** Motion to update the SSBPPE Commission City Council recommendation from December 15th, 2020: 1) update dates; 2) background as needed, and recommendations; 3) maintain the same recommendation for funding; 4) and recommending the City Manager to utilize up to 15% of the allocated funds to support the COB Public Health Division and Finance Department fees related to the Sugar-Sweetened Beverage Soda Tax.

**Votes:** Ayes – Rose, Moore, Hecht, Morales, Scheider; Noes – None; Abstain – None; Absent – Browne, Crawford, Rodriguez.

## BACKGROUND

### *A Brief History of Measure D*

In November of 2014, the Berkeley voters passed Measure D, which requires both the collection of a 1 cent per ounce tax on the distribution of sugary drinks in the City of Berkeley AND the convening of a Panel of Experts (the Sugar Sweetened Beverage Products Panel of Experts--SSBPPE) to recommend investments to both reduce the consumption of sugary drinks as well as to address the health consequences of the consumption of sugary drinks.

In addition to nearly three years of a global pandemic, our nation, our state, and our community face a major public health crisis. Diabetes, obesity, and tooth decay have been on the rise for decades. Although no group has escaped these epidemics, children, as well as low income communities and communities of color have been and continue to be disproportionately affected. While there is no single cause for the rise in diabetes, obesity, and tooth decay, there is overwhelming evidence of the link between the consumption of sugary drinks and the incidence of diabetes, obesity, heart disease, and tooth decay.

Sugary drinks such as soft drinks, energy drinks, sweetened teas, and sport drinks offer little or no nutritional value, but contribute massive quantities of added sugar. A single 20-ounce bottle of soda, for instance, typically contains the equivalent of approximately 16 teaspoons of sugar. Before the 1950s, the standard soft-drink bottle was 6.5 ounces. In the 1950s, larger size containers were introduced, including the 12-ounce can, which became widely available in 1960. By the early 1990s, 20-ounce plastic bottles had become the norm. At the same time, hundreds of millions of dollars have been spent in an ongoing massive marketing campaign, which particularly targets children and people of color. In 2006 alone, nearly \$600 million was spent in advertising to children under 18. African American and Latinx children are also aggressively targeted with advertisements to promote sugar-laden drinks.

The resulting impact on consumption should not be surprising. The average American now drinks nearly 40 gallons of sugary drinks a year. In the past 20 years, the prevalence of obesity in adults increased from 30.5% to 42.4%, and the prevalence of severe obesity increased from 4.7% to 9.2%. During this time, the prevalence of obesity

among youth (aged 2–19 years) increased from 13.9% to 19.3%, and the prevalence of severe obesity increased from 3.6% to 6.1%. The problem is especially acute with children in California. From 1989 to 2008, the percentage of children consuming sugary drinks increased from 79% to 91% and the percentage of total calories obtained from sugary drinks increased by 60% in children ages 6 to 11. This level of consumption has had tragic impacts on community health. Type 2 Diabetes –previously only seen among adults –is now increasing among children. If the current obesity trends are not reversed, it is predicted that one in three children and nearly one-half of Latinx and African American children born in the year 2000 will develop type 2 diabetes in their lifetimes.

Our community has not been immune to the challenge of unhealthy weight gain and obesity. According to the 2018 City of Berkeley Health Status Report, over a quarter of Berkeley’s 5th and 7th grade students (all race/ethnicities) are overweight or obese. Berkeley has a lower proportion of 5th and 7th grade children who are overweight or obese (29.4%) compared to children in Alameda County (35.3%) but has a higher proportion compared to California (26.8%). However, a higher proportion of African-American children are overweight or obese in Berkeley compared to Alameda County or California.

Tooth decay has meaningful impact on health, especially for children. In fact, tooth decay is the most common childhood disease, experienced by over 70% of California’s 3rd graders. Children who frequently or excessively consume beverages high in sugar are at increased risk for dental cavities. Dental problems are a major cause of missed school days and poor school performance as well as pain, infection, and tooth loss in California.

#### *COVID-19*

Of relevance today are the jarring statistics on the higher risk and severity of COVID-19 related to the social determinates of health for persons of color. Latinx and Black communities are disproportionately affected by COVID-19. Health disparities, as documented in the Annual Health Reports from the Berkeley Health Department, were an important impetus in the rationale for Measure D as well as the proposed use of revenues from Measure D. SSB consumption is directly related to the health conditions observed with higher rates of COVID-19. The link between SSB consumption and diabetes, obesity and heart disease and the relationship of these conditions to increased risk of COVID-19 makes heightens the critical nature of the SSB tax and its revenues to the reduction of health disparities in Berkeley.

#### ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

When sugary drink consumption decreases due to the direct investments in programs and activities, the SSBPPE Commission expects that there will be a reduction to the City’s waste stream.

### RATIONALE FOR RECOMMENDATION

This two-year grant period supports comprehensive strategies to: a) reduce access to SSBs, b) improve access to water, c) limit marketing of SSBs to children, and d) implement education and awareness campaigns with specific populations. The two-year grant period will also indicate the City of Berkeley's commitment to reducing the consumption of SSBs and improving the health of Berkeley residents, particularly those most impacted by obesity, diabetes, tooth decay, and heart disease. The funding will allow grantees to develop interventions that include education, policy, systems and environmental changes with measurable outcome data and evaluation to show the rise in public awareness about the harmful impacts of SSBs, reduce consumption of SSBs over time, and decrease the health risks among residents of Berkeley.

To have the greatest impact, the SSBPPE Commission recommends that the following populations be prioritized:

- a) Children and their families with a particular emphasis on young children who are in the process of forming lifelong habits,
- b) Children and young adults living in households with limited resources,
- c) Groups exhibiting higher than average population levels of type 2 diabetes, obesity, heart disease, and tooth decay rates,
- d) Groups that are disproportionately targeted by the beverage industry marketing,
- e) Pregnant women,
- f) Berkeley-based organizations that serve any or all of the above populations.

### ALTERNATIVE ACTIONS CONSIDERED

The Commission did not identify an alternative action which is consistent with the City's

### CITY MANAGER

See City Manager companion report.

### CONTACT PERSON

Roberto Terrones, MPH, Commission Secretary, HHCS, (510) 510-981-5324

### ATTACHMENTS

1. Resolution
2. SSBPPE Commission's Criteria for BUSD Funding
3. SSBPPE Commission's Criteria for Community Agencies Funding

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

ALLOCATION: \$3 MILLION TOTAL FOR SUGAR-SWEETENED BEVERAGE CONSUMPTION AND REDUCTION GRANT PROGRAM IN FY2024 AND FY2025

WHEREAS, the consumption of sugar-sweetened beverages (“SSB”) in Berkeley is impacting the health of the people in Berkeley; and

WHEREAS, in FY2024 and FY2025, the City Council awarded a total of \$3 million upon the recommendation of the SSBPPE Commission to demonstrate the City’s long-term commitment to decreasing the consumption of SSB and mitigate the harmful impacts of SSB on the population of Berkeley; and

WHEREAS, many studies demonstrate that high intake of SSB is associated with risk of Type 2 Diabetes, obesity, tooth decay, and coronary heart disease; and

WHEREAS, the above conditions are all demonstrated to increase both the severity of COVID19 related illness and risk of death; and

WHEREAS Latinx and Black communities are disproportionately affected by COVID-19; and

WHEREAS, hundreds of millions of dollars have been spent in an ongoing massive marketing campaign, which particularly targets children and people of color; and

WHEREAS, an African American resident of Berkeley is 14 times more likely than a White resident to be hospitalized for diabetes; and

WHEREAS, 40% of 9<sup>th</sup> graders in Berkeley High School are either overweight or obese; and

WHEREAS, tooth decay is the most common childhood disease, experienced by over 70% of California’s 3rd graders; and

WHEREAS, in 2012, a U.S. national research team estimated levying a penny-per-ounce tax on sweetened beverages would prevent nearly 100,000 cases of heart disease, 8,000 strokes, and 26,000 deaths over the next decade and 240,000 cases of diabetes per year nationwide.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is hereby authorized to allocate \$3 million from the General Fund to be disbursed in two (2) installments of \$1.5 million in FY2024 and \$1.5 million in FY2025 and invested as follows:

1. Allocate up to 42.5% of the allocated funds to Berkeley Unified School District (BUSD) through a grant proposal to reduce the consumption of sugar-sweetened

beverages (SSBs) through the implementation and enhancement of the BUSD cooking and gardening programs for the period, July 1, 2023 to June 30, 2025; and

2. Allocate at least 42.5% of the allocated funds through a RFP process managed by the Public Health Division for grants to community-based organizations consistent with the SSBPPE Commission's goals to reduce the consumption of SSB and to address the effects of SSB consumption for the period, July 1, 2023 to June 30, 2025; and
3. Allocate up to 15% of the allocated funds to support the Berkeley Public Health Division (BPHD) to coordinate and monitor the grant process, coordinate the overall program evaluation, and produce an annual report that disseminates process and outcome data resulting from the SSBPPE Commission funding program as well as City of Berkeley Finance Department fees related to the sugary drink tax.

A records signature copy of the said agreement and any amendments to be on file in the Office of the City Clerk.

### SSBPPE Commission's Criteria for BUSD Funding

The Berkeley Unified School District will be required to provide the following information and comply with the requirements listed in order to receive funding.

- A. Describe how you will reach the following priority populations:
- a. Children and their families; preschool through high school;
  - b. Children and young adults living in households with limited resources;
  - c. Groups exhibiting higher than average population levels of type 2 diabetes, obesity, and tooth decay;
  - d. Groups that are disproportionately targeted by the beverage industry marketing.
- B. Include how the proposal meets the following requirements:
- a. Proposal reflects approval from the BUSD School Board.
  - b. BUSD will not sell or serve sugar-sweetened beverages (as defined by the SSB tax) at any BUSD schools or campuses.
  - c. Awarded funding will not supplant BUSD FY22 and FY23 General Fund allocations.
  - d. Funded projects will publicly reflect support from Healthy Berkeley Program.
  - e. Funded projects and programs will include evaluation of their process and outcomes.
  - f. The proposal timelines and budgets will be specific, measurable, achievable, realistic, and time bound (SMART).
- C. Include specific goals for how the BUSD proposal meets the following scoring criteria:
- a. Decrease access to SSBs and/or improve access to drinking water. (15%)
  - b. Increase or strengthen SSB policies in school and outside of school. (15%)
  - c. Support the annual administration of the Berkeley adapted Youth Risk Behavior Survey to evaluate student's SSB knowledge, consumption, access, and policy perceptions. (20%)
  - d. To document how students at all grade levels and in priority populations are included. (10%)
  - e. To document policy elements that will last beyond the grant period. (15%)
  - f. Proposal budget matches the work plan and is appropriate. (10%)
  - g. To document how BUSD will be able to communicate SSB educational and policy efforts to parents and/or the Berkeley community (15%)



**SSBPPE Commission's Criteria for Community Agencies Funding**

Community-based organizations will be required to provide the following information in order to be considered for funding.

- A. Describe your strategies that address the goals and objectives of this funding including:
- a. Transforming the systems, policies, environments, structures, and norms that underlie sugary drink consumption.
  - b. Developing community capacity to improve health by transforming systems, policies, environments, structures, and norms through increasing leadership potential of community members and young people, especially those serving priority populations.
  - c. Supporting community programming designed to change norms to support consumption of healthy food and beverages.
  - d. Providing health screenings and chronic disease prevention with a focus on dental health.
  - e. Impacting sugary drink marketing and retail environments (i.e., availability, promotion, price, placement in convenient stores, and advertising), especially those that disproportionately target priority populations.
- B. Include specific goals for how your project will meet the following scoring criteria
- a. The proposal aims to decrease consumption of sugary drinks, increase access to drinking water, and/or address health effects from consumption of sugary drinks (25%).
  - b. The proposal reaches people and communities in the priority populations. (25%).
  - c. Project provides lasting impact beyond the grant period: i.e. builds organizational and community capacity and/or changes systems and policies, and environments related to SSBs. (25%).
  - d. The proposal includes a plan for communicating efforts, activities, and/or successes to the larger Berkeley community. (15%).
  - e. Proposal budget matches the work plan and is appropriate. (10%)





Office of the City Manager

CONSENT CALENDAR  
April 11, 2023

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

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

Subject: Companion Report: Allocation of \$3 Million Over Two Years, FY2024 and FY2025, to Reduce Consumption and Health Impacts of Sugar-Sweetened Beverages (SSBs).

RECOMMENDATIONS

Adopt a Resolution allocating \$2 million from the General Fund in FY2024 (July 1, 2023 through June 30, 2024) and FY2025 (July 1, 2024 through June 30, 2025) that shall be invested in a grant program administered and coordinated by the Department of Health, Housing, and Community Services' (HHCS) Public Health Division (HHCS/PHD) consistent with the Sugar-Sweetened Beverage Product Panel of Experts (SSBPPE) Commission's goals to reduce the consumption of sugar sweetened beverages (SSB) in Berkeley and to address the health effects of SSB consumption. The total of \$2 million will be distributed in two installments of \$1 million per year for FY2024 and FY2025. The funds will be distributed as follows:

- a. Direct the City Manager to award up to \$712,000 of the allocated funds to Berkeley Unified School District (BUSD) for the period, July 1, 2023 to June 30, 2025 through a grant proposal to reduce the consumption of sugar-sweetened beverages (SSBs) through the implementation and enhancement of the BUSD cooking and gardening programs. The BUSD funding process is separate from the RFP process for the general community-based organization funding process and shall be guided by the SSBPPE Commission's Criteria for BUSD Funding (Attachment 1).
- b. Direct the City Manager to award at least \$712,000 of the allocated funds for the period, July 1, 2023 to June 30, 2025 through an RFP process managed by HHCS/PHD for grants to community-based organizations consistent with the SSBPPE Commission's goals to reduce the consumption of SSBs and to address the effects of SSB consumption. The community-based organization funding RFP process is separate from the BUSD funding process and shall be guided by the SSBPPE Commission's Criteria for Community Agency Grants (Attachment 2).

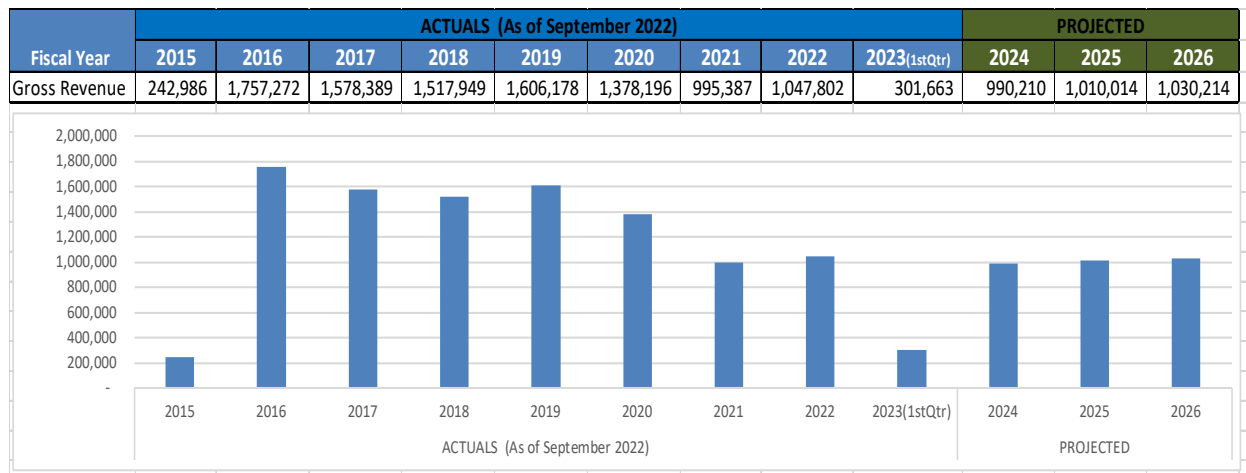
- c. For the period, July 1, 2023 to June 30, 2025, direct the City Manager to allocate \$125,000 to fund Finance Department costs for staffing and MuniServices fees and \$451,000 to HHCS/PHD for staffing, operating and consulting costs to coordinate and monitor the grant process, manage resulting contracts awarded, support activities aligned with the goal of the sugary beverage tax, including the Healthy Retail Checkout ordinance, and provide an annual presentation to the SSBPPE Commission that includes process and outcome data and updates on Finance Department fees related to the sugary drink tax for the SSBPPE Commission to inform the development of the Commission’s annual report.
- d. Carryover any sugary drink tax revenue received in excess of \$2 million during FY2024 and FY2025 to be awarded for related services in FY2025 – FY2027.

**POLICY COMMITTEE RECOMMENDATION**

On February 23, 2023, the Budget and Finance Committee took the following action: M/S/C (Harrison/Arreguín) To forward the item to Council with a Qualified Positive Recommendation to approve staff’s recommendation, with an additional amount of \$35,590 in FY24 and FY25, and any additional revenues beyond the projected amounts being prioritized for grants. Vote: All Ayes.

**FISCAL IMPACTS OF RECOMMENDATION**

Based on the recent trends of the sugar-sweetened beverage tax (shown below), the projections for the upcoming Fiscal Years 2024 and 2025 indicate that the expected revenue would be approximately \$1 Million for each year (projections will be revised after the mid-year revenue numbers are analyzed). This trend is consistent with the expected success of the sugar-sweetened beverage tax, as it encourages Berkeley residents and consumers to purchase and consume less sugar-sweetened beverages.



The \$3 million allocation recommended by the Commission would require the City to identify \$1 million in City General Funds in addition to the sugar-sweetened beverage tax revenue projected to support related programs.

### CURRENT SITUATION AND ITS EFFECTS

In November of 2014, the Berkeley voters passed Measure D, which requires both the collection of a 1 cent per ounce tax on the distribution of sugary drinks in the City of Berkeley and the convening of a Panel of Experts —(SSBPPE) to recommend investments to both reduce the consumption of sugary drinks as well as to address the health consequences of the consumption of sugary drinks.

As the revenues decrease due to the success of the sugar-sweetened beverage tax, it is essential to continue strategies to further promote healthier behaviors and decrease the consumption of sugar sweetened beverages. Community based partnerships have been a positive force in health education and changes in policy, systems, and environmental changes that support the goals and mission of the SSBPPE.

The associated annual costs for the Finance Department’s administration of the Sugar Sweetened Beverage Tax as well as Public Health Division’s coordination and management of the RFP, the resulting contracts, and policies resulting from this work, such as the Healthy Checkout Ordinance (No. 7,734-N.S.) are outlined below. The SSBPPE’s proposed allocation amount would not be sufficient to provide the level of staffing for the evaluation recommended. Therefore, staff recommend a smaller evaluation scope using contracted evaluation resources.

| <b>Projected annual costs to address the minimum mandated activities<br/>(Finance and HHCS)</b>             | <b>Amount</b>    |
|-------------------------------------------------------------------------------------------------------------|------------------|
| Finance Department Staff (.30FTE)                                                                           | 41,544           |
| MuniServices Fees (@ 2%)                                                                                    | 20,956           |
| <i>Finance Department Subtotal</i>                                                                          | <i>62,500</i>    |
| HHCS: Administrative Staff (estimated salary including benefits)                                            | 120,166          |
| HHCS: Nutritionist @ 20% (estimated salary including benefits)                                              | 39,388           |
| HHCS: Contracted Program Evaluation Consulting Services                                                     | 34,000           |
| HHCS: Other Operational Expenses (i.e. software maintenance, Commission stipends, supplies, printing, etc.) | 31,946           |
| <i>HHCS costs subtotal</i>                                                                                  | <i>225,500</i>   |
| <b>Total</b>                                                                                                | <b>\$288,000</b> |

### BACKGROUND

Measure D, the Sugar Sweetened Beverage tax, was passed on July 1, 2014 to support the increased consumption of water and decrease the consumption of sugar sweetened beverages. As a result, allocations from the City General Fund associated with Measure D were identified for PHD to support the development and oversight of SSBPE community agency contracts, provide secretary support for the SSBPE, conduct

program evaluation activities, and support any programmatic initiatives that were aligned with the purpose of Measure D.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

There are no environmental impacts.

RATIONALE FOR RECOMMENDATION

This recommendation would allow the City to continue its ongoing commitment to public health, specifically reducing the consumption of sugar-sweetened beverages in Berkeley, while aligning program investment with the level of funding projected to be available. Modifying the City’s scope of work, and calculating the level of funding for City services based on the actual cost to provide those services rather than an assumed percentage of tax revenue will allow the City to implement and sustain this program.

ALTERNATIVE ACTIONS CONSIDERED

Staff appreciate the SSBPPE’s commitment to supporting programming at BUSD and the important work of community-based organizations to provide needed services. Staff did not identify an alternative recommendation which is consistent with both the projected amount of sugary beverage tax revenue and the current City costs to implement this program.

CONTACT PERSON

Henry Oyekanmi, Director of Finance (510) 981-7200

Lisa Warhuus, Director, Health Housing and Community Services (510) 981-5404

Attachments:

1. Resolution
2. SSBPPE Commission’s Criteria for BUSD Funding
3. SSBPPE Commission’s Criteria for Community Agencies Funding
4. Healthy Checkout Ordinance No. 7,734-N.S.
5. Resolution NO. 66,969-NS

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

ALLOCATION: \$2 MILLION TOTAL FOR SUGAR-SWEETENED BEVERAGE CONSUMPTION AND REDUCTION GRANT PROGRAM IN FY2024 AND FY2025

WHEREAS, the consumption of sugar-sweetened beverages (“SSB”) in Berkeley is impacting the health of the people in Berkeley; and

WHEREAS, in FY2022 and FY2023, the City Council awarded a total of \$2,662,506 by Resolution #66,969-NS upon the recommendation of the SSBPPE Commission to demonstrate the City’s long-term commitment to decreasing the consumption of SSB and mitigate the harmful impacts of SSB on the population of Berkeley; and

WHEREAS, many studies demonstrate that high intake of SSB is associated with risk of Type 2 Diabetes, obesity, tooth decay, and coronary heart disease; and

WHEREAS, the above conditions are all demonstrated to increase both the severity of COVID19 related illness and risk of death; and

WHEREAS Latinx and Black communities are disproportionately affected by COVID-19; and

WHEREAS, hundreds of millions of dollars have been spent in an ongoing massive marketing campaign, which particularly targets children and people of color; and

WHEREAS, an African American resident of Berkeley is 14 times more likely than a White resident to be hospitalized for diabetes; and

WHEREAS, 40% of 9<sup>th</sup> graders in Berkeley High School are either overweight or obese; and

WHEREAS, tooth decay is the most common childhood disease, experienced by over 70% of California’s 3<sup>rd</sup> graders; and

WHEREAS, in 2012, a U.S. national research team estimated levying a penny-per-ounce tax on sweetened beverages would prevent nearly 100,000 cases of heart disease, 8,000 strokes, and 26,000 deaths over the next decade and 240,000 cases of diabetes per year nationwide.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is hereby authorized to allocate \$2 million from the General Fund to be disbursed in two (2) installments of \$1 million in FY24 and \$1 million in FY25 and invested as follows:

1. Allocate up to \$712,000 to Berkeley Unified School District (BUSD) through a grant proposal to reduce the consumption of sugar-sweetened beverages (SSBs)

through the implementation and enhancement of the BUSD cooking and gardening programs for the period, July 1, 2023 to June 30, 2025; and

2. Allocate at least \$712,000 through a RFP process managed by the Public Health Division for grants to community-based organizations consistent with the SSBPPE Commission's goals to reduce the consumption of SSB and to address the effects of SSB consumption for the period, July 1, 2023 to June 30, 2025; and
3. For the period, July 1, 2023 to June 30, 2025, direct the City Manager to allocate \$125,000 to fund Finance Department costs and \$451,000 to HHCS/PHD for staffing, operating and consulting costs to coordinate and monitor the grant process, manage resulting contracts awarded, support activities aligned with the goal of the sugary beverage tax, including the Healthy Retail Checkout ordinance, and provide an annual presentation to the SSBPPE Commission that includes process and outcome data and updates on Finance Department fees related to the sugary drink tax for the SSBPPE Commission to inform the development of the Commission's annual report.
4. Carryover any sugary drink tax revenue received in excess of \$2 million during FY2024 and FY2025 to be awarded for related services in FY2025 – FY2027.

A records signature copy of the said agreement and any amendments to be on file in the Office of the City Clerk.



### SSBPPE Commission's Criteria for BUSD Funding

The Berkeley Unified School District will be required to provide the following information and comply with the requirements listed in order to receive funding.

- A. Describe how you will reach the following priority populations:
- a. Children and their families; preschool through high school;
  - b. Children and young adults living in households with limited resources;
  - c. Groups exhibiting higher than average population levels of type 2 diabetes, obesity, and tooth decay;
  - d. Groups that are disproportionately targeted by the beverage industry marketing.
- B. Include how the proposal meets the following requirements:
- a. Proposal reflects approval from the BUSD School Board.
  - b. BUSD will not sell or serve sugar-sweetened beverages (as defined by the SSB tax) at any BUSD schools or campuses.
  - c. Awarded funding will not supplant BUSD FY2022 and FY2023 General Fund allocations.
  - d. Funded projects will publicly reflect support from Healthy Berkeley Program.
  - e. Funded projects and programs will include evaluation of their process and outcomes.
  - f. The proposal timelines and budgets will be specific, measurable, achievable, realistic, and time bound (SMART).
- C. Include specific goals for how the BUSD proposal meets the following scoring criteria:
- a. Decrease access to SSBs and/or improve access to drinking water. (15%)
  - b. Increase or strengthen SSB policies in school and outside of school. (15%)
  - c. Support the annual administration of the Berkeley adapted Youth Risk Behavior Survey to evaluate student's SSB knowledge, consumption, access, and policy perceptions. (20%)
  - d. To document how students at all grade levels and in priority populations are included. (10%)
  - e. To document policy elements that will last beyond the grant period. (15%)
  - f. Proposal budget matches the work plan and is appropriate. (10%)
  - g. To document how BUSD will be able to communicate SSB educational and policy efforts to parents and/or the Berkeley community (15%)

## SSBPPE Commission's Criteria for Community Agencies Funding

Community-based organizations will be required to provide the following information in order to be considered for funding.

- A. Describe your strategies that address the goals and objectives of this funding including:
- a. Transforming the systems, policies, environments, structures, and norms that underlie sugary drink consumption.
  - b. Developing community capacity to improve health by transforming systems, policies, environments, structures, and norms through increasing leadership potential of community members and young people, especially those serving priority populations.
  - c. Supporting community programming designed to change norms to support consumption of healthy food and beverages.
  - d. Providing health screenings and chronic disease prevention with a focus on dental health.
  - e. Impacting sugary drink marketing and retail environments (i.e., availability, promotion, price, placement in convenient stores, and advertising), especially those that disproportionately target priority populations.
- B. Include specific goals for how your project will meet the following scoring criteria
- a. The proposal aims to decrease consumption of sugary drinks, increase access to drinking water, and/or address health effects from consumption of sugary drinks (25%).
  - b. The proposal reaches people and communities in the priority populations. (25%).
  - c. Project provides lasting impact beyond the grant period: i.e. builds organizational and community capacity and/or changes systems and policies, and environments related to SSBs. (25%).
  - d. The proposal includes a plan for communicating efforts, activities, and/or successes to the larger Berkeley community. (15%).
  - e. Proposal budget matches the work plan and is appropriate. (10%)

## ORDINANCE NO. 7,734-N.S.

|  
 ADDING CHAPTER 9.82 TO THE BERKELEY MUNICIPAL CODE "HEALTHY  
 CHECKOUT"

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

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

**9.82.010. Findings and Purpose.**

The City of Berkeley hereby finds and declares as follows:

- A. Diets with an excess of added sugars and sodium are correlated to chronic health issues including diabetes, high blood pressure, and stroke.
- B. Food choices are strongly affected by the environments in which they are made. The placement of unhealthy snacks near a register increases the likelihood that consumers will purchase those foods and drinks, thus undermining consumer health choices and public health initiatives.
- C. It is in the interest of the health, safety, and welfare of all who live, work, and do business in the City that large stores offer healthy options and do not actively encourage the purchase of unhealthy foods.
- D. This Chapter is consistent with the General Provisions of Environmental Health of the City (Berkeley Municipal Code 11.04).

**9.82.020. Definitions.**

- A. "Added Sugars" means sugars added during the processing of food and beverages, or are packaged as such, and include sugars (free, mono and disaccharides), sugars from syrups and honey, and sugars from concentrated fruit or vegetable juices that are in excess of what would be expected from the same volume of 100 percent fruit or vegetable juice of the same type, as defined in Section 101.9 of Title 21 of the Code of Federal Regulations.
- B. "Artificial Sweetener" means sweeteners with few to no calories that have a higher intensity of sweetness per gram than sucrose.
- C. "Category List" means the list of foods and beverages which meet the standards of BMC 9.82.030.
- D. "Checkout Area" means any area that is accessible to a customer of the Large Retail Store that is either:
  - i. within a 3-foot distance of any Register; or
  - ii. designated primarily for or utilized primarily by customers to wait in line to make a purchase at a Register, up to and including the Checkout Endcap.
- E. "Checkout Endcap" means product displays placed at endpoints of areas designated primarily for or utilized primarily by customers to wait in line to make a purchase.
- F. "Register" means a device used for monetary transactions that calculates the sales of goods and displays the amount of sales for the customer.
- G. "Large Retail Store" means a commercial establishment selling goods to the public with a total floor area over 2,500 square feet and selling 25 linear feet or

more of food.

#### **9.82.030. Healthy Checkout Areas.**

Each Large Retail Store shall, at all hours during which the Large Retail Store is open to the public, ensure that all foods and beverages sold in all Checkout Areas meet the standards in Sec 9.82.030 A-C and comply with the list of qualifying food and beverage categories:

- A. Beverages with no added sugars and no artificial sweeteners.
- B. Food items with no more than 5 grams of added sugars, and 200 milligrams of sodium per labeled serving.
- C. Food items must be in the following categories: chewing gum and mints with no added sugars, fruit, vegetables, nuts, seeds, legumes, yogurt or cheese and whole grains.

City staff will provide technical assistance for implementation. Bi-annual review of qualifying food and beverage categories will be done by the Public Health Division. There will be a 120 day phase-in period if any changes are made.

#### **9.82.040. Enforcement.**

- A. The City is hereby authorized to issue all rules and regulations consistent with this ordinance, including, but not limited to, fees for re-inspection.
- B. Compliance with this Chapter shall be administered by the City during regular inspections of qualifying Large Retail Stores. The City may require a Large Retail Store to provide such information as may be necessary to determine the Large Retail Store's compliance with this Chapter.

#### **9.82.050. Violation--Penalty.**

- A. A Large Retail Store that violates any provision of this chapter may be subject to administrative citations pursuant to Chapter 1.28 of this Code.
- B. This section shall not limit the City from recovering all costs associated with implementing this chapter or investigating complaints pursuant to fee resolution.
- C. Remedies and penalties under this chapter are cumulative and not exclusive.

#### **9.82.060. Effective Date.**

This ordinance and the legal requirements set forth herein shall take effect and be in force March 1, 2021. Enforcement pursuant to 9.82.040 shall commence no sooner than January 1, 2022.

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

At a regular meeting of the Council of the City of Berkeley held on September 22, 2020, this Ordinance was passed to print and ordered published by posting by the following vote:

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

Noes: None.

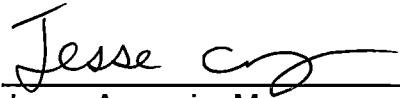
Absent: None.

At a regular meeting of the Council of the City of Berkeley held on October 13, 2020, this Ordinance was adopted by the following vote:

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

Noes: None.

Absent: None.

  
\_\_\_\_\_  
Jesse Arreguin, Mayor

ATTEST:   
\_\_\_\_\_  
Mark Numainville, City Clerk

Date signed: October 20, 2020

## RESOLUTION NO. 69,669-N.S.

## ALLOCATION: \$2,662,506 MILLION TOTAL FOR SUGAR-SWEETENED BEVERAGE CONSUMPTION AND REDUCTION GRANT PROGRAM IN FY22 AND FY23

WHEREAS, the consumption of sugar-sweetened beverages ("SSB") in Berkeley is impacting the health of the people in Berkeley; and

WHEREAS, in FY22 and FY23, the City Council awarded a total of \$3 million upon the recommendation of the SSBPPE Commission to demonstrate the City's long-term commitment to decreasing the consumption of SSB and mitigate the harmful impacts of SSB on the population of Berkeley; and

WHEREAS, many studies demonstrate that high intake of SSB is associated with risk of Type 2 Diabetes, obesity, tooth decay, and coronary heart disease; and

WHEREAS, the above conditions are all demonstrated to increase both the severity of COVID19 related illness and risk of death; and

WHEREAS Latinx and Black communities are disproportionately affected by COVID-19; and

WHEREAS, hundreds of millions of dollars have been spent in an ongoing massive marketing campaign, which particularly targets children and people of color; and

WHEREAS, an African American resident of Berkeley is 14 times more likely than a White resident to be hospitalized for diabetes; and

WHEREAS, 40% of 9th graders in Berkeley High School are either overweight or obese; and

WHEREAS, tooth decay is the most common childhood disease, experienced by over 70% of California's 3rd graders; and

WHEREAS, in 2012, a U.S. national research team estimated levying a penny-per-ounce tax on sweetened beverages would prevent nearly 100,000 cases of heart disease, 8,000 strokes, and 26,000 deaths over the next decade and 240,000 cases of diabetes per year nationwide.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is hereby authorized to allocate \$2,662,506 million from the General Fund to be disbursed in two (2) installments of \$1,331,253 million in FY22 and \$1,331,253 million in FY23 and invested as follows:

1. Allocate up to 42.5% of the allocated funds to Berkeley Unified School District (BUSD) through a grant proposal to reduce the consumption of sugar-

sweetened beverages (SSBs) through the implementation and enhancement of the BUSD cooking and gardening programs for the period, July 1, 2021 to June 30, 2023; and

- 2. Allocate at least 42.5% of the allocated funds through a RFP process managed by the Public Health Division for grants to community-based organizations consistent with the SSBPPE's goals to reduce the consumption of SSB and to address the effects of SSB consumption for the period, July 1, 2021 to June 30, 2023; and
- 3. Allocate 15% of the allocated funds to support the Berkeley Public Health Division (BPHD) to coordinate and monitor the grant process, coordinate the overall program evaluation, and produce an annual report that disseminates process and outcome data resulting from the SSBPPE funding program.

A records signature copy of the said agreement and any amendments to be on file in the Office of the City Clerk.

The foregoing Resolution was adopted by the Berkeley City Council on December 15, 2020 by the following vote:

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

Noes: None.

Absent: None.

  
 \_\_\_\_\_  
 Jesse Arreguin, Mayor

Attest:   
 \_\_\_\_\_  
 Mark Numainville, City Clerk







Office of the Mayor

CONSENT CALENDAR

April 11, 2023

To: Honorable Members of the City Council

From: Mayor Jesse Arreguín, Councilmember Ben Bartlett

Subject: Support AB 40 – Improving Ambulance Patient Offload Times

RECOMMENDATION

Adopt a Resolution in support of AB 40 (Rodriguez), which develops a 20-minute statewide standard for ambulance patient offload times. Send a copy of the Resolution to Assemblymembers Freddie Rodriguez and Buffy Wicks, State Senator Nancy Skinner, and Governor Gavin Newsom.

BACKGROUND

The ambulance patient offload time (APOT), is defined as the time between when an ambulance arrives at a hospital and when the patient is transferred from the ambulance gurney to the care of the hospital. The longer the APOT, the longer an ambulance is out of service and unable to respond to other emergencies. APOTs throughout California have been increasing in recent years, even before the COVID-19 pandemic, as a result of staffing demands and high hospital occupancy. Each year, approximately 70,000 Californians wait over an hour upon arriving at a hospital on an ambulance gurney before being admitted.

In February 2023, 22.3% of APOTs at Alta Bates Hospital took more than 20 minutes. The availability of Emergency Medical Services (EMS) transports in Berkeley has improved in recent years as a result of the purchasing of two new ambulances for Berkeley's EMS Division in October 2021 with Measure FF Funds. However, there is a significant risk of APOTs for Berkeley patients to increase in future years as a result of a potential closure of Alta Bates. In addition to longer transit times, APOTs will likely increase due to a surge in demand at the next closest hospital, Summit, making it more difficult to provide hospital beds to incoming patients in a timely manner. According to the Alta Bates Rapid Health Impact Assessment in 2018, it will take on average an additional 10-12 minutes for an ambulance in Berkeley to transport a patient to Summit instead of Alta Bates.

In 2021, 40% of EMS calls in Berkeley were for people aged 65 of older, who make up 14% of the City's population. People aged 65 and older is Berkeley's fastest growing population segment, which is expected to account for 20% of the City's population by 2030. This is expected to place additional strains on hospital and ambulance service in the future. Ensuring that proper standards are in place to accommodate future increases in demand is needed to protect the health and safety of the community.

AB 40, introduced by Assemblymember Freddie Rodriguez, directs the State's Emergency Medical Services Authority (EMSA) to develop standards to ensure a 20-minute APOT 90% of the time. It also calls on EMSA to implement an audit tool to improve the accuracy of data and provide technical assistance to support implementation of this policy by March 1, 2024.

FINANCIAL IMPLICATIONS

None.

ENVIRONMENTAL SUSTAINABILITY

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

CONTACT PERSON

Mayor Jesse Arreguín      510-981-7100

Attachments:

- 1: Resolution
- 2: Text of AB 40

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

IN SUPPORT OF AB 40

WHEREAS, swift access to emergency services is a critical and potentially lifesaving measure that is expected during a medical emergency; and

WHEREAS, a key factor in getting medical treatment during a medical emergency is the ambulance patient offload time (APOT), the time between when an ambulance arrives at a hospital and when the patient is transferred from the ambulance gurney to the care of the hospital; and

WHEREAS, in recent years, APOTs throughout California have been increasing, even before the COVID-19 pandemic, as a result of staffing demands and high hospital occupancy, with approximately 70,000 Californians waiting over an hour upon arriving at a hospital on an ambulance gurney before being admitted; and

WHEREAS, as of February 2023, 22.3% of patients transported to Berkeley's Alta Bates Hospital experience an APOT of over 20 minutes, which can cause delays in getting a patient receiving medical care and longer wait times for ambulances to respond to another medical emergency; and

WHEREAS, Berkeley residents are likely to witness an increase in APOTs if Alta Bates Hospital is closed, in addition to longer transit times during medical emergencies where minutes can make the difference between life and death; and

WHEREAS, Berkeley's fastest growing population segment is people aged 65 and over, who in 2021 accounted for 40% of EMS calls, which will result in increased demand for hospital and ambulance services in the future; and

WHEREAS, AB 40, introduced by Assemblymember Freddie Rodriguez, directs the State's Emergency Medical Services Authority (EMSA) to develop standards to ensure a 20-minute APOT 90% of the time; and

WHEREAS, ensuring that proper standards are in place to accommodate future increases in demand is needed to protect the health and safety of the community.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that it hereby supports AB 40.

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

AMENDED IN ASSEMBLY MARCH 15, 2023

CALIFORNIA LEGISLATURE—2023–24 REGULAR SESSION

**ASSEMBLY BILL**

**No. 40**

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**Introduced by Assembly Member Rodriguez**

December 5, 2022

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An act to add Section 53112.5 to the Government Code, and to add Sections 1797.120.5, 1797.120.6, ~~and 1797.120.7~~, and 1797.260 to the Health and Safety Code, relating to emergency services.

LEGISLATIVE COUNSEL'S DIGEST

AB 40, as amended, Rodriguez. Emergency medical services.

Existing law, the Emergency Medical Services System and the Prehospital Emergency Medical Care Personnel Act, creates the Emergency Medical Services Authority, which is responsible for the coordination of various state activities concerning emergency medical services. Among other duties, existing law requires the authority to develop planning and implementation guidelines for EMS systems, provide technical assistance to existing agencies, counties, and cities for the purpose of developing the components of EMS systems, and receive plans for the implementation of EMS and trauma care systems from local EMS agencies. Existing law makes a violation of the act or regulations adopted pursuant to the act punishable as a misdemeanor.

This bill would require the authority to develop an electronic signature for use between the emergency department medical personnel at a receiving facility and the transporting emergency medical personnel that captures the points in time when the hospital receives notification of ambulance arrival and when transfer of care is executed for documentation of ambulance patient offload time, as defined. The bill would require the authority to develop a statewide standard of 20

AB 40

— 2 —

minutes, 90% of the time, for ambulance patient offload time. The bill would also require the authority to develop an audit tool to improve data accuracy regarding transfer of care, as specified, and to provide technical assistance and funding as needed, subject to an appropriation, for small rural hospitals and volunteer EMS providers to implement these provisions. The bill would require the authority to adopt emergency regulations to implement these provisions on or before March 1, 2024.

~~The bill would require the authority, on or before March 1, 2024, to establish a working group of various stakeholders to review, update, and publish a toolkit to reduce patient offload delays in the emergency department.~~

*The bill would require a general acute care hospital with an emergency department to develop, in consultation with its emergency department staff, an ambulance patient offload time reduction protocol by June 1, 2024, that addresses specified factors, including, among other things, mechanisms to improve hospital operations to reduce ambulance patient offload time. The bill would require the hospital to file its protocol with the authority and to report annually any revisions to its protocol. The bill would require the authority, on or after March 1, 2024, to monitor monthly ambulance patient offload time data for each facility. The bill would require the authority to, among other things, report ambulance patient offload time exceedance to the relevant local EMS agency and the Commission on Emergency Medical Services if, on or after July 1, 2024, the general acute care hospital with an emergency department has an ambulance patient offload time that exceeds the statewide standard of 20 minutes, 90% of the time.*

The bill would additionally require local EMS agencies to create, in collaboration with local hospitals, a joint plan to respond to surges in demand for medical services and to submit the joint plans to the authority on or before March 1, 2024.

Because the bill would create new requirements within the act, thereby expanding the scope of an existing crime, the bill would impose a state-mandated local program.

Existing law, the Warren-911-Emergency Assistance Act, requires each local public agency within its respective jurisdiction to establish a basic system that automatically connects a person dialing 911 to an established public safety answering point through normal telephone service facilities.

This bill would require the Emergency Services Medical Authority, on or before March 1, 2024, to develop a public education campaign related to the use of the 911 service and other tools for access to care.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

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

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

1 SECTION 1. Section 53112.5 is added to the Government  
2 Code, to read:

3 53112.5. On or before March 1, 2024, the Emergency Medical  
4 Services Authority shall develop, in partnership with local public  
5 health departments, a public education campaign related to use of  
6 the 911 service and other tools for access to care. This shall include  
7 public service announcements and educational material.

8 SEC. 2. Section 1797.120.5 is added to the Health and Safety  
9 Code, to read:

10 1797.120.5. (a) (1) The authority shall develop a California  
11 Emergency Medical Services Information System requirement for  
12 an electronic signature for use between the emergency department  
13 medical personnel at a receiving facility and the Emergency  
14 Medical Technician (EMT), Advanced Emergency Medical  
15 Technician (AEMT), or Emergency Medical Technician-Paramedic  
16 (EMT-P) that captures the points in time when the hospital receives  
17 notification of ambulance arrival and when transfer of care is  
18 executed for documentation of ambulance patient offload time, as  
19 defined by Section 1797.120.

20 (2) The signature shall be collected when physical transfer of  
21 the patient occurs and the report is given to hospital staff and shall  
22 note ambulance arrival time at the hospital.

23 (b) The authority shall develop a statewide standard of 20  
24 minutes, 90 percent of the time, for ambulance patient offload  
25 time.

1 (c) The authority shall develop an audit tool to improve data  
2 accuracy of transfer of care with validation from hospitals and  
3 local EMS agencies.

4 (d) The authority shall provide technical assistance and funding  
5 as needed, subject to an appropriation, for small rural hospitals  
6 and volunteer EMS providers to implement this section.

7 (e) On or before March 1, 2024, the authority shall adopt  
8 emergency regulations to implement this section. The emergency  
9 regulations adopted pursuant to this section shall be adopted in  
10 accordance with Chapter 3.5 (commencing with Section 11340)  
11 of Part 1 of Division 3 of Title 2 of the Government Code, and,  
12 for purposes of that chapter, including Section 11349.6 of the  
13 Government Code, the adoption of the regulations is an emergency  
14 and shall be considered by the Office of Administrative Law as  
15 necessary for the immediate preservation of the public peace, health  
16 and safety, and general welfare.

17 SEC. 3. Section 1797.120.6 is added to the Health and Safety  
18 Code, to read:

19 ~~1797.120.6. On or before March 1, 2024, the authority shall~~  
20 ~~establish a working group of stakeholders representing hospital~~  
21 ~~administration, EMS providers, local EMS agencies, and hospital~~  
22 ~~employees in the emergency department and in the inpatient setting~~  
23 ~~to review, update, and publish a toolkit to reduce patient offload~~  
24 ~~delays in the emergency department.~~

25 *1797.120.6. (a) A licensed general acute care hospital with*  
26 *an emergency department shall, by June 1, 2024, develop, in*  
27 *consultation with its emergency department staff, an ambulance*  
28 *patient offload time reduction protocol that addresses all of the*  
29 *following factors:*

30 *(1) Notification of hospital administrators, nursing staff, medical*  
31 *staff, and ancillary services that the statewide standard for*  
32 *ambulance patient offload time has been exceeded for one month.*

33 *(2) Mechanisms to improve hospital operations to reduce*  
34 *ambulance patient offload time, including, but not limited to,*  
35 *transfers, elective admissions, discharges, alternative care sites,*  
36 *supplies, improved triage and transfer systems, and additional*  
37 *staffing.*

38 *(3) Systems to improve general hospital coordination with the*  
39 *emergency department, including consults for emergency*  
40 *department patients.*

1 (4) Direct operational changes that facilitate a rapid reduction  
2 in ambulance patient offload time to the statewide standard of 20  
3 minutes, 90 percent of the time.

4 (b) A licensed general acute care hospital with an emergency  
5 department shall file its ambulance patient offload time reduction  
6 protocol with the authority and shall annually report any revisions  
7 to its protocol.

8 SEC. 4. Section 1797.120.7 is added to the Health and Safety  
9 Code, to read:

10 1797.120.7. (a) On or after March 1, 2024, the authority shall  
11 monitor monthly ambulance patient offload time data for each  
12 facility required to report under Section 1797.120.5.

13 (b) If, on or after July 1, 2024, a general acute care hospital  
14 with an emergency department has an ambulance patient offload  
15 time that exceeds the standard in subdivision (b) of Section  
16 1797.120.5, the authority shall do all of the following:

17 (1) Report the ambulance patient offload time exceedance to  
18 the relevant local EMS agency and the commission via electronic  
19 means.

20 (2) Direct the local EMS agency to alert all EMS providers in  
21 the jurisdiction.

22 (3) Direct the licensed general acute care hospital with an  
23 emergency department to implement the ambulance patient offload  
24 time reduction protocol developed pursuant to Section 1797.120.6.

25 (4) Host weekly calls with the relevant hospital administration,  
26 EMS providers, local EMS agency, and hospital employees to  
27 update and discuss implementation of the protocol and the  
28 outcomes.

29 ~~SEC. 4.~~

30 SEC. 5. Section 1797.260 is added to the Health and Safety  
31 Code, to read:

32 1797.260. Local EMS agencies shall create, in collaboration  
33 with local hospitals, a joint plan to respond to surges in demand  
34 for medical services. Local EMS agencies shall submit the joint  
35 plans to the authority on or before March 1, 2024.

36 ~~SEC. 5.~~

37 SEC. 6. No reimbursement is required by this act pursuant to  
38 Section 6 of Article XIII B of the California Constitution because  
39 the only costs that may be incurred by a local agency or school  
40 district will be incurred because this act creates a new crime or



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1 infraction, eliminates a crime or infraction, or changes the penalty  
2 for a crime or infraction, within the meaning of Section 17556 of  
3 the Government Code, or changes the definition of a crime within  
4 the meaning of Section 6 of Article XIII B of the California  
5 Constitution.

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Office of the Mayor

CONSENT CALENDAR

April 11, 2023

To: Members of the City Council

From: Mayor Jesse Arreguín, Councilmember Taplin (Co-Sponsor),  
Councilmember Bartlett (Co-Sponsor)

Subject: Resolution to Support AB 1001

RECOMMENDATION

Adopt a Resolution in support of Assembly Bill 1001, introduced by Assembly Member Matt Haney, and send a copy of the Resolution to Governor Gavin Newsom, State Senator Nancy Skinner, and Assembly Members Matt Haney and Buffy Wicks.

SUMMARY

If adopted, Assembly Bill 1001 would require a general acute care hospital to adopt behavioral health emergency service policies related to minimum staffing requirements, response times, and data management and reporting. It would also establish the Behavioral Health Emergency Response and Training Fund to support staffing increases in general acute care hospitals.

BACKGROUND

The State's Department of Public Health (DPH) provides licensing, regulation, and inspection of various types of health facilities, including general acute care hospitals<sup>1</sup>. DPH upholds standards that encompass sanitation, staffing of qualified and licensed staff and services, and the use of data given to hospital officials to make informed decisions. Currently, the Department of Health Care Access and Information (DHCAI) is responsible for administering various programs with respect to health care professions and establishes various programs to facilitate the expansion of the health care workforce. The board of supervisors in each county establishes and maintains a county hospital to provide public health care services within the county, authorizing the board to prescribe rules for the hospital's government and management, and to appoint a county physician and other necessary officers and employees of the hospital, as needed.

While both state and federal law requires health plans to provide behavioral health care treatment, there exists no policy within the context of workforce standards when providing care at acute health hospitals. California maintains no unified standard for

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<sup>1</sup> An acute care hospital can be defined as a hospital that provides inpatient medical care for those seeking or needing services in the form of surgery and/or treatment for acute medical conditions or injuries. County hospitals are the typical service providers delivering public care at the local level.

providing behavioral health emergency services at acute care hospitals with respect to staffing requirements, service delivery wait and response times, and data management and reporting to DHCAI. This may leave patients seeking behavioral health emergency services to wait for an undetermined time without no expectation that they will receive care within a set period of time. In addition, patients who seek such treatment may not receive the adequate level of care from an appropriately licensed provider, leading patients to receive inadequate or subpar services, hospitals referring out such care to off-site providers, and/or hospital systems relying on more expensive administrative and staffing methods to provide needed services.

DHCS notes that the COVID-19 pandemic has exacerbated behavioral health challenges, both in terms of mental health and substance use disorder(s), placing significant demands on the existing system of care and workforce capacity. Governor Newsom has made behavioral health a top priority for his administration, and, as such, the Department of Healthcare Services (DHCS) has updated its assessment of California's behavioral health system<sup>2</sup>. DHCS has found that nearly one in ten California adults suffer from a substance use disorder, with another one in 20 suffering from a mental illness. Those living with the most serious behavioral health conditions are often served through the public hospital system. One in 13 suffer from serious emotional disturbance, with higher rates seen among low-income children and those who are Black and Latinx. About 43% of California residents reported it was "somewhat or very difficult" for them to obtain an appointment with a provider for a behavioral health condition who accepts their insurance. This reality places additional strains and demand on the local level to provide the most intensive care to those most needy, marginalized, and distressed, while further exasperating the limited ability to receive quality care outside private insurance providers through county hospital systems.

The lack of universal data collection and dissemination standards presents a challenge in pinpointing the exact numbers of Berkeley residents who seek behavioral health services in emergency scenarios at acute hospitals, let alone the number of residents who engage in subpar treatment experiences at these locations. Nonetheless, we know Alameda County experiences the state's highest rate of involuntary 72-hour psychiatric holds, with John George Psychiatric Hospital viewed as the primary mental health treatment center in the County<sup>3</sup>.

To better match the level of help needed, while maintaining standards of adequacy, safety, and sanitation for staffing, services, and hospitals with the type of needs required by those being served, AB 1001 seeks to establish policies for behavioral health emergency services. It would specifically:

- require protocols to meet standards established by DPH and consist of various parameters such as minimum staffing requirements for behavioral health

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<sup>2</sup> Update provided in their report published on January 10, 2022 titled "Assessing the Continuum of Care for Behavioral Health Services in California".

<sup>3</sup> John George therefore receives several redirected calls for inpatient behavioral health service when patients are seen at Highland Hospital, our county's primary acute hospital.

emergency services, procedures for response by behavioral health emergency services personnel in a timely manner, and annual training;

- require the department to adopt regulations on standards for general acute care hospitals related to behavioral health emergency services;
- require all hospitals to maintain records related to certain data on behavioral health emergency services provided for a period of 3 years and to report that data to the department on a quarterly basis, requiring DPH to post quarterly reports on that data on its internet website;
- establish the Behavioral Health Emergency Response and Training Fund to provide grants to qualifying applicants for the purpose of funding a new program or supporting an existing program that increases the staffing in general acute care hospitals of direct care personnel who are trained in behavioral health care and behavioral health emergency services response or intervention; and
- require DPH to evaluate the program and report to the Legislature annually.

AB 1001 directly connects to our City's commitment to building a holistic and comprehensive response to our resident's behavioral health needs. The implementation of our new Speciated Care Unit<sup>4</sup> is one of the many multi-pronged commitments we've made in our efforts to reimagining our approach to public safety. AB 1001 would not only align with the City's direction in responding to behavioral health crises and needs, but would also allow for the collection and analysis of treatment delivery data, and ultimately improve the standard by which our residents receive behavioral care at hospitals overseen by our county officials.

#### ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

No environmental impact.

#### CONTACT PERSON

Mayor Jesse Arreguín, 510-981-7100  
Anthony Rodriguez, Senior Legislative Assistant

#### Attachments:

- 1: Resolution (SUPPORT OF CALIFORNIA ASSEMBLY BILL 1001)
- 2: Text of AB 1001 (as of March 16, 2023)

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<sup>4</sup> The Specialized Care Unit Program is currently being designed through our contract with Bonita House approved by Council in December 2022.

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

SUPPORTING ASSEMBLY BILL 1001

WHEREAS, according to statewide data, a) nearly one in ten California adults suffer from a substance use disorder, with another one in 20 suffering from a mental illness, b) one in 13 adults suffer from serious emotional disturbance, and c) roughly 43% of California residents reported it was “somewhat or very difficult” for them to obtain an appointment with a provider for a behavioral health condition who accepts their insurance; and

WHEREAS, the City of Berkeley recognizes the mental health crisis exacerbated by the COVID-19 pandemic and its effects on our society’s wellbeing; and

WHEREAS, the City seeks opportunities to support efforts that align with our Specialized Care Unit programming and efforts to Reimagining Public safety at brought forth at the local, regional, and state level; and

WHEREAS, the City of Berkeley calls for greater data collection, monitoring, analysis, and dissemination to understand the scope of the need for improved behavior health service delivery at acute hospital systems to better serve its residents appropriately; and

WHEREAS, Assembly Bill 50, introduced by Assembly Member Matt Haney, would amend state law to require general acute care hospitals to adopt behavioral health emergency service policies related to minimum staffing requirements, response times, and data management and reporting, and instruct the Department of Public Health to establish the Behavioral Health Emergency Response and Training Fund to support staffing increases in general acute care hospitals; and

WHEREAS, in 2022, the City Council approved funding and the execution of a contract with Bonita House to build a Specialized Care Unit program, which will provide a non-police response for anyone experiencing a mental health crisis in Berkeley; and

WHEREAS, the City of Berkeley continues to undergo efforts in its Reimagining Public Safety process to transform the City’s role and response to our community’s need to maintain and uphold public safety, including a new standard to community-centered approaches to safety, and

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that it hereby supports AB 1001.

BE IT FRUTHER RESOLVED that copies of the Resolution be sent to Governor Gavin Newsom, State Senator Nancy Skinner, and Assembly Members Matt Haney and Buffy Wicks.

**ASSEMBLY BILL**

**No. 1001**

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**Introduced by Assembly Member Haney**

February 15, 2023

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An act to add Section 128740.1 to, and to add Article 7.1 (commencing with Section 1323.2) and Article 7.15 (commencing with Section 1323.4) to Chapter 2 of Division 2 of, the Health and Safety Code, relating to health facilities.

LEGISLATIVE COUNSEL'S DIGEST

AB 1001, as introduced, Haney. Health facilities: behavioral health emergency services.

Existing law provides for the licensing, regulation, and inspection of various types of health facilities by the State Department of Public Health, including general acute care hospitals. Existing law requires certain building standards and regulations to prescribe standards of adequacy, safety, and sanitation of the physical plant, of staffing with duly qualified licensed personnel, and of services, based on the type of health facility and the needs of the persons served. Existing law requires specified financial and utilization data to be reported to the department by a hospital at the end of a calendar quarter.

Existing law generally makes a violation of the licensure provisions for health facilities a misdemeanor.

This bill would require a general acute care hospital to adopt policies to respond to a patient requiring behavioral health emergency services, as defined. The bill would require that these protocols meet standards established by the department and consist of various parameters such as minimum staffing requirements for behavioral health emergency services, procedures for response by behavioral health emergency

AB 1001

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services personnel in a timely manner, and annual training, as specified. The bill would require the department to adopt regulations on standards for general acute care hospitals related to behavioral health emergency services. The bill would require all hospitals to maintain records related to certain data on behavioral health emergency services provided for a period of 3 years and to report that data to the department on a quarterly basis. The bill would require the department to post quarterly reports on that data on its internet website.

Existing law establishes the Department of Health Care Access and Information, which is responsible for administering various programs with respect to health care professions and establishes various programs to facilitate the expansion of the health care workforce.

Existing law authorizes the board of supervisors in each county to establish and maintain a county hospital to provide public health care services within the county. Existing law authorizes the board to prescribe rules for the hospital's government and management, and to appoint a county physician and other necessary officers and employees of the hospital, as specified.

This bill would establish the Behavioral Health Emergency Response and Training Fund to provide grants to qualifying applicants for the purpose of funding a new program or supporting an existing program that increases the staffing in general acute care hospitals of direct care personnel who are trained in behavioral health care and behavioral health emergency services response or intervention.

The bill would also require the department to evaluate the program and report to the Legislature annually.

By expanding the scope of a crime under the above paragraphs, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

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



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

1 SECTION 1. Article 7.1 (commencing with Section 1323.2)  
2 is added to Chapter 2 of Division 2 of the Health and Safety Code,  
3 to read:

4

5 Article 7.1. Behavioral Health Emergency Services

6

7 1323.2. (a) The Legislature finds and declares all of the  
8 following:

9 (1) Direct patient care in general acute care facilities currently  
10 involves patients who have behavioral health needs, including  
11 needs related to mental health and substance use, and behavioral  
12 health emergencies.

13 (2) Patient care outcomes in general acute care hospitals are  
14 dependent upon safe staffing levels and the competence of direct  
15 care personnel who staff those facilities.

16 (3) Insufficient staffing levels of direct patient care personnel,  
17 including registered nurses, who have the specialized competency  
18 to provide, and are appropriately trained in, behavioral health and  
19 behavioral health emergency response results in unsafe patient  
20 care and increased occurrences of workplace violence.

21 (4) To ensure the availability of direct patient care personnel  
22 who have the specialized competency to provide, and are  
23 appropriately trained in, behavioral health and behavioral health  
24 emergency response in general acute care hospitals, the Legislature  
25 intends that all such facilities in this state adopt policies and  
26 protocols on behavioral health emergency response and training  
27 in compliance with standards established in this article.

28 (b) This article does not expand the scope of licensure for  
29 licensed persons providing services pursuant to this article.

30 1323.21. For the purposes of this article, the following  
31 definitions apply:

32 (a) (1) "Behavioral health emergency condition" means a  
33 psychiatric emergency medical condition, as defined in paragraph  
34 (1) of subdivision (k) of Section 1317.1, or a cognitive, mental  
35 health, substance use, or stress-related crisis that manifests itself  
36 by acute symptoms of sufficient severity that it renders the patient  
37 as being either of the following:

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1 (A) An immediate danger or risk of danger to themselves or to  
2 others.

3 (B) Immediately unable to provide for, or utilize, food, shelter,  
4 or clothing, due to a cognitive, mental health, substance use, or  
5 stress-related condition.

6 (2) A behavioral health emergency condition does not require  
7 a psychological evaluation or a psychiatric or mental health  
8 diagnosis.

9 (3) This subdivision does not expand, restrict, or otherwise  
10 affect the scope of licensure or clinical privileges for clinical  
11 psychologists or medical personnel.

12 (b) (1) “Behavioral health emergency services” means services  
13 provided by a general acute care hospital for medical screening,  
14 examination, and evaluation by a physician and surgeon or, to the  
15 extent permitted by applicable law, by other appropriate licensed  
16 persons under the supervision of a physician and surgeon, to  
17 determine if a behavioral health emergency condition exists, and  
18 if it does, the care, treatment, and surgery, if within the scope of  
19 that person’s license, necessary to relieve or eliminate the  
20 behavioral health emergency condition, within the capability of  
21 the facility.

22 (2) Behavioral health emergency services may include the use  
23 of a bed, monitoring by nursing and other staff, and any other  
24 services that are reasonable and necessary to safely assess a  
25 patient’s condition or determine the need for response and  
26 intervention by behavioral health emergency services personnel  
27 to respond to a behavioral health emergency condition or for a  
28 possible inpatient admission to the hospital that has a behavioral  
29 health emergency condition.

30 (3) This subdivision does not expand, restrict, or otherwise  
31 affect the scope of licensure or clinical privileges for clinical  
32 psychologists or other medical personnel.

33 (c) “General acute care hospital” has the same meaning as  
34 defined in subdivision (a) of Section 1250.

35 1323.23. (a) By January 1, 2025, each general acute care  
36 hospital shall adopt policies and protocols to respond to patients  
37 requiring behavioral health emergency services that meet standards  
38 established by the department and that shall consist of all of the  
39 following:

1 (1) The names or job titles of the hospital staff responsible for  
2 implementing the behavioral health emergency services policies  
3 and protocols.

4 (2) Minimum staffing requirements for behavioral health  
5 emergency services in accordance with subdivision (f), including  
6 all of the following:

7 (A) At least two registered nurses who have experience and  
8 competency in providing psychiatric care.

9 (B) At least one staff member, in addition to subparagraph (A),  
10 who is licensed to provide direct patient care and has experience  
11 and competency in providing psychiatric care. Additional staff  
12 under this subparagraph may include an additional registered nurse,  
13 or a physician and surgeon or a psychiatric technician.

14 (C) At least one staff member who can respond to the  
15 psychosocial needs of patients who have a behavioral health  
16 emergency condition. Staff under this subparagraph may include  
17 a licensed clinical social worker or clinical psychologist.

18 (3) Procedures to ensure the availability of behavioral health  
19 emergency services personnel in each patient care area at all times,  
20 including a requirement that behavioral health emergency services  
21 personnel are not considered to be available if those personnel  
22 have other assignments that prevent them from participating in  
23 behavioral health emergency services response in a timely manner.

24 (4) Procedures for identifying and assessing a patient's condition  
25 to determine the need for response or intervention by behavioral  
26 health emergency services personnel.

27 (5) Procedures for response by behavioral health emergency  
28 services personnel in a timely manner.

29 (6) Procedures to ensure timely transfers or admissions as  
30 required under subdivision (g).

31 (7) Training and education on a continuing annual basis for  
32 behavioral health emergency services personnel who provide direct  
33 patient care to ensure competency in existing and new skills in  
34 psychiatric care, behavioral health, and substance use treatment  
35 services.

36 (8) Training and education on a continuing annual basis for all  
37 behavioral health emergency services personnel on behavioral  
38 health emergency services response, including on providing  
39 trauma-informed care and ensuring access to linguistically and  
40 culturally competent care.

1 (9) Annual training and education for all hospital staff who are  
2 required to be present in a patient care area to recognize patient  
3 interactions that require response by behavioral health emergency  
4 services personnel and how to obtain that response or intervention.

5 (10) Procedures to ensure the provision of linguistically and  
6 culturally competent behavioral health emergency services to each  
7 patient with a behavioral health emergency condition.

8 (11) Procedures to evaluate a behavioral health emergency  
9 services patient for substance use treatment and counseling needs  
10 and to ensure the provision of that treatment and counseling.

11 (12) Procedures for hospital staff to report concerns regarding  
12 the availability of sufficient staff to perform behavioral health  
13 emergency services and concerns regarding the availability,  
14 condition, storage, and maintenance of equipment.

15 (13) Procedures to coordinate implementation of response and  
16 intervention by behavioral health emergency services personnel  
17 with the workplace violence prevention plan adopted by a hospital  
18 as required in the standard adopted by the Occupational Safety  
19 and Health Standards Board under Section 6401.8 of the Labor  
20 Code, including methods of reporting and investigating any  
21 incidents of workplace violence related to a patient receiving  
22 behavioral health emergency services.

23 (b) Policies and protocols adopted under subdivision (a) shall  
24 be maintained and implemented at all times in all units of the  
25 general acute care hospitals where patient care is provided and  
26 shall be available to all hospital staff at all times.

27 (c) By July 1, 2024, the department shall develop procedures  
28 to evaluate existing programs utilized by general acute care  
29 hospitals to provide behavioral health emergency services response  
30 and training for compliance with the requirements under the article.

31 (d) Every general acute care hospital shall designate a licensed  
32 registered nurse or physician who has experience and competence  
33 in psychiatric services as a director who shall be responsible for  
34 the management of the policies and protocols adopted under  
35 subdivision (a).

36 (e) Policies and protocols adopted under subdivision (a) shall  
37 be developed, implemented, and reviewed annually with the  
38 meaningful input and active involvement of the following general  
39 acute care hospital staff, including their recognized collective  
40 bargaining agent or agents, if any:

1 (1) Registered nurses who provide emergency medical services.

2 (2) Registered nurses who provide psychiatric nursing care or  
3 provide care in a psychiatric unit, if any.

4 (3) Psychiatrists and other physicians who provide inpatient  
5 psychiatric services or provide care in a psychiatric unit, if any.

6 (4) Ancillary staff who provide inpatient psychiatric services  
7 or provide care in a psychiatric unit, including psychiatric  
8 technicians.

9 (5) Behavioral health emergency services personnel as identified  
10 in hospital policies and protocols adopted under subdivision (a).

11 (6) Hospital staff who are required to be present in a patient  
12 care area that are reasonably anticipated to require response by  
13 behavioral health emergency services personnel.

14 (f) Development, implementation, and annual review of policies  
15 and protocols pursuant to subdivision (e) shall include the  
16 participation of general acute care hospital staff in evaluating the  
17 effectiveness of the policies and protocols in providing timely  
18 access to care for behavioral health services patients, reducing  
19 rates of workplace violence, and designing and implementing  
20 training on behavioral health emergency services response.

21 (g) (1) Training and education required by this article shall be  
22 provided in person and shall be designed to provide an opportunity  
23 for interactive questions and answers with a person knowledgeable  
24 about the behavioral health emergency response and training  
25 policies and protocols adopted by the general acute care hospital  
26 under subdivision (a).

27 (2) Each general acute care hospital shall develop, implement,  
28 and annually review training and education required by this article  
29 with the meaningful input and active involvement of general acute  
30 care hospital staff identified in subdivision (e), including  
31 development of curricula and training materials, and review and  
32 revision of the training program.

33 (3) Training materials developed to meet the requirements of  
34 this article shall be appropriate in content and vocabulary to the  
35 educational level, literacy, and language of general acute care  
36 hospital staff receiving the training.

37 (h) Notwithstanding subdivisions (d) and (e) of Section 1275,  
38 behavioral health emergency services provided to patients receiving  
39 services shall comply with the same licensed registered  
40 nurse-to-patient ratios as supplemental emergency services or, if

1 the patient is in an inpatient bed or unit, the licensed registered  
2 nurse-to-patient ratio of that bed or unit, whichever ratio is lower.  
3 This subdivision does not alter or amend the effect of any  
4 regulation adopted pursuant to Section 1276.4 as of the effective  
5 date of the act that added this subdivision.

6 (i) A patient who requires behavioral health emergency services  
7 with an order by a provider for admission to a general acute care  
8 hospital or transfer to another health facility, as defined in Section  
9 1250, shall not be provided care and treatment as a patient receiving  
10 observation services, as defined in subdivision (a) of Section  
11 1253.7, or in an observation unit, as defined in subdivision (c) of  
12 Section 1253.7, for more than 24 hours.

13 (j) The department shall adopt regulations on standards for  
14 general acute care hospital on behavioral health emergency  
15 services, including on behavioral health emergency services  
16 response and training.

17 1323.24. (a) All general acute care hospitals shall maintain  
18 records of the following for a period of three years:

19 (1) Each transfer of a behavioral health emergency services  
20 patient.

21 (2) Each admission of a behavioral health emergency services  
22 patient to an inpatient psychiatric unit of the hospital, if any.

23 (3) Each patient readmission within 30 days of being discharged  
24 or transferred after receiving behavioral health emergency services  
25 at the hospital.

26 (4) Each patient who received behavioral health emergency  
27 services in an observation unit or while receiving observation  
28 services.

29 (b) (1) All hospitals providing behavioral health emergency  
30 services shall file with the department quarterly reports on forms  
31 prescribed by the department that describe the aggregate number  
32 for each of the data listed in subdivision (a) and reasons for transfer,  
33 admission, readmission, or placement in an observation unit or  
34 receipt of observation services.

35 (2) The department shall post quarterly reports pursuant to this  
36 subdivision on the department's publicly accessible internet website  
37 within five calendar days of receipt by the department.

38 (c) The department, in consultation with the Department of  
39 Health Care Services, the Department of Health Care Access and  
40 Information, and the Division of Occupational Safety and Health,

1 shall inspect a representative sample of behavioral health  
2 emergency response and training programs utilized by general  
3 acute care hospitals. In evaluating a behavioral health emergency  
4 response and training program, the department shall examine  
5 patient outcomes and rates of workplace violence at each facility.  
6 If the department determines that a program is not complying with  
7 Section 1323.23 or regulations or is not meeting goals related to  
8 timely access to care or to workplace violence rate reduction  
9 established by the department pursuant to subdivision (d), the  
10 department shall be immediately notify a general acute care  
11 hospital that utilized the program in writing. The department's  
12 district offices shall inspect facility-based behavioral health  
13 emergency response and training programs as utilized by general  
14 acute care hospitals as part of their annual survey.

15 (d) (1) The department, in consultation with the Department  
16 of Health Care Services and the Department of Health Care Access  
17 and Information, shall establish goals related to timely access to  
18 care for behavioral health emergency services in general acute  
19 care hospitals.

20 (2) The department, in consultation with the Division of  
21 Occupational Safety and Health, shall establish goals to reduce  
22 the rates of workplace violence related to behavioral health  
23 emergency services in general acute care facilities.

24 (e) Training components of behavioral health emergency  
25 response and training programs shall be conducted during the  
26 normal working hours of the hospital staff unless the staff receives  
27 at least the normal hourly wage for any additional time spent in  
28 the training component of the approved program.

29 SEC. 2. Article 7.15 (commencing with Section 1323.4) is  
30 added to Chapter 2 of Division 2 of the Health and Safety Code,  
31 to read:

32

33 Article 7.15. The Behavioral Health Emergency Response and  
34 Training Fund

35

36 1323.4. (a) For the purposes of this article, the following  
37 definitions apply:

38 (1) "Department" means the Department of Health Care Access  
39 and Information.

1 (2) “Fund” means the Behavioral Health Emergency Response  
2 and Training Fund.

3 (3) “Program” means a program for the behavioral health  
4 emergency response and training of general acute care hospital  
5 staff that meets the criteria established and approved under this  
6 chapter.

7 (b) The Behavioral Health Emergency Response and Training  
8 Fund is hereby established in the State Treasury for the purpose  
9 of providing grants to support programs described in Section  
10 1323.41 and shall be administered by the department.

11 (c) The department shall annually establish the total amount of  
12 funding necessary to support programs described in Section  
13 1323.41. It is the intent of the Legislature to provide sufficient  
14 supplemental funding for these programs pursuant to this article  
15 in the annual Budget Act and to deposit that funding in the fund  
16 in 2025.

17 (d) Notwithstanding any other law, the department may receive  
18 and deposit moneys in the fund from the following entities:

19 (1) Nonstate entities, such as private sector or philanthropic  
20 entities.

21 (2) Local and federal governmental agencies.

22 (e) No more than 5 percent of the moneys in the fund shall be  
23 available for the department’s administrative activities related to  
24 planning and production of grants.

25 (f) Beginning no later than July 1, 2024, the fund shall be  
26 available to receive moneys from nonstate entities.

27 1323.41. (a) The department shall use moneys in the fund to  
28 administer grants to general acute care hospitals in California that  
29 are designated public hospitals, county hospitals, or hospitals that  
30 are operated by nonprofit organizations in California that are  
31 exempt from taxation under Section 501(c) of the Internal Revenue  
32 Code. A grant recipient under this subdivision shall use the funds  
33 awarded to fund a new program or support an existing program  
34 that increases the staffing in general acute care hospitals of direct  
35 care personnel who are trained in behavioral health care and  
36 behavioral health emergency services response or intervention.  
37 By way of nonlimiting examples, the program and the awarded  
38 funds may be used for any of the following:

39 (1) Behavioral health emergency response training programs.



1 (2) Costs associated with hiring or retaining behavioral health  
2 emergency services personnel who provide behavioral health  
3 emergency services that meet the requirements of Section 1323.23.

4 (3) Costs associated with training hospital staff in the provision  
5 behavioral health emergency services that meet the requirements  
6 of Section 1323.23.

7 (4) Costs associated with implementation of policies and  
8 procedures adopted by a hospital to meet the requirements of  
9 Section 1323.23.

10 (b) (1) Unless otherwise specified by the department, grants  
11 made pursuant to this article are for a period of one year and may  
12 be renewed.

13 (2) An application for a grant shall be made on a form to be  
14 developed by the department.

15 (3) Decisions regarding the grants and the funding level of the  
16 grant shall be made after consideration of all relevant factors, such  
17 as the grantee's anticipated level of need and the availability of  
18 funds.

19 (c) To administer this section, the department shall use moneys  
20 in the fund to pay direct and indirect costs of the department,  
21 including hiring or administrative costs.

22 (d) The department shall use moneys in the fund to maintain a  
23 system of financial reporting on all aspects of the fund. The  
24 financial reporting shall include, but is not limited to, information  
25 from the grantees on their expenditures and activities using grant  
26 funds associated with this article as the department deems  
27 necessary to ensure the use of the funds are consistent with the  
28 purposes of this article and the terms of any grant award.

29 (e) For purposes of this section, the department shall not require  
30 the submission of any identifying personal information about  
31 individuals receiving behavioral health or emergency services as  
32 part of an application for a grant or reporting of expenditures and  
33 activities using grant funds under this article. Information required  
34 by the department, or its contracted vendor, may only include  
35 information in summary, statistical, or other forms that do not  
36 identify particular individuals.

37 (f) Contracts entered into or amended pursuant to this article  
38 are exempt from Chapter 6 (commencing with Section 14825) of  
39 Part 5.5 of Division 3 of Title 2 of the Government Code, Section  
40 19130 of the Government Code, Part 2 (commencing with Section

1 10100) of Division 2 of the Public Contract Code, and the State  
 2 Administrative Manual, and are exempt from the review or  
 3 approval of any division of the Department of General Services.

4 1323.42. The department shall conduct an evaluation of the  
 5 grant program implemented pursuant to Section 1323.41 and shall  
 6 report its findings to the Legislature no later than January 1, 2026,  
 7 and on an annual basis no later than each January 1 thereafter. The  
 8 first annual report shall cover the period before July 1, 2025. Each  
 9 subsequent annual report shall cover the previous fiscal year. The  
 10 department may use moneys in the fund, upon appropriation by  
 11 the Legislature, for the evaluation of the program. The report shall  
 12 be submitted in compliance with Section 9795 of the Government  
 13 Code.

14 SEC. 3. Section 128740.1 is added to the Health and Safety  
 15 Code, to read:

16 128740.1. (a) The quarterly summary utilization data reported  
 17 to the department by a hospital pursuant to Section 128740, shall  
 18 include all of the following:

19 (1) Number of inpatient psychiatric visits and number of hours  
 20 of services provided.

21 (2) Number of behavioral health emergency service visits and  
 22 number of hours of services provided.

23 (3) Number of observation service visits and the number of  
 24 hours of services provided, including the number of behavioral  
 25 health emergency service hours provided during observation service  
 26 visits.

27 (4) Number of behavioral health emergency service inpatient  
 28 admissions, including the number of behavioral health emergency  
 29 service admissions to an inpatient psychiatric unit.

30 (5) Number of behavioral health emergency service readmissions  
 31 within 30 days of discharge or transfer.

32 (b) All hospitals shall maintain records of aggregate data listed  
 33 in subdivision (a) for a period of three years.

34 SEC. 4. No reimbursement is required by this act pursuant to  
 35 Section 6 of Article XIII B of the California Constitution because  
 36 the only costs that may be incurred by a local agency or school  
 37 district will be incurred because this act creates a new crime or  
 38 infraction, eliminates a crime or infraction, or changes the penalty  
 39 for a crime or infraction, within the meaning of Section 17556 of  
 40 the Government Code, or changes the definition of a crime within

- 1 the meaning of Section 6 of Article XIII B of the California
- 2 Constitution.

O





Office of the Mayor

CONSENT CALENDAR

April 11, 2023

To: Members of the City Council

From: Mayor Jesse Arreguín

Subject: Establishment of Fred Ross Memorial Bench in Cesar Chavez Park

RECOMMENDATION

Adopt a Resolution directing the City Manager to work with the family of the late Fred Ross Jr. to dedicate a memorial bench at the west facing edge of Cesar Chavez Park in his honor. The family of Fred Ross Jr. shall be responsible for the cost of the bench and shall be engaged in determining the location of the bench.

BACKGROUND

Fred Ross Jr., the son of the former labor organizer Fred Ross, and a lifelong labor organizer and activist in his own right, sadly passed away on November 20, 2022. Mr. Ross lived in Berkeley for two decades.

Inspired by the work of his father, Mr. Ross worked side by side with Cesar Chavez and Dolores Huerta, founded the Neighbor to Neighbor initiative in the 1980s to provide support to Central American countries, helped elect Nancy Pelosi to Congress and later in life worked with IBEW Local 1245.

Former Labor Secretary Robert Reich had this to say about Mr. Ross:

*“You have comforted the afflicted, and afflicted the comfortable,” he told Ross. “Your boldness and vision have been a source of inspiration to me and huge number of other people, working for social justice, labor unions, and the hopes and dreams so many people have for a better life.”*

Mr. Ross was a renowned, beloved and effective organizer, who was honored at his recent memorial by over 650 people in attendance and notable speakers including Dolores Huerta and Nancy Pelosi. A bench in his memory at Cesar Chavez Park is a fitting tribute, as Mr. Ross loved walking in Cesar Chavez Park and enjoying the views to the west.

Tributes to Fred Ross, Jr. include:

[https://www.sfexaminer.com/news/politics/remembering-fred-ross-jr-legendary-organizer-for-social-justice/article\\_26f7987a-6cfa-11ed-b816-1b394e47b767.html](https://www.sfexaminer.com/news/politics/remembering-fred-ross-jr-legendary-organizer-for-social-justice/article_26f7987a-6cfa-11ed-b816-1b394e47b767.html)

<https://www.berkeleyside.org/2022/12/01/fred-ross-jr-obituary>

<https://www.fredrossproject.org/fred-ross-jr-memorial-1>

On April 26, 2007, the Parks & Recreation Commission approved a revised policy whereby park bench donations will be allowed at sites recommended by staff; and, also, established reasonable criteria for granting memorials. On July 22, 2008, Council adopted Resolution No. 61,148-N.S. approving a revised bench donation policy and establishing a process and conditions for granting bench donations, both anonymous and memorial types.

Pursuant to established policy, a bench memorial must be in recognition of someone who had a record of service to the City's parks or has made an outstanding contribution to the Berkeley community. The honoree must be deceased for *at least one year*.

This action would make an exception to the City's bench policy given Mr. Ross' extraordinary contributions (see Attachment B) and would initiate the placement of the bench at an appropriate location in consultation with the family. The family has requested this memorial bench and will be paying the customary fees established by the City for its placement.

FINANCIAL IMPLICATIONS

None. Costs will be paid by the family of Fred Ross Jr.

ENVIRONMENTAL SUSTAINABILITY

No impact

CONTACT PERSON

Jesse Arreguín, Mayor 510-981-7100

ATTACHMENTS:

Attachment A: Resolution

Attachment B: Letter dated February 17, 2023 from City to the Family of Fred Ross outlining current city protocols for establishing a memorial bench.

RESOLUTION NO. ##,###N.S.  
ESTABLISHMENT OF MEMORIAL BENCH IN CESAR CHAVEZ PARK  
IN HONOR OF  
FRED ROSS JR.

WHEREAS, On April 26, 2007, the Parks & Recreation Commission approved a revised policy whereby park bench donations will be allowed at sites recommended by staff; and, also, established reasonable criteria for granting memorials; and

WHEREAS, On July 22, 2008, Council adopted Resolution No. 61,148-N.S. approving a revised bench donation policy and establishing a process and conditions for granting bench donations, both anonymous and memorial types; and

WHEREAS, Pursuant to established policy, a bench memorial must be in recognition of someone who had a record of service to the City's parks or has made an outstanding contribution to the Berkeley community and has been deceased for at least one year; and

WHEREAS, On November 20, 2022, Fred Ross Jr. passed away quietly in his home after living in Berkeley for over two decades; and

WHEREAS, Fred Ross Jr. worked as an early age alongside Cesar Chavez in the lettuce fields of California; and

WHEREAS, His life work as an organizer included advocating for farmworker rights, effectively changing the U.S. policy of backing oppressive governments in Central America and accelerating the naturalization of legal immigrants; and

WHEREAS, Mr. Ross spent hours walking in his favorite location, Cesar Chavez Park, while enjoying the views to the west; and

WHEREAS, This action would be an exception to City protocols for memorial benches and would initiate the placement of the bench at an appropriate location in consultation with the family; and

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that a new memorial bench location should be established on the west facing edge of Cesar Chavez Park to honor Fred Ross Jr. and his contributions to Berkeley and immigrants.

## ATTACHMENT B

On Feb 17, 2023, at 4:11 PM, Williams, Wanda <[WWilliams@cityofberkeley.info](mailto:WWilliams@cityofberkeley.info)> wrote:

Hi Margo:

My condolences for the loss of your husband. Thank you for your interest in donating a memorial bench to a City of Berkeley park. The Memorial Bench Donation Policy is outlined in the attached council resolution and is handled on a case by case basis depending on the availability of sites for benches at selected City parks.

***At this time, we are only accepting donations for replacing old existing benches at our parks. No new bench locations will be considered. Honoree must be deceased for at least one year prior to application acceptance.***

The donation process is as follows:

- Upon request, applicant should work with Parks Maintenance staff (Walt Vandernald) to identify a location where a bench needs to be replaced.
- Once site is approved by staff, complete and submit the application for Park Bench Donation, with a check for \$3,400 payable to "The City of Berkeley" to cover costs of purchasing a new bench, materials, installation and a cast iron plaque.
- City staff will process the application and submit a consent calendar item to the City Council for approval.
- Once approved, city staff will work with the applicant to finalize the text for the plaque, order it and finalize the location for the proposed bench. PRW maintains the right to the final decision for bench location.
- Building Maintenance staff will purchase, install plaque and assemble the bench.
- This bench donation shall be in effect for a minimum of 10 years or until the bench has exceeded its useful life (as determined by City staff). At that time, the existing bench may be replaced by the next family on the waiting list. The donor family may request the plaque at that time, or donate a new memorial bench.

The entire process can take up to 8 months to complete. If you have any additional questions, feel free to contact the me via Email or at 510-981-6702.

Thank you,





CONSENT CALENDAR  
April 11, 2023

To: Honorable Mayor and Members of the City Council  
From: Councilmember Taplin, Mayor Arreguin, Councilmember Bartlett,  
Councilmember Harrison  
Subject: Support for AB 1690 (Universal health care coverage).

RECOMMENDATION

Send a letter to Assemblymember Ash Kalra (D-San Jose) in support of AB 1690 (Universal health care coverage).

FINANCIAL IMPLICATIONS

N/A

BACKGROUND

Assembly Bill 1690 currently states: "It is the intent of the Legislature to guarantee accessible, affordable, equitable, and high-quality health care for all Californians through a comprehensive universal single-payer health care program that benefits every resident of the state."

Kalra introduced the previous effort for statewide single-payer as AB-1400, which failed to receive a floor vote in the 2021-2022 legislative session.<sup>1</sup> The bill is sponsored by the California Nurses Association.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

None.

CONTACT PERSON

Councilmember Taplin      Council District 2      510-981-7120

Attachments:

1: Letter

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<sup>1</sup> Koseff, A. (2022). Why single payer died in the California legislature, again. *CalMatters*. Retrieved from <https://calmatters.org/politics/2022/02/california-single-payer-legislature/>

The Honorable Ash Kalra  
Member of the California State Assembly  
California State Capitol  
Sacramento, CA 95814

**Re: Support for AB 1690: Universal health care coverage**

Dear Assemblymember Kalra

The City Council of the City of Berkeley writes in strong support of AB 1690, which states the intent of the California state legislature to establish a single-payer healthcare system.

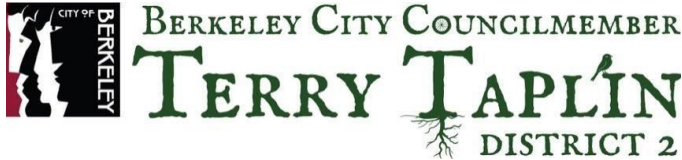
While the federal Patient Protection and Affordable Care Act (PPACA) brought many improvements in health care and health care coverage, it still leaves many Californians without coverage or with inadequate coverage. Californians, as individuals, employers, and taxpayers have experienced a rise in the cost of healthcare and health care coverage in recent years, including rising premiums, deductibles, and copays, as well as restricted provider networks and high out-of-network charges. Businesses have also experienced increases in the costs of health care benefits for their employees, and many employers are shifting a larger share of the cost of coverage to their employees or dropping coverage entirely.

A universal single-payer healthcare system would consistently cover all Californians, because coverage is based on residency, not a person's changing income or employment status. It is more important than ever for a state like California, one of the wealthiest regions in the nation with the 4th highest GDP per capita in the world, to redistribute some of its prodigious wealth by taxing its highest earners in order to guarantee high-quality healthcare as a human right for all residents.

Thank you for your leadership on this important legislation.

Sincerely,

City Council - City of Berkeley  
2180 Milvia St  
Berkeley, CA 94709



CONSENT CALENDAR  
April 11, 2023

To: Honorable Mayor and Members of the City Council  
From: Councilmember Taplin, Councilmember Bartlett, Councilmember Harrison  
Subject: Support for AB 362 (Land value taxation study)

#### RECOMMENDATION

Send a letter to Assemblymember Alex Lee (D-San Jose) in support of AB 362 (Land value taxation study).

#### FINANCIAL IMPLICATIONS

N/A

#### BACKGROUND

Traditional property tax systems levy taxes based on the value of property in which the Board of Equalization defines as all matters and things (real, personal, and mixed) that a private party can own. Improvements to surrounding buildings and property can increase the value of the lot which would then affect the property tax levied. By contrast, a land value tax is based on the value of land without regard to buildings or other improvements.

The current property tax system results in higher taxes for improvements to the value of the property. Ultimately, this can result in a disincentive for a landowner to build or renovate property, since this could raise their taxes. California's Proposition 13 exacerbates this disincentive by restricting annual reassessments to a maximum of 2% unless the property is sold or has new construction. A 2016 study by Ralph McLaughlin at Trulia found Proposition 13 results in some of the lowest effective tax rates for the wealthiest jurisdictions in California with the highest property values.

Assembly Bill 362 would require the California Department of Tax and Fee Administration to "conduct a study on the efficacy of a statewide land value taxation system as a potential alternative to current appraisal methods for real property taxation and a way to encourage property development." A land tax system would disincentivize properties that are left idle, creating an incentive for landowners to improve and maximize the use of their land.

According to author Assemblymember Lee's office, there are a number of jurisdictions that employ land value tax systems or a variation of it around the world including Denmark, Singapore, and Taiwan.

In Allentown, Pennsylvania, the city adopted a land value tax in 1996 and 70% of residential parcels saw a tax decrease. Construction returned to the city and Allentown experienced a 32% increase in building permits.

The economist Rick Rybeck of Just Economics explains: "Buying and selling land creates nothing; it's what you do on the land that creates value...land taxes don't reduce the amount of land. Taxing land values reduces the benefits of land ownership. This reduces land prices."<sup>1</sup>

Potential benefits include:

- Making land speculation less profitable, reducing the incentive for suburban sprawl
- Making housing more affordable while fostering business growth and employment
- Sustainable financing for public infrastructure improvements
- Less vulnerable to tax evasion since land cannot be concealed or moved overseas (titles are registered with the public and thus easily identified)

#### ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

None.

#### CONTACT PERSON

Councilmember Taplin      Council District 2      510-981-7120

Attachments:

1: Letter

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<sup>1</sup> Rybeck, R. (2019). If the Land Tax Is Such a Good Idea, Why Isn't It Being Implemented? *Strong Towns*. Retrieved from <https://www.strongtowns.org/journal/2019/3/8/if-the-land-tax-is-such-a-good-idea-why-isnt-it-being-implemented>

The Honorable Alex Lee  
Member of the California State Assembly  
California State Capitol  
Sacramento, CA 95814

**Re: Support for AB 362: Land Value Taxation Study**

Dear Assemblymember Lee:

The City Council of the City of Berkeley writes in strong support of AB 362 (Lee), which would require the Department of Tax and Fee Administration to study land value taxation in California.

The current property tax system results in higher taxes for improvements to the value of the property. Ultimately, this can result in a disincentive for a landowner to build or renovate property, since this could raise their taxes. California's Proposition 13 exacerbates this disincentive by restricting annual reassessments to a maximum of 2% unless the property is sold or has new construction. A 2016 study by Ralph McLaughlin at Trulia found Proposition 13 results in some of the lowest effective tax rates for the wealthiest jurisdictions in California with the highest property values.

Cities across the East Bay including Berkeley are increasingly strained by rising infrastructure costs, deferred maintenance, and a housing shortage with insufficient subsidies for providing affordable housing on the scale that it is so desperately needed. The City of Berkeley has committed to plan for nearly 9,000 new housing units in its 2023-2031 Regional Housing Needs Allocation cycle in its Housing Element Update, which was recently approved by the Department of Housing and Community Development. With high land prices, long-term owners of vacant properties will face a significant disincentive to selling or developing much-needed housing, and nonprofit affordable housing developers will have fewer potential sites available for low-income housing.

The current property tax system exacerbates the devastating scarcity of housing that is affordable to our most vulnerable community members, while limiting funding available for local schools, infrastructure, and services. Cities like Berkeley have been increasingly reliant on consumption taxes and parcel taxes to fund capital improvements, which can disproportionately impact lower-income homeowners. Californians deserve better.

Thank you for your leadership on this important legislation.

Sincerely,

City Council - City of Berkeley  
2180 Milvia St  
Berkeley, CA 94709





Kate Harrison  
Councilmember, District 4

CONSENT CALENDAR

April 11, 2023

To: Honorable Mayor and Members of the City Council

From: Councilmember Harrison, Councilmember Bartlett

Subject: Referral to the June 2023 Budget Process to Increase Capacity for Berkeley Community Media

RECOMMENDATION

Refer \$54,000 to the June, 2023 budget Process to increase personnel funding for Berkeley Community Media (BCM), advancing two current part time employees to full time.

CURRENT SITUATION, EFFECTS, AND RATIONALE FOR RECOMMENDATION

BCM is funded through the City of Berkeley's IT Department and the Berkeley Rent Board. Between these two entities, BCM receives \$253,000 per year (\$231,000 from the IT Department and \$22,000 from the Rent Board). Before 2006, Berkeley Community Media (BCM) had five full-time employees with full health, dental, and vision coverage and one part-time employee. Between 2004 and 2006, the IT department cut BCM's funding by 15% and has not increased it since. In 2016, the Rent Board increased BCM's budget from \$20,000 to \$22,000 a year; this additional \$2,000 is the only funding increase BCM has received in 18 years despite inflation increasing 57% in that same period. As a result, Berkeley Community Media now only has one full-time employee and only two of its eight employees are eligible for healthcare.

Fortunately, BCM has a team of dedicated individuals who work hard to maintain a vibrant community with limited funding, but not without personal and financial strain. BCM staff has experienced a hardship of carrying out programming, administrative, and educational duties with only one full time employee. To continue maintaining the existing programming at its full capacity, many part time employees must donate volunteer hours. Inadequate funding limits BCM's programming and detrimentally affects students who, as a result of strained resources, have less access to services. By increasing its staff budget, BCM will be able to provide more stable staffing with adequately paid experts, dedicated to providing our community with a unique and equity driven service.

BACKGROUND

BCM is Berkeley's Public, Education and Government community media center,

specifically designed to address the needs of Berkeley residents. BCM's primary mission is to enhance the transparency of local government and civic affairs and provide residents of Berkeley an opportunity to produce media and share it with their community.

While there are a handful of other community-based media programs in the Bay Area, BCM is uniquely positioned to serve Berkeley. It is the only mission driven and equity centered media company in Berkeley. BCM films City Council meetings as well as Rent Stabilization Board and ZAB meetings, enhancing the transparency of local government. It provides coverage for city events such as the North Berkeley Senior Center re-opening, the Milvia Bike Path ribbon cutting, the digital kiosks in Downtown and the street renaming for Kala Bagai Way.

BCM provides an opportunity for local residents to share their stories by participating in media classes and a community of individuals who are available to aid with development and production. BCM has its own local television station, allowing community members the opportunity to air programs from painting shows to films, to local news coverage. Its location in the Maudell Shirek building, Berkeley's Old City Hall, makes it accessible to a diverse population of people by public transportation in the heart of Berkeley. It has also invested in local community organizations and partners such as the Dorothy Day House, the Women's Daytime Drop-in Center, St Mary's Center, La Peña Cultural Center, Berkeley Symphony, and Luna Dance Studio and produces and airs live and taped coverage of diverse local arts, educational, and cultural events, including the World Music Festival, Holocaust Remembrance Day, forums featuring Congresswoman Barbara Lee and Mark DeSaulnier on race relations and Congresswoman Lee and Congresswoman Ayanna Pressley's forum titled, "A Dialogue on Women of Color Running for Office."

Finally, BCM makes creative education and expensive arts equipment accessible to those who otherwise may not be able to afford it by providing critical training in production, editing and podcasting and periodically offering master classes from industry expert and access to professional equipment. BCM offers a membership program to anyone interested in advancing their video editing and production skills and provides a 50% membership discount to Berkeley residents at \$60 a year. A membership offers access to a high-quality production studio, media lab, field equipment, unlimited classes and workshops and the ability to submit programs to BCM's local television station.

Individuals who are unable to pay membership fees or class costs, may volunteer their time through internship opportunities. BCM also hosts a youth and Berkeley High School internship program, training students in cinematography, video editing, special effects as well as media literacy and analysis. It hosts industry professionals to speak to students about career paths and how skills they learn at BCM can be professionally applicable.

As a Public, Education, and Government (P.E.G) access television station and production facility, BCM provides affordable and accessible media services, training,



and access to high-quality film production equipment, for filmmakers, amateur television producers and youth from Black, Latinx, Indigenous, and Native American persons, Asian Americans and Pacific Islanders, and other persons of color; members of religious minorities; lesbian, gay, bisexual, transgender, and queer (LGBTQ+) persons; persons with disabilities; persons who live in rural areas; and persons otherwise adversely affected by persistent poverty or inequality, BCM’s mission is to provide a voice to Berkeley’s most under-resourced and underrepresented communities.

It has a membership of more than 83 diverse producers and supporters. Nearly 30% of those who reported demographic information are people of color, and 20% have an income level of \$25,000 or less; 53% of members identify as female. BCM’s bylaws specify that it recruits and supports members who reflect Berkeley’s community, including people of color and disabled persons. Its Board of Directors reflects this commitment to diversity, with 27% identifying as Black and Latinx, 45% identifying as female, 18% identifying as persons with disabilities, and 18% identifying as LGBTQ.

**Overview of Proposed Staffing Costs**

BCM’s current personnel budget totals \$268,000, 83% of its annual \$323,000 budget. The additional \$54,000 would allow BCM to offer much needed cost of living adjustments (COLAS), add hours to existing employees, and provide healthcare for two employees (bringing the number receiving healthcare to three). The budget referral, totaling \$54,000, is comprised of four distinct financial needs.

| Category                  | Annual Amount |
|---------------------------|---------------|
| Employee raises           | \$12,200      |
| Additional employee hours | \$27,400      |
| Additional payroll        | \$3,000       |
| Healthcare                | \$11,200      |
| Total cost allocation     | \$54,000      |

Employee raises would range from a 1.2%-2.4%, increasing hourly compensation from \$20.00-\$28.00/hour to \$20.48-\$28.34/hour.

Four employees would be compensated for some of their additional work hours. Two employees will gain three and four hours respectively per week. Two employees will gain eight paid hours per week, making them eligible for healthcare benefits.

**FISCAL IMPACTS OF RECOMMENDATION**

\$54,000 to stabilize BCM’s staff budget.

Referral to the June 2023 Budget Process to Fund an Increase in Staff Hours for  
Berkeley Community Media

CONSENT CALENDAR  
April 11, 2023

ENVIRONMENTAL SUSTAINABILITY

Not applicable.

CONTACT PERSON

Councilmember Kate Harrison, (510) 981-7140



Kate Harrison  
Councilmember, District 4

CONSENT CALENDAR

April 11, 2023

To: Honorable Mayor and Members of the City Council

From: Councilmember Harrison

Subject: Referral to the June 2023 Budget Process for Funding Harold Way Placemaking Project Schematic Design

RECOMMENDATION

Refer \$100,000 to the June 2023 Budget Process to fund Harold Way Placemaking Project Schematic Design.

CURRENT SITUATION, EFFECTS, AND RATIONALE FOR RECOMMENDATION

The one-block long Harold Way connects Allston Way and Kittredge Street, linking the Berkeley Central Branch Library and the Downtown Berkeley YMCA. Over the years Harold Way has been the site of a variety of community events and cultural celebrations including the Asian Cultural Festival, Día de los Muertos celebration, the Harold Way Pumpkin Patch, the Lunar New Year Celebration, and Berkeley Bliss: the Silent Disco Experience. The streetscape is quite plain at present, discouraging its use outside of events but is ideal for creating an urban oasis in our busy Downtown with the addition of design features, trees, seating areas, and a public restroom.

BACKGROUND

On March 19, 2022 Berkeley Design Advocates (BDA) and Downtown Berkeley Association (DBA) co-sponsored a Harold Way Placemaking Workshop in anticipation of two housing projects bringing new life to this quiet one-block street in the heart of Downtown Berkeley. Input was received from the Berkeley design community, neighbors, nearby property owner, and other community members. BDA volunteer architect Ryan Call developed a Workshop Report and Three Initial Options.<sup>1</sup> Subsequently, BDA and DBA have met with City staff, City elected officials, and other community members to review the report and options. The response has been generally favorable for all three options. (See "Blended Options" below.)

This request seeks funding of up to \$100,000 for a consultant to develop a Preferred Design Option/Schematic Design for a pedestrianized Harold Way between Kittredge Street and Allston Way. BDA and DBA have received a proposal of approximately

<sup>1</sup><https://static1.squarespace.com/static/5f868525cd65db169e0e9bf7/t/6307cde3d1394f428fbc2b6b/1661455861813/2022+0704+Harold+Way+Workshop+Results-sm.pdf>

\$60,000 plus expenses from a respected urban landscape design firm but are open to other design firms that might be selected by the City. It would be prudent to allocate up to \$100,000 due to additional expenses, inflation, and possible additional scope or tasks required by the City. It is anticipated that funding would come from the Street and Open Space Plan (SOSIP) fund, which had a balance of \$1,755,944 as of February 27, 2023. Construction of several large housing projects in the Downtown over the next few years is expected to grow the SOSIP fund significantly. Final Design and Construction Documents are estimated to be in the range in the \$200,000-\$300,000, with the cost of construction dependent on design selected, inflation, materials, and other factors.

The development of the Schematic Design would not be limited to the three initial “blended options,” but may borrow elements for any of these options as deemed appropriate. The scope of the consultant Schematic Design project would include:

- Extensive community outreach (at least three meetings)
- Pre-design meetings with key stakeholders
- Review of existing conditions, climate, building plans, trees, utilities, drainage
- Understanding of City requirements and operating/maintenance constraints
- Three programming designs with up to three revisions based on community input
- Presentation of final preferred schematic design
- Preliminary opinion of probable construction costs

This Schematic Design project is estimated to take six to nine months to complete, with final presentation to Berkeley City Council for approval.

Design Options

# blended option 1

- Food! Invite local vendors / Food Trucks
- Keep it simple! Let the community "set the stage".
- Ramp up at both ends for the full width of the street right of way. Pave the entire elevated "stage" with a nice material, and set the stage for events with whatever is needed for the party (event)!
- Consider a diversity of plaza experiences such as an open plaza towards the Library on Kittredge Street with food trucks, and a more serene tree plaza towards Allston.
- Replace / relocate existing trees ( which are spaced rather far apart) with trees spaced 32' on center with offset rows.
- Extend a simple but elegant paving material from building to building to provide programing flexibility and a sense of space that feels larger and less cluttered.
- Convert south façade of parking structure on Allston to art wall installation, possibly including media screens for outdoor movies.
- Activate ground floor of new east side Harold Way building with live/work workshops and storefronts and organize entries to complement street activities. Locate amenity uses at north and south ends of new building.
- Encourage café at new westside building to spill out into Harold Way
- Eliminate vehicular traffic on Harold Way
- Bollards at Kittredge Street and Allston Way



# blended option 2

- Food! Invite local vendors / Food Trucks
- Keep it simple! Let the community "set the stage".
- Ramp up at both ends for the full width of the street right of way. Pave the entire elevated "stage" with a nice material, and set the stage for events with whatever is needed for the party (event)!
- Treat Harold Way as an urban garden with gathering areas to spill out into street, building off gardens/ activities at garden/plaza between library and housing at Kittredge terminus of Harold Way.
- Retain existing trees along Harold Way. Keep roadway clear of trees and open for gatherings.
- Pitch raised roadways to a series of rain gardens at entries and along western side of Harold Way. Use gardens to frame building and plaza entries.
- Convert south façade of parking structure on Allston to art wall installation, possibly including media screens for outdoor movies.
- Activate ground floor of new east side Harold Way building with live/work workshops and storefronts and organize entries to complement street activities. Locate amenity uses at north and south ends of new building.
- Encourage café at new westside building to spill out into Harold Way
- Eliminate vehicular traffic on Harold Way
- Bollards at Kittredge Street and Allston Way



# blended option 3

- Children's reading area
- Possible play sculpture(s) for kids (Women and children are key elements to creating a welcoming environment for everyone!)
- Flexible seating - chess and games
- Keep it simple! Let the community 'set the stage'
- Ramp up at both ends for the full width of the street right of way. Pave the entire elevated 'stage' with a nice material, and set the stage for events with whatever is needed for the party (event!)
- Treat Harold Way as an urban garden with gathering areas to spill out into street, building off gardens/activities at garden/plaza between library and housing at Kittredge terminus of Harold Way.
- Retain existing trees along Harold Way. Keep roadway clear of trees and open for gatherings.
- Pitch raised roadways to a series of rain gardens at entries and along western side of Harold Way. Use gardens to frame building and plaza entries.
- Convert south façade of parking structure on Allston to art wall installation, possibly including media screens for outdoor movies.
- Activate ground floor of new east side Harold Way building with live/work workshops and storefronts and organize entries to complement street activities. Locate amenity uses at north and south ends of new building.
- Encourage café at new westside building to spill out into Harold Way
- Eliminate vehicular traffic on Harold Way
- Bollards at Kittredge Street and Allston Way



## FISCAL IMPACTS OF RECOMMENDATION

\$100,000 toward the Harold Way Placemaking Project Schematic Design.

## ENVIRONMENTAL SUSTAINABILITY

Creating a livable, walkable Downtown adds to Berkeley's environmental sustainability. The Harold Way block is very close to transit (both BART and AC Transit), Downtown amenities and the U.C. Berkeley campus.

## CONTACT PERSON

Councilmember Kate Harrison, (510) 981-7140



Kate Harrison  
Councilmember, District 4

CONSENT CALENDAR  
April 11, 2023

To: Honorable Mayor and Members of the City Council  
From: Councilmember Harrison  
Subject: Referral to the June 2023 Budget Process as a sole source procurement contract for Two Full-Time Social Workers for Social Justice Collaborative

RECOMMENDATION

Refer \$147,000 to the June 2023 Budget Process as a sole source procurement contract for annual staffing costs associated with funding two social workers to provide low-income immigrants, asylum seekers, unaccompanied children, young dreamers, and displaced families with direct legal services and legal representation.

CURRENT SITUATION, EFFECTS, AND RATIONALE FOR RECOMMENDATION

The Social Justice Collaborative (SJC) is a community-based legal non-profit, dedicated to serving low-income immigrants, asylum seekers, unaccompanied children, dreamers, and displaced families through direct legal services and legal representation in court at little to no cost.

Since its inception, SJC has provided full-scope deportation defense and asylum representation for some of the most difficult cases. While SJC attorneys can provide high quality legal aid to individuals in need, many clients are survivors of violent displacement and government oppression and require help beyond what SJC's legal team can provide. The legal aid portion of services, while the main and most significant focus of SJC, does not address the entire healing process associated with obtaining asylum and United States citizenship. Unfortunately, mental health care is not easily accessible for immigrant communities and less so for Indigenous Guatemalan (Mayan-Mam) immigrants, who SJC prioritizes serving. In 2016, Mam become one of the ten languages most frequently spoken in immigration court<sup>1</sup>. More than a quarter of SJC's clients (34% as of 2021) are Mayan Mam-speaking and SJC has one of the highest numbers of Mayan Mam speakers on staff providing accessible legal and social work services.

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<sup>1</sup> "Eoir 59 Certification and Release of Records - United States Department ..." Departmentofjustice.gov. Accessed March 17, 2023. <https://www.justice.gov/eoir/page/file/1380121/download>.



SJC is the only organization that provides this scope and breadth of free and reduced cost services to clients. Bay Area Legal Aid is an organization that similarly provides assistance to low-income people in need of free legal aid, however, they do not deal with DACA or any other immigration matters. While other organizations like Centro Legal de la Raza and East Bay Community Law Center provide immigration assistance, they do not have Mayan-Mam speakers on staff, making services inaccessible to those who are exclusively speak Mayan-Mam. SJC occupies a unique and significant role to support a population of immigrants unable to receive assistance anywhere else in the Bay Area.

Social workers have the professional training and capacity to provide SJC's clients with comprehensive and holistic care, critically serving minors and families who are struggling to adjust to life in the United States.

In 2023, there is a heightened awareness of the issues that Immigrants and Asylees must confront when facing the immigration system. Most people now know that in addition to the turmoil presented by the system, immigrants including very young children do not have a right to an attorney. This makes an incredibly difficult process to navigate almost impossible.

Hiring full-time Social Workers is the most cost-effective way to address SJC's client's needs. In the past, SJC has partnered with California State University, East Bay, and Stanislaus in order to have unpaid social work interns available to support clients. The intern program has demonstrated how crucial it is to have social workers as part of the SJC team. They are able to thoughtfully and expertly address the needs of clients beyond attorneys' capacity, allowing attorneys to focus on difficult case work, and are well-versed in assisting clients in navigating services and resources. However, the reliance on unpaid students, who must be supervised by someone not affiliated with SJC and who only work part-time, dramatically limits the number of clients an intern can serve. There are also periods of time between interns, a difficult situation for clients whose cases can and do sometimes last for years.

### BACKGROUND

Social Justice Collaborative (SJC) was founded in 2012 to ensure that low-income immigrants in Northern California have legal aid and assistance for little to no cost. SJC specializes in deportation defense, but their attorneys and legal staff have extensive experience working on a wide range of cases, including DACA, visas for victims of human trafficking, and Asylum litigation in immigration court. As its team has grown, so has its capacity to take on a higher number of cases. Services include case building, court and interview representation, partner referrals as needed, and family reunification efforts, where possible.

In 2018, Social Justice Collaborative acquired its own building and made the move from Oakland to Berkeley. Throughout its history, it has served immigrant families in Berkeley, assisting Berkeley residents who are victims of crime, domestic violence survivors, and asylum seekers. SJC's clients range from those just beginning their



immigration case to those who are now lawful permanent residents and may soon qualify to naturalize.

The majority of SJC's clients reside in the East Bay. SJC does, however, serve all Northern California and the Central Valley, providing assistance to a diverse client base, with an emphasis on indigenous Asylum seekers. Within the last decade many lower-income immigrants in Berkeley have been displaced as living costs increase and reside in surrounding cities. However, SJC clients do significantly contribute to the city of Berkeley by working in a variety of industries including the service industry, construction as day laborers, or as housekeepers or caregivers.

SJC also upholds close partnerships with other organizations established in Berkeley. SJC and The University of California, Berkeley have been long-standing partners. UC Berkeley has students from their undergraduate program who serve as interns or in work-study positions at SJC to gain experience and knowledge. SJC works with the Law School to host Law Clerks and has hosted clerks who have gone on to work in the immigration field. At the moment, SJC is working to finalize a partnership with Berkeley Bowl to refer newly permitted workers.

Organizations from around California that provide similar services oftentimes refer clients to SJC, either because their funding cannot allow them to take clients on or because of the complexity of the legal case. In addition to providing direct legal services, SJC is part of coalitions that fight for state-wide policy to protect immigrant communities and have participated in the Mayor's Office round tables dedicated to Berkeley as a sanctuary city.

SJC has a very high (near 100%) success rate in immigration court and assists clients on appeal for those whose cases were not successful. It provides 100% of legal consultations free of charge, and 100% of minors are represented at no cost. Further, in 2021, SJC provided more than 1,000 hours of pro bono hours and represented 120 individuals through volunteer work. In 2021, SJC saved immigrant families over \$3.6 million dollars in legal service costs. SJC has won more than 300 cases, has filed upwards of 100 work permits and green card applications, and in 2022 was named one of the top local charities in the San Francisco Bay Area.

In ten years SJC has grown from three (3) staff members to 35, demonstrating the demand for expanded programs and services.

SJC does necessary and vital work in the Berkeley community, but needs additional funding to fill the critical gaps discussed above.

### **Overview of Proposed Staffing Costs**

SJC is largely funded by state grants through the California Department of Social Services and The State Bar of California. It also obtains funding under the IOLTA program, as well as the ISF and UUM programs under CDSS. State funding is indispensable, but only covers a fraction of the work that SJC does. In order to keep

services affordable, SJC requires increased, varied, flexible funding and support. SJC was recently awarded funding to provide digital content to be shared by the Statewide Asylee Orientation Project but this project does not replace direct services to Bay Area Clients.

| Staff Position    | Salary per FTE /Year | Salary Cost | Taxes and Workers' Comp | Total     |
|-------------------|----------------------|-------------|-------------------------|-----------|
| Social Worker (2) | \$65,000             | \$130,000   | \$17,000                | \$147,000 |

FISCAL IMPACTS OF RECOMMENDATION

\$147,000.00 in staffing costs toward the hiring of two new full-time social workers for Social Justice Collaborative.

ENVIRONMENTAL SUSTAINABILITY

Not applicable.

CONTACT PERSON

Councilmember Kate Harrison, (510) 981-7140



Kate Harrison  
Councilmember, District 4

CONSENT CALENDAR  
April 11, 2023

To: Honorable Mayor and Members of the City Council

From: Councilmember Harrison (Author) and Vice Mayor Bartlett (Co-sponsor)

Subject: Referral \$100,000 to the June, 2023 Budget Process to Design a Comprehensive Berkeley Police Early Intervention and Risk Management System

RECOMMENDATION

Refer \$100,000 to the June, 2023 Budget Process to enter into a contract to design and assist with implementing a comprehensive Berkeley Police Department Early Intervention and Risk Management System to provide necessary data and help in implementing fair and impartial policing policies and public safety reimagining.

CURRENT SITUATION, EFFECTS, AND RATIONALE FOR RECOMMENDATION

A key outcome from the February 23, 2021 Council-approved “Report and Recommendations from Mayor’s Fair and Impartial Policing Working Group” was direction to the City Manager to “Implement an Early Intervention System (EIS) and a risk-management structure.”<sup>1</sup> Additionally, the “Reimagining Public Safety In Berkeley: Final Report and Implementation Plan” by the National Institute for Criminal Justice Reform recommended a comprehensive EIS.<sup>2</sup>

These systems, adopted successfully by neighboring jurisdictions, involve structured use of public safety data to inform goals and strategies and improve accountability and transparency. A well-structured EIS and risk management system offers the following benefits:

- Allows the department to commend personnel for positive performance.<sup>3</sup> Officer morale and retention are thus improved. This can also help identify best practices

<sup>1</sup> “Report and Recommendations, Mayor’s Fair and Impartial Policing Working Group,” February 23, 2021, Mayor Jesse Arreguin and Councilmember Kate Harrison, <https://berkeleyca.gov/sites/default/files/documents/2021-02-23%20Special%20Item%2001%20Report%20and%20Recommendations.pdf>.

<sup>2</sup> National Institute for Criminal Justice Reform “Reimagining Public Safety In Berkeley: Final Report and Implementation Plan,” March 2022, [https://berkeleyca.gov/sites/default/files/documents/BerkeleyReport\\_030722.pdf](https://berkeleyca.gov/sites/default/files/documents/BerkeleyReport_030722.pdf)

<sup>3</sup> Benefits and use of any system are dependent on design and inclusion/availability of data. For instance, benefits from assessing response times can only be realized if the system, as designed and functioning, has access to quality response time data.

to be shared and implemented throughout the department, leading to improved overall performance and outcomes.

- Promotes a culture of wellness by monitoring possible indicators of job-related stress and other risk factors. Data-informed proactiveness can improve de-escalation, communication, provide more resources for mental health support, or address other factors that may be contributing to officer stress and burnout.
- Allows assessment of trends by types of stops, parts of the city and by particular squads or teams.
- Mitigates risk and reduce litigation by evaluating patterns, trends or incidents in areas such as vehicle collisions, use of force, alleged misconduct, sustained misconduct, and other performance metrics and outcomes. Comparing crime types with personnel information (e.g., number of reported resisting, delaying, obstructing arrest offenses by person or squad) is another type of warning or risk management metric. Most importantly, this can help prevent incidents that could put community members, officers, and suspects at risk of harm or injury.
- Helps the City adjust, improve, or create policies, procedures, or training initiatives depending on an evaluation of risk and risk-based outcomes.
- Helps the Department identify any important underutilized or inaccessible data that reveals important and actionable trends.<sup>4</sup> Insights about time of day or area of the city may be important when crafting a community-informed, precision-based, or problem-oriented public safety solution.
- Provides opportunities for regular risk management meetings with Department leadership to measure progress and reflect on whether deployment patterns and policing strategies and tactics are achieving desired outcomes.
- Build trust between law enforcement and the communities they serve by providing data and opportunities for regular conversations between the PAB, the community, the Council, City Management and the Department.

The expectation is that EIS and risk management systems can identify patterns of policing such as the arrest quotas alleged in 2022. The system would help identify officer, squad, or Department-wide outliers or patterns in stops, searches, and use of force and their outcomes, to examine the reasons for racial disparities, to provide educational interventions, and to take administrative action, as appropriate. A system would also be able to extract and create EIS/Performance Management fixed or custom reports.

The EIS would have role level security depending on the desired use and/or confidentiality of the data. Users would be identified by role/rank/assignment and rules

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<sup>4</sup> For example, the crime hub works well if a community member wants or needs to review reported crimes by type for a specific selection of blocks or search, filter, or contrast to other periods of time. However, the current hub displays broad classifications of crime such as “assault” and “robbery” but little helpful data regarding these offenses. An assault may be felony or misdemeanor, and a robbery may be everything from shoving a security guard on the way out of a store to an armed carjacking. The hub doesn’t offer an ability to easily examine these differences nor does the current version use additional filters such as day of week or time of day for reported offenses. It is also still difficult to export hub crime data into raw data that can be used for further data analysis.

associated with those variables allow or disallow functions and access to data as a result.

Data available to the public would be anonymized. Using anonymized and aggregate data, the Department could discuss data and trends regularly with the community, the Council, and the PAB in furtherance of community, Fair and Impartial Working Group and public safety reimagining goals. A fundamental finding of the City's reimagining process was that disparities are not merely the result of individuals, but systemic socioeconomic forces. Deep analysis enabled by a robust risk management system could help the City and community highlight and address community-level policy pressures that may be driving disparities.

### BACKGROUND

Due to funding and time constraints, no comprehensive system as envisioned by the 2021 Council direction has yet been implemented in Berkeley. The Berkeley Police Department operates a less comprehensive "Early Warning System" (EWS) that was originally created in 2004 and revised in 2008. These early efforts consisted of supervisors, commanders and managers manually aggregating informal performance review and counseling intervention program information, and focused on:

- (a) Poor attendance and/or abusive use of leave;
- (b) Multiple formal sustained or not sustained complaints;
- (c) Multiple informal complaint inquiries;
- (d) Multiple use of force incidents
- (e) Multiple obstructing/resisting arrest incidents;
- (f) Multiple vehicle collisions; and,
- (g) Substandard conduct/performance concerns observed by a superior officer.

Since 2021, the Department has updated the Department's EWS policy (Policy 1041) to include monitoring stop data for individual officers. However, the system lacks automated data-driven systems to monitor officers' individual stop data by department management, instead relying on supervisor identification of issues and random quarterly audits of several officers' stop data, complaints, uses of force incidents and other factors.<sup>5</sup>

Thanks to Department and Council leadership, BPD maintains a rigorous data and transparency hub which has improved transparency. However, the current hub appears to be largely external facing, and it is unclear to what extent the system informs internal decision-making or accountability as part of the EWS. A Council report by the Department suggests that data streams flowing into the transparency hub are not

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<sup>5</sup> "Update on the Implementation of Fair and Impartial Policing Task Force Recommendations," Jennifer Louis, Interim Chief of Police, September 2022, <https://berkeleyca.gov/sites/default/files/documents/2022-09-20%20Item%2019%20Update%20on%20the%20Implementation.pdf>.

necessarily considered internally through the EWS. Rather, as discussed in detail below, reviews are done manually through audits.<sup>6</sup>

The Department announced in September 2022 that it was piloting a new precision and evidence-based policing data model. The real-time dashboard will track calls for service demands and route call data as part of a “feedback loop” between the Community Services Bureau and Patrol Watch Commanders to help reduce stops that studies have shown had minimal impact on public safety.<sup>7</sup> The Department envisions improved accountability from this work, but it is unclear how it relates to the larger EIS concept and whether such additional work to develop the system is funded. This plan to define, track, and measure precision policing strategy and tactics is promising and there is great potential to integrate it to an EIS.

The 2021 State of California Racial and Identity Profiling Act (RIPA) report identifies two models of successful programs: the Phoenix and Seattle Police Departments. The report clarifies that an EIS system is “meant to be part of a larger performance management system designed to keep communities and officers safe” and to protect against racial and identity profiling.<sup>8</sup> Effective systems identify at-risk behaviors *before* the need for disciplinary action, although they may ultimately include discipline. Key components are identification, accountability, and enforcement.

RIPA data and other potential data streams available to the department provides a long list of potential indicators that might be used to flag outliers, including not limited to:

- Stop, use of force, and warrantless search data that disparately impact people of color;
- Yield rates that are higher among White people than among people of color who are stopped;
- Deployment and policing strategies, policies, and patterns; and
- Racial and identity profiling allegations, sustained misconduct charges and other criteria.

The systems proposed by RIPA and other leaders in the field differ from what is mandated in current policy. The identification in the former is accomplished through data analysis across the department, whereas current policy leaves it to individual supervisors to flag individual subordinates for unprofessional conduct, putting much more onus on individual supervisors and making it potentially seem more personal.

As RIPA points out, early warning and risk management systems are not meant to be primarily a disciplinary system.

“To ensure officers do not feel that this system is a ‘gotcha’ system but rather something they should be invested in... training should include what the EIS captures and how the data will be

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<sup>6</sup> Id.

<sup>7</sup> Id.

<sup>8</sup> Racial and Identity Profiling Advisory (Ripa) Board Report, State of California Department of Justice, 2021, <https://oag.ca.gov/sites/all/files/agweb/pdfs/ripa/ripa-board-report-2021.pdf>.

interpreted, as well as the purpose of the data. Supervisors should be trained to understand their role in the accountability process and how this may alter their current responsibilities. Agencies must also clearly outline how EIS works, how and why it will be used, and what interventions will look like in their policies and protocols.”

Part of this accountability is consistent, regular follow-through. In addition, the Department needs to determine if such problematic behaviors are generalized throughout the department. For example, it may be that instead of a few outliers, racial disparities of stops, searches, and yield rates are seen throughout the department as a whole. In that case, interventions would include the monitoring and training of supervisors, or changes in policy. If interventions are not effective, disciplinary action may be necessary.

Furthermore, a National Institute of Justice study carried out in three cities found that EIS systems reduced citizen complaints and use of force incidents among officers subject to interventions.<sup>9</sup> The cumulative conclusion drawn from these studies is that, to be effective, a system has to be well-constructed and include careful identification, accountability, and follow-up enforcement.

Statistical analysis of BPD data by members of the Mayor’s Fair and Impartial Working Group showed that between 2015 and 2020, Black people were stopped almost twice as often as Whites in circumstances that did not result in any enforcement action (i.e., citation or arrest). Among civilians who are stopped, Black people were searched more than twice as often as Whites.<sup>10</sup> This is one of the most important indicators of racial disparities in stops since it suggests a potentially lower threshold for stopping Black people. A more robust EIS will allow the department to disaggregate this data to understand the source of these disparities. This does *not* mean that officers or groups of officers have done anything wrong, just that an effective EIS system would flag them for careful analysis to see what is driving apparent disparities. Most fundamentally, analysis can drive examination of the legality, benefits and consequences of different stop and search criteria and allow changes at the management and Council levels as disparate outcomes may be the result of policies or training gaps.

## Overview of Budget Request

This budget referral would provide resources to hire a consultant to design and help implement a comprehensive system building on what the Mayor’s Fair and Impartial Working Group envisioned, but with a more comprehensive data-analytic capacity and an internal and external focus to enhance both transparency and the Department’s ability to safeguard the well-being of its employees as well as the public.

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<sup>9</sup> Samuel Walker; Geoffrey P. Alpert; Dennis J. Kenney, “Early Warning Systems: Responding to the Problem Police Officer, Research in Brief,” U.S. Department of Justice Office of Justice Programs, July 2001, <https://www.ojp.gov/library/publications/early-warning-systems-responding-problem-police-officer-research-brief>.

<sup>10</sup> “Report and Recommendations From Mayor’s Fair and Impartial Policing Working Group,” February 23, 2021, p. 39.

It is in the public interest to refer funds to the June 2023 budget process to accelerate the implementation process of a comprehensive EIS system as envisioned by Council action in 2021 in response to the Mayor's Fair and Impartial Working Group Report.

Such systems have operated successfully in other localities for some time. Evaluation can be conducted and software programs can be developed with consultants to assist BPD in implementing an EIS.

To achieve a comprehensive and effective EIS system, the scope of consultant work would include:

1. **Evaluating** the current early warning system.
2. **Identifying and including stakeholders in system design:** determine who will be impacted by the new policy and involve them in the evaluation process.
3. **Collecting and analyzing data:** collect data on the existing EIS policy's implementation and effects, both intended and unintended. This could include feedback from stakeholders, data on program outcomes, and review of any relevant reports or studies.
4. **Assessing the existing policy's effectiveness:** Evaluate the policy against its intended goals and objectives and determine if it is achieving its desired outcomes from BPD, BPA, and community perspectives.
5. **Researching and comparing** current best or suggested practices.
6. **Recommending improvements:** Based on current best or suggested practices and/or the results of the evaluation, make recommendations for improvement, revision, or implementation of alternative policies. Provide examples of sample reports that could come from the system.
7. **Evaluating a proposed system's fairness:** Consider the impact of the new policy on different groups, including personnel as well as marginalized communities, and determine if the policy is equitable, fair, and just.
8. **Evaluating the cost and implementation of alternatives or improvements:** assess the available data and resources required to implement a revised/desired policy and system and identify costs.
9. **Communicating results:** share the results of the evaluation with stakeholders and decision-makers, and engage in open and transparent discussions about the implications of the findings. Model a process for regular strategic dialogue between the BPD, City Management, Legislators, the PAB and community leaders to review aggregate data, patterns and trends to evaluate policing policies and strategies.



10. **Assist in Implementing changes:** based on the results of the evaluation and recommendations, assist with implementation of any desired changes.

FISCAL IMPACTS OF RECOMMENDATION

It is estimated that consultant work to implement a comprehensive EIS and Risk Management System would cost \$100,000.

ENVIRONMENTAL SUSTAINABILITY

Not applicable.

CONTACT PERSON

Councilmember Kate Harrison, (510) 981-7140





Kate Harrison  
Councilmember, District 4

CONSENT CALENDAR  
April 11, 2023

To: Honorable Mayor and Members of the City Council  
 From: Councilmember Harrison  
 Subject: Referring \$579,000 to the June 2023 Budget Process for Staffing Costs Associated with Acquisition of and Prevention of Displacement from Multi-Family Housing

RECOMMENDATION

Refer \$579,000 to the June 2023 Budget Process for annual City staffing costs and for allied non-profits to implement and administer programs associated with acquisition and prevention of displacement from multi-family housing including the Small Sites Program, investments related to the Empty Homes Tax, and administrative implementation of the proposed Berkeley Community and Tenant and Opportunity to Purchase Act (COPA/TOPA):

|                                                                                                                                                                     |                                                                                                                                                           |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------|
| Community Development Project Coordination for acquisition capacity of 3-6 additional projects per year (HHCS)                                                      | 1.5 FTE (1 FTE for the Empty Homes Tax and 0.5 FTE for COPA/TOPA) - \$318,915*<br><br>*Includes \$4,500 to support office, technology, and training needs |
| Community Development Project Coordination for COPA/TOPA (HHCS)                                                                                                     | 0.5 FTE - \$108,088                                                                                                                                       |
| Deputy City Attorney II                                                                                                                                             | 0.35 FTE - \$101,884                                                                                                                                      |
| Qualified Organization Capacity Support for two additional projects per year (in addition to existing allocation of \$100,000 to the Bay Area Community Land Trust) | \$50,000                                                                                                                                                  |

CURRENT SITUATION, EFFECTS, AND RATIONALE FOR RECOMMENDATION

The City of Berkeley is experiencing a historic housing and displacement crisis. Between 2005 and 2019 gross median rent increased by over 50%. This has been

Referring \$579,000 to the June 2023 Budget Process for Staffing Costs Associated with Acquisition of and Prevention of Displacement from Multi-Family Housing

particularly burdensome in a city where 58% of residents are renters.<sup>1</sup> While in recent years Berkeley has met its RHNA goals for those earning above 120% Area Median Income (AMI), it has failed to build or acquire sufficient housing for everyone else. Further, housing at the >120% AMI category has not significantly improved affordability for lower income residents and has increased displacement in low-income neighborhoods.<sup>2</sup> Unfortunately, Alameda County's housing remains unaffordable for many of its residents, and this burden does not fall evenly across income and racial groups. While 47% of renters in Alameda County are rent burdened, the rate is 58% for Black renters and 87% for extremely low-income renters.<sup>3</sup>

As documented by the Rent Board-sponsored Anti-eviction Mapping Project Report, the crisis has contributed to extreme displacement, with the City losing "49.2% of its Black population between 1990 and 2020," and "only 30% of households below 80% of Area Median Income (AMI) occupy[ing] units that are [ ] affordable to them."<sup>4</sup>

The extraordinary gap between the housing needs of residents and the availability of housing can only be bridged through the use of numerous policy interventions including enhancing the resources of the Small Sites Program to support acquisitions under the Empty Homes Tax and COPA/TOPA, and staffing to implement and administer the COPA/TOPA. The market will not do this on its own. Acquiring and preserving affordable housing is key to reaching the housing and equity goals codified in Berkeley's recently adopted 2023-2031 Housing Element and strategic plan because this is a cost-effective way to ensure the city does not lose the affordable homes it already has while it invests in producing more affordable homes overall.<sup>5</sup> The City of Berkeley is pursuing a number of strategies to acquire properties and make them permanently affordable but is forced to do so without adequate resources for City staff, its non-profit partners and for acquisition of properties.

Before the 2008 financial crisis, Berkeley had a robust housing department. The department was downsized and merged with the health department to form Health, Housing, and Community Services (HHCS). Despite limited housing staff, the Department has excelled in face of unprecedented Council demand for housing and acquisition. In contrast to other housing strategies, acquiring existing properties does

<sup>1</sup> Anti-Eviction Mapping Project: *Densifying Berkeley: Potential Impacts on Displacement and Equity*, 2022, <https://www.berkeleyside.org/wp-content/uploads/2022/04/AEMP-UpzoningReport-Draft4-3.pdf>.

<sup>2</sup> Id.

<sup>3</sup> California Housing Partnership Housing Needs Dashboard, 2019, <https://chpc.net/housingneeds/?view=37.405074,-119.26758,5&county=California,Alameda&group=housingneed&chart=shortfall|current,cost-burden|current,cost-burden-re|current,homelessness,historical-rents,vacancy,asking-rents|2022,budgets|2021,funding|current,state-funding,lihtc|2010:2021:historical,rhna-progress,multifamily-production>.

<sup>4</sup> "Anti-Eviction Mapping Project: *Densifying Berkeley: Potential Impacts on Displacement and Equity*," 2022.

<sup>5</sup> *City of Berkeley Housing Trust Fund and Small Sites Program Guidelines*. <https://berkeleyca.gov/sites/default/files/2022-04/Housing-Trust-Fund-Guidelines.pdf>.

Referring \$579,000 to the June 2023 Budget Process for Staffing Costs Associated with Acquisition of and Prevention of Displacement from Multi-Family Housing

not result in carbon-intensive demolition and it maximizes continuity and price security, minimizing displacement of long-term and low-income residents. However, to meet this demand in the face of the City's new Housing Element and other policies, it is critical to bolster staffing in the housing division.

### BACKGROUND

The Small Sites program, which acquires and renovates occupied, multifamily rental properties and converts into permanently affordable units or non-equity housing cooperatives, has successfully purchased properties, most recently 13 units of affordable housing on Solano Avenue and eight units in South Berkeley on a church property.<sup>6</sup> The program has been a critical piece of Berkeley's affordable housing strategy through the acquisition and rehabilitation of rental units. The sites guarantee below market rate rents.

On November 8, 2022 nearly two thirds of Berkeley voters approved Measure M, the Empty Homes Vacancy Tax, intended to incentivize owners of housing property to bring units back on the market and discourage speculation. The law will go into effect beginning January 1, 2024 and is expected to identify thousands of vacant units that could be candidates for acquisition, while also generating millions of dollars in revenue for housing acquisition and production. In addition to the staff needed to simply administer the tax, the City needs additional staff to help vet potential candidate properties identified as vacant and possibly available for acquisition. As a general tax, funds from the Empty Homes Tax will be placed into the General Fund. However, the voters in passing Measure M approved the non-binding intention of using the revenue in ways consistent with the Housing Trust Fund as well as other municipal purposes at the discretion of the Council.<sup>7</sup>

In addition, on March 10, 2020, COPA/TOPA was first presented to the Berkeley City Council's Land Use, Housing and Economic Development Policy Committee. The ordinance was heard again in March and May of 2021 before passing out of Committee on May 20, 2021 with a qualified positive recommendation. The Mayor held an informational work session on COPA/TOPA on January 27, 2022.<sup>8</sup> The ordinance would create legal rights for tenants to make the first offer or match any final offer to buy their home whenever the owner chooses to put it up for sale. Alternatively, tenants could assign these rights to an affordable housing developer so that it can prevent the displacement of the tenants by acquiring the property and preserving its affordability. COPA/TOPA would also provide technical assistance, education, and financing to help make these purchases possible.

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<sup>6</sup> Savidge, Nico. "To Boost Affordable Housing, Berkeley Looks to Buy, Not Just Build." *Berkeleyside*, 19 Sept. 2022, <https://www.berkeleyside.org/2022/06/05/berkeleys-affordable-housing-acquisition-rehabilitation-small-sites>.

<sup>7</sup> As discussed in the August 2022 Council report that accompanied the Empty Homes Tax and the tax ordinance.

<sup>8</sup> Mayor Jesse Arreguín, "Tenant Opportunity to Purchase Act, Adding B.M.C. Chapter 13.89," January 27, 2022, <https://berkeleyca.gov/sites/default/files/2022-04/2022-01-27%20Item%2001%20Tenant%20Opportunity%20to%20Purchase%20Act.pdf>

Referring \$579,000 to the June 2023 Budget Process for Staffing Costs Associated with Acquisition of and Prevention of Displacement from Multi-Family Housing

Thus, COPA/TOPA provides pathways to stabilize existing housing for tenants and preserve affordable housing, allows tenants to become first-time homeowners, and facilitates opportunities for democratic ownership of residential property. To be effective, COPA/TOPA requires a well-funded staffing infrastructure to administer and enforce it. Education, legal and technical assistance to tenants is also needed during implementation to ensure the rights that COPA/TOPA provides can be meaningfully exercised.

### FUNDING DETAILS

HHCS' housing services are currently provided by two units; one unit, the Housing Development Unit, is dedicated to affordable housing development through the City's Housing Trust Fund, including the Small Sites Program. The unit has a total of 3.5 FTE. None of the staff are dedicated specifically to Small Sites. Instead, this program has been absorbed into the workload of the unit alongside other housing development projects.

The Department reports that at peak times ahead of multi-year predevelopment or development processes, each Small Sites Program project demands up to 0.5 FTE. The additional 1.5 FTE contemplated in this item could assist HHCS with expanding the capacity of the program and using data from the Empty Homes Tax to identify properties for acquisition and rehabilitation by the City or its partners, including the Land Trust, non-profit developers and the Berkeley Housing Authority.

Current Small Sites Program duties include, but are not limited to:

- Managing projects funded through the Small Sites Program, including acquisition, rehabilitation or new construction by other organizations (typically nonprofit developers);
- Coordinating the disposition of City-owned property for development as affordable housing as needed;
- Developing competitive solicitations (NOFAs, RFPs, RFQs) for development funding as well as consultant services;
- Providing technical assistance, reviewing funding applications, underwriting projects, and making funding recommendations;
- Preparing housing loan or grant agreements using boilerplate documents and negotiate revisions with borrowers. Researching and drafting other types of agreements as needed;
- Monitoring projects during predevelopment and construction. Reviewing and approving draw requests and work with the Department's fiscal unit to disburse funds;
- Preparing reports and presentations for the City Council and Housing Advisory Commission.

In addition, this budget referral includes the approximately .5 FTE as proposed by the Department in order to implement additional part-time support from HHCS to coordinate the acquisition of properties in connection with COPA/TOPA.

Referring \$579,000 to the June 2023 Budget Process for Staffing Costs Associated with Acquisition of and Prevention of Displacement from Multi-Family Housing

The .5 FTE Community Development Project Coordinator duties will include:

- Program Design and Development, including coordinating with CAO to develop process, procedures, forms, etc.
- Developing and maintaining a webpage with certified Qualified Organizations (QO) and Supportive Partners (SP), active seller notices to tenants, and tenant/QO statements of interest
- Certifying and renewing QOs and SPs monitor and evaluate them on an ongoing basis
- Advising tenants and QOs on applying for SSP funding
- Developing targeted materials and provide ongoing education for landlords and tenants.
- Organizing trainings, meetings and webinars, and act as liaison to professional and civic groups, community organizations, and individuals

The City Attorney’s Office also indicates it will need additional resources to implement COPA/TOPA, as follows:

| <b>Deputy City Attorney II***</b>                                                                                                |              |                            |
|----------------------------------------------------------------------------------------------------------------------------------|--------------|----------------------------|
| <b>Task</b>                                                                                                                      | <b>% FTE</b> | <b>Ordinance Reference</b> |
| Adjudicate policy exemptions, such as definition of principal residence, family in family transfer, and medical hardship waivers | 5%           | 13.89.050                  |
| Adjudicate non-compliance with ROFR (verifies bona fide offers when dispute reported)                                            | 5%           | 13.89.100                  |
| Landlord/tenant mediation                                                                                                        | 5%           | 13.89.170                  |
| Legal Analysis of potential violations                                                                                           | 5%           | 13.89.170                  |
| Remedies/Civil Action for violations                                                                                             | 10%          | 13.89.170                  |
| Support advising of tenants and QOs                                                                                              | 5%           |                            |
|                                                                                                                                  | <b>35%</b>   |                            |

\*\*\*This is strictly related to ordinance implementation and does not reflect any staffing required for legal challenges to the ordinance

Finally, this request also includes an additional \$50,000 per year to assist Qualified Organizations with staff support to acquire up to two projects per year. The \$25,000 per project line item is included to build sufficient project management capacity for partners with the City. HHCS already acquires approximately two projects per year through the Small Sites Program and provides \$100,000 in capacity support to the Bay Area Community Land Trust. Berkeley will need to support additional start-up capacity and allow for ongoing support through pre-development funds related to specific small sites and/or COPA/TOPA projects.

Thanks to the foresight of Berkeley voters, the Council and staff, the Council has a wide variety of General Fund, Special Tax, and fee revenue that can be used to acquire housing and maintain it as affordable for current residents and future generations. The Measure U1 tax, the Housing Trust Fund, Measure O, and Measure M Vacancy Tax all have a strong nexus to property acquisition.

Referring \$579,000 to the June 2023 Budget Process for Staffing Costs Associated with Acquisition of and Prevention of Displacement from Multi-Family Housing

It is in the public interest to consider funding staff and non-profit support for acquisition of housing to remain perpetually affordable as part of the June, 2023 budget process.

FISCAL IMPACTS OF RECOMMENDATION

\$579,000 per year in staffing costs to enhance the Small Sites Program, fund programmatic and investment of Empty Homes Tax proceeds, and implement and administer COPA/TOPA.

ENVIRONMENTAL SUSTAINABILITY

Acquiring and rehabilitating existing housing stock can be a lower carbon alternative to demolition and building new affordable housing.

CONTACT PERSON

Councilmember Kate Harrison, (510) 981-7140





Kate Harrison  
Councilmember, District 4

CONSENT CALENDAR  
April 11, 2023

TO: Honorable Members of the City Council

FROM: Councilmember Harrison, Councilmember Bartlett

SUBJECT: Relinquishment of Council Office Budget Funds to Grant Downtown Berkeley Association (DBA) \$500 for 2274 Shattuck Avenue Mural Project serving a Municipal Public Purpose.

RECOMMENDATION

Adopt a resolution approving the expenditure to grant Downtown Berkeley Association (DBA) \$500 for the 2274 Shattuck Avenue Mural Project serving a Municipal Public Purpose, with funds relinquished to the City's general fund for this purpose from Councilmember Harrison's discretionary Council Office Budget Fund.

BACKGROUND

The Regal United Artists Theater has closed after 90 years. It is currently boarded up, making the once lively façade bare. Fortunately, The Downtown Berkeley Association has commissioned artist, Doran Dada, to paint a mural on the front of the building on behalf of the property owner, Panoramic Interests.

Dada has painted hieroglyphs since a teenager and describes his style of artwork as "Egyptian Wonderland." His work draws upon "folk art found in ancient cultures as well as in modern western ones," which hopes will "inspire a new awakening of the magnificent African contributions to the world and help guide us all towards a bright future together!" Dada recently completed a celebrated mural located at 3163 Adeline St.



“God Shu on his Flying Chariot,” by Doran Dada, 3163 Adeline St.,  
Photo by Natasha Kaye | Daily Californian<sup>1</sup>

The Downtown Berkeley business community has financially suffered from the ongoing effects of the pandemic and the following recession. Many businesses have shutdown, leaving vacant and sterile commercial buildings. Investing in public and accessible murals is one step we can take in stimulating downtown Berkeley’s economy and renewing its rich history of the arts.

Patrick Kennedy and the DBA have funded the mural, but it is important and in the public interest for the District 4 office to contribute to its completion by reimbursing \$500 to the DBA. Public art is free for all members of the public to enjoy.

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<sup>1</sup> Natasha Kaye, “Mural unveiled in South Berkeley as part of 'beautification' efforts,” The Daily Californian, January 27, 2023, <https://www.dailycal.org/2023/01/27/new-mural-unveiled-in-south-berkeley-as-part-of-beautification-efforts>

Relinquishment of Council Office Budget Funds to Grant Downtown Berkeley Association (DBA) \$500 for 2274 Shattuck Avenue Mural Project serving a Municipal Public Purpose.

CONSENT CALENDAR  
April 11, 2023



Mural In Progress, Photo by Doran Dada

**Cost of Completion**

| Patrick Kennedy | DBA      | District 4 | Total      |
|-----------------|----------|------------|------------|
| \$1,000.00      | \$500.00 | \$500.00   | \$2,000.00 |

**FISCAL IMPACTS OF RECOMMENDATION**

No General Fund Impact. \$500 is available from Councilmember Harrison’s office account.

**ENVIRONMENTAL SUSTAINABILITY**

Creating a beautiful, livable, walkable Downtown contributes to Berkeley’s environmental sustainability.

Relinquishment of Council Office Budget Funds to Grant Downtown Berkeley Association (DBA) \$500 for 2274 Shattuck Avenue Mural Project serving a Municipal Public Purpose.

CONSENT CALENDAR  
April 11, 2023

**CONTACT PERSON**

Councilmember Kate Harrison, (510) 981-7140

AUTHORIZING THE EXPENDITURE OF SURPLUS FUNDS FROM THE OFFICE  
EXPENSE ACCOUNT OF COUNCILMEMBER HARRISON FOR A GRANT TO THE 2274  
SHATTUCK AVENUE MURAL PROJECT TO PROVIDE PUBLIC SERVICES FOR A  
MUNICIPAL PUBLIC PURPOSE

WHEREAS, Councilmember Harrison has surplus funds in her office expenditure account; and

WHEREAS, The Regal United Artists Theater has closed after 90 years and is now boarded up with a bare and vacant façade and the owner of the building, the Downtown Berkeley Association, and District 4 Council office will fund artist Doran Dada to paint a mural on the front of the building; and

WHEREAS, the provision of such services would fulfill the City's and Downtown Berkeley's commitment to arts and culture, and it's dedication to stimulating Downtown Berkeley's economic growth and development;

WHEREAS, public art is free for all members of the public to enjoy and serves a municipal public purpose.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that funds relinquished by Councilmember Harrison from her Council Office Budget up to \$500 shall be granted to the Downtown Berkeley Association as a grant towards its \$1,000 expenditure toward the Shattuck Avenue Mural Project located at 2274 Shattuck Avenue.





Kate Harrison  
Councilmember, District 4

CONSENT CALENDAR  
April 11, 2023

To: Honorable Members of the City Council

From: Councilmember Kate Harrison

Subject: Resolution in Support of AB 641: Automobile dismantlers: catalytic converters.

### RECOMMENDATION

Adopt resolution in support of AB 641, Automobile dismantlers: catalytic converters, amending Section 220 of the Vehicle Code to revise and expand the definition of “automobile dismantler” to include individuals illegally in possession of two or more catalytic converters.

### BACKGROUND

Catalytic converters are standard technology that help reduce toxic pollution from gasoline and hybrid vehicles. As the price of metals continue to rise, thieves have unfortunately targeted parked vehicles, utilizing portable saws to cut off, steal, and then sell the converters as scrap. Hybrid vehicles such Toyota Priuses, are especially vulnerable given their precious metal content. Repairs can cost owners thousands of dollars.

AB 641, introduced by Assembly Member Vince Fong, would amend Section 220 of the California Vehicle Code to revise the definition of “automobile dismantler,” to include, specifically, a person who has two or more catalytic converters that have been cut from a motor vehicle with a sharp implement. This bill intends to expand the criteria for what can be legally actionable under state law. This bill addresses the current state of catalytic converter theft throughout California by expanding what qualifies as criminal behavior.

Berkeley is facing unprecedented vehicle theft driven, in many cases by the high resale price of catalytic converters. According to the Berkeley Scanner, the number of catalytic converter thefts has drastically risen from 15 incidents in 2017 to 843 incidents in 2022<sup>1</sup>: a 5,520% increase in just six years. In some cases, catalytic converter theft becomes violent. A handful of reported incidents in 2022 involved gunfire.

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<sup>1</sup> Raguso, Emilie. “Berkeley Police Find 'Freshly Cut' Catalytic Converter during Car Stop.” The Berkeley Scanner. The Berkeley Scanner, January 20, 2023.  
<https://www.berkeleyscanner.com/2023/01/20/arrests/berkeley-police-catalytic-converter-arrests/>.

This is not an issue isolated to Berkeley and the Bay Area. California has seen a massive rise in catalytic converter theft citing 1,600 thefts per month in 2022, accounting for 37% of catalytic converter theft nationally<sup>2</sup>. While the Berkeley Police Department is doing everything in its capacity to address this urgent issue, it has proven to be a difficult task without supplemental state-wide legislation.

Concerned constituents throughout Berkeley have urged Council to act on the alarming rate of rising catalytic converter theft. It is in the public interest to support legislative work at the state level to ensure Berkeley resident's safety and property protection.

FINANCIAL IMPLICATIONS

Limited staff time associated with sending a letter to designated recipients.

ENVIRONMENTAL SUSTAINABILITY

No foreseen impact.

CONTACT PERSON

Councilmember Kate Harrison  
510-981-7140

ATTACHMENTS:

1. Resolution
2. Support Letters
3. AB 641

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<sup>2</sup> "Justice Department Announces Takedown of Nationwide Catalytic Converter Theft Ring." Eastern District of California | Justice Department Announces Takedown of Nationwide Catalytic Converter Theft Ring | United States Department of Justice, November 2, 2022. <https://www.justice.gov/usao-edca/pr/justice-department-announces-takedown-nationwide-catalytic-converter-theft-ring>.



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

IN SUPPORT OF AB641: AUTOMOBILE DISMANTLERS CATALYTIC CONVERTERS

WHEREAS, in the City of Berkeley and statewide, communities face an urgent and ongoing rise in catalytic converter theft; and

WHEREAS, members of the California State Assembly are pursuing an effort to revise the definition of what qualifies an automobile dismantler, to expand its definition to cover existing crime; and

WHEREAS, change in State policy is key to addressing many unmet local policy priorities, providing additional support to local entities with protecting the safety of the public.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that it supports these efforts and the passage of AB 641 to expand the definition of automobile dismantlers in Section 220 of the California Vehicle Code.

BE IT FURTHER RESOLVED that the Clerk send a copy of this Resolution and letters of support to Governor Gavin Newsom, State Assemblymember Buffy Wicks, and State Senator Nancy Skinner.

Governor Gavin Newsom  
1021 O Street, Suite 9000  
Sacramento, CA 95814

**RE: Berkeley City Council in Support of AB 641: Automobile dismantlers:  
catalytic converters.**

Dear Governor Newsom,

We write to express our strong support of AB 641: Automobile dismantlers: catalytic converters, introduced by Assembly Member Vince Fong, amending Section 220 of the Vehicle Code to revise and expand the definition of “automobile dismantler” to include a person who has possession of two or more catalytic converters that have been cut from a motor vehicle with a sharp implement.

Existing state law fails to address the scope of crime associated with vehicle theft. As we have seen locally and nationally, catalytic converter theft has taken a massive financial and emotional toll on our communities. From cost of repair to fear of violence, vehicle theft leaves communities feeling terrified and violated. Berkeley residents have urged local government to take swift and assertive action.

Berkeley is facing unprecedented vehicle theft driven, in many cases, by the high resale price of catalytic converters. According to the Berkeley Scanner, the number of catalytic converter thefts has drastically risen from 15 incidents in 2017 to 843 incidents in 2022: a 5,520% increase in just six years.

For these reasons, the Berkeley City Council strongly supports AB 641.

Sincerely,

The Berkeley City Council

California State Senator Nancy Skinner  
1021 O Street, Suite 8630  
Sacramento, CA 95814

**RE: Berkeley City Council in Support of AB 641: Automobile dismantlers:  
catalytic converters.**

Dear Senator Nancy Skinner,

We write to express our strong support of AB 641: Automobile dismantlers: catalytic converters, introduced by Assembly Member Vince Fong, amending Section 220 of the Vehicle Code to revise and expand the definition of “automobile dismantler” to include a person who has possession of two or more catalytic converters that have been cut from a motor vehicle with a sharp implement.

Existing state law fails to address the scope of crime associated with vehicle theft. As we have seen locally and nationally, catalytic converter theft has taken a massive financial and emotional toll on our communities. From cost of repair to fear of violence, vehicle theft leaves communities feeling terrified and violated. Berkeley residents have urged local government to take swift and assertive action.

Berkeley is facing unprecedented vehicle theft driven, in many cases, by the high resale price of catalytic converters. According to the Berkeley Scanner, the number of catalytic converter thefts has drastically risen from 15 incidents in 2017 to 843 incidents in 2022: a 5,520% increase in just six years.

For these reasons, the Berkeley City Council strongly supports AB 641.

Sincerely,

The Berkeley City Council

State Assemblymember Buffy Wicks  
1021 O Street, Suite 4240  
P.O. Box 942849, Sacramento, CA 94249

**RE: Berkeley City Council in Support of AB 641: Automobile dismantlers:  
catalytic converters.**

Dear Assemblymember Wicks,

We write to express our strong support of AB 641: Automobile dismantlers: catalytic converters, introduced by Assembly Member Vince Fong, amending Section 220 of the Vehicle Code to revise and expand the definition of “automobile dismantler” to include a person who has possession of two or more catalytic converters that have been cut from a motor vehicle with a sharp implement.

Existing state law fails to address the scope of crime associated with vehicle theft. As we have seen locally and nationally, catalytic converter theft has taken a massive financial and emotional toll on our communities. From cost of repair to fear of violence, vehicle theft leaves communities feeling terrified and violated. Berkeley residents have urged local government to take swift and assertive action.

Berkeley is facing unprecedented vehicle theft driven, in many cases, by the high resale price of catalytic converters. According to the Berkeley Scanner, the number of catalytic converter thefts has drastically risen from 15 incidents in 2017 to 843 incidents in 2022: a 5,520% increase in just six years.

For these reasons, the Berkeley City Council strongly supports AB 641.

Sincerely,

The Berkeley City Council

**ASSEMBLY BILL**

**No. 641**

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**Introduced by Assembly Member Vince Fong  
(Principal coauthor: Assembly Member Jim Patterson)  
(Coauthors: Assembly Members Alanis, Chen, Dixon, Essayli, Flora,  
Joe Patterson, Ta, and Wallis)**

February 9, 2023

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An act to amend Section 220 of the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

AB 641, as introduced, Vince Fong. Automobile dismantlers: catalytic converters.

Existing law defines an “automobile dismantler” as a person who is engaged in the business of buying, selling, or dealing in vehicles that are required to be registered under the Vehicle Code, for the purpose of dismantling the vehicles, buys or sells the integral parts and component materials of those vehicles, or deals in used motor vehicle parts, as specified. The definition of “automobile dismantler” also includes a person who keeps or maintains on property owned by the person, or under their possession or control, 2 or more unregistered motor vehicles no longer intended for, or in condition for, legal use on the highways, as specified. Existing law makes it a crime for a person to act as an automobile dismantler without having an established place of business, meeting specified requirements, and having a current, valid license or temporary permit issued by the Department of Motor Vehicles.

This bill would revise the definition of an automobile dismantler to include a person who keeps or maintains on property owned by the person, or under their possession or control, for any of the above-described purposes 2 or more used catalytic converters that have

been cut from a motor vehicle using a sharp implement. By expanding the definition of an automobile dismantler, the bill would expand the scope of an existing crime, thereby imposing a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

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

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

1 SECTION 1. Section 220 of the Vehicle Code is amended to  
2 read:

3 220. (a) An “automobile dismantler” is ~~any~~ a person not  
4 otherwise expressly excluded by Section 221 ~~who~~: *who is engaged*  
5 *in the business of buying, selling, or dealing in vehicles of a type*  
6 *required to be registered under this code, including nonrepairable*  
7 *vehicles, for the purpose of dismantling the vehicles, who buys or*  
8 *sells the integral parts and component materials thereof, in whole*  
9 *or in part, or deals in used motor vehicle parts. This section does*  
10 *not apply to the occasional and incidental dismantling of vehicles*  
11 *by dealers who have secured dealer plates from the department*  
12 *for the current year whose principal business is buying and selling*  
13 *new and used vehicles, or by owners who desire to dismantle not*  
14 *more than three personal vehicles within any 12-month period.*

15 ~~(a) Is engaged in the business of buying, selling, or dealing in~~  
16 ~~vehicles of a type required to be registered under this code,~~  
17 ~~including nonrepairable vehicles, for the purpose of dismantling~~  
18 ~~the vehicles, who buys or sells the integral parts and component~~  
19 ~~materials thereof, in whole or in part, or deals in used motor vehicle~~  
20 ~~parts. This section does not apply to the occasional and incidental~~  
21 ~~dismantling of vehicles by dealers who have secured dealers plates~~  
22 ~~from the department for the current year whose principal business~~  
23 ~~is buying and selling new and used vehicles, or by owners who~~  
24 ~~desire to dismantle not more than three personal vehicles within~~  
25 ~~any 12-month period.~~

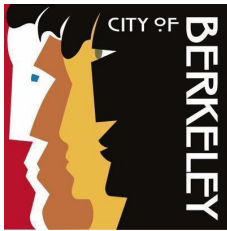
1 (b) Notwithstanding ~~the provisions of~~ subdivision (a),  
2 *“automobile dismantler”* includes a person not otherwise expressly  
3 *excluded by Section 221* who keeps or maintains on real property  
4 owned by ~~him, or under his~~ *the person, or under their* possession  
5 or control, two or more unregistered motor vehicles no longer  
6 intended for, or in condition for, legal use on the highways, *or two*  
7 *or more used catalytic converters that have been cut from a motor*  
8 *vehicle using a sharp implement*, whether for the purpose of resale  
9 of used parts, for the purpose of reclaiming for use some or all of  
10 the materials, whether metal, glass, fabric, or otherwise, or to  
11 dispose of them, or for any other purpose.

12 SEC. 2. No reimbursement is required by this act pursuant to  
13 Section 6 of Article XIII B of the California Constitution because  
14 the only costs that may be incurred by a local agency or school  
15 district will be incurred because this act creates a new crime or  
16 infraction, eliminates a crime or infraction, or changes the penalty  
17 for a crime or infraction, within the meaning of Section 17556 of  
18 the Government Code, or changes the definition of a crime within  
19 the meaning of Section 6 of Article XIII B of the California  
20 Constitution.

O







**Councilmember Sophie Hahn**  
City of Berkeley, District 5

CONSENT CALENDAR

April 11, 2023

**To:** Honorable Members of the City Council  
**From:** Councilmembers Sophie Hahn (Author); Susan Wengraf (Co-Sponsor)  
**Subject:** Proclaiming May as Jewish American Heritage Month

RECOMMENDATION

Adopt a resolution proclaiming May as Jewish American Heritage Month.

BACKGROUND

On April 20, 2006, the Federal Government proclaimed May as Jewish American Heritage Month, stating, “As a nation of immigrants, the United States is better and stronger because Jewish people from all over the world have chosen to become American citizens,” and, since then, proclamations in support of Jewish American Heritage Month have been made by Presidents of the United States annually, and by other government entities.

In recent years, Jewish Americans have increasingly experienced antisemitism, including but not limited to physical attacks, vandalism, verbal and physical harassment, and hateful comments posted on social media.

Berkeley has been and continues to be a City greatly enriched by the Jewish American community. This item honors Jewish-Americans in Berkeley and throughout the United States with a resolution in support of Jewish-American Heritage Month.

FINANCIAL IMPLICATIONS

N/A.

ENVIRONMENTAL SUSTAINABILITY

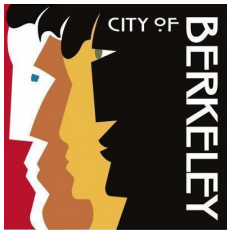
N/A.

CONTACT PERSON

Councilmember Sophie Hahn, (510) 981-7150

Attachments:

1. Resolution



Councilmember Sophie Hahn  
City of Berkeley, District 5

## RESOLUTION IN SUPPORT OF JEWISH AMERICAN HERITAGE MONTH

WHEREAS, Jewish Americans are an important part of the American story and have made significant contributions to all areas of American life and culture since our nation's earliest days; and

WHEREAS, on April 20, 2006, the Federal Government proclaimed May as Jewish American Heritage Month, stating, "As a nation of immigrants, the United States is better and stronger because Jewish people from all over the world have chosen to become American citizens," and, since then, proclamations in support of Jewish American Heritage Month have been made by Presidents of the United States annually; and

WHEREAS, generations of Jews from across the globe have come to the United States in search of a better life for themselves and their families, including many fleeing persecution and genocide; and

WHEREAS, in recognition of a shared experience of oppression, and in keeping with longstanding values and traditions, Jewish Americans have participated actively in movements to support equality and civil rights for all peoples; and

WHEREAS, Jewish Americans connect to their Jewish identity through history, culture, religion, and through the expression of Jewish ethics and values; and

WHEREAS, Jewish Americans are ethnically, socially, politically, and economically diverse, with an estimated 15% percent of Jewish Americans being individuals of color; and

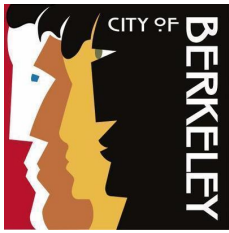
WHEREAS, in recent years, Jewish Americans have increasingly experienced antisemitism, including physical attacks, vandalism, verbal and physical harassment, and hateful comments posted on social media,<sup>1</sup> and

WHEREAS, the City of Berkeley shares an obligation to condemn and combat antisemitism wherever it exists, to include Jewish Americans in all facets of civic life, and to stand with the Jewish American community against hatred or bigotry; and

WHEREAS, there is a need for education and policies that are culturally competent when describing, discussing, and addressing the impacts of being Jewish in all aspects of American society, including discourse and policy; and

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<sup>1</sup> <https://crime-data-explorer.fr.cloud.gov/pages/explorer/crime/hate-crime>  
<https://www.adl.org/blog/antisemitic-incidents-reported-to-adl-increase-sharply-during-israel-hamas-conflict>  
<https://www.sdjewishworld.com/2021/09/20/survey-finds-jewish-college-students-fear-for-their-safety/>



**Councilmember Sophie Hahn**  
**City of Berkeley, District 5**

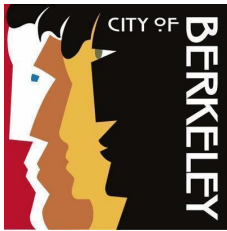
WHEREAS we celebrate the rich and diverse heritage of the Jewish American community, including those who live, work and play in Berkeley, and;

WHEREAS, we recognize Jewish American commitment to civic engagement and are enriched by local Jewish institutions such as The Magnes Collection of Jewish Life and Art, the Jewish Community Center of the East Bay, New Lehrhaus, Urban Adamah, and Congregations Beth El, Beth Israel, Chabad House, Berkeley Hillel, Congregation Netivot Shalom, Chochmat HaLev, and Beyt Tikkun, as examples;

NOW THEREFORE, BE IT RESOLVED that the City of Berkeley hereby declares the month of May as Jewish American Heritage Month, in appreciation of the achievements and contributions made by Jewish organizations and members of the Jewish American community.

BE IT FURTHER RESOLVED that the City of Berkeley will continue efforts to confront antisemitism and other forms of hate impacting the Jewish American community, support education about the Jewish American community, and include Jewish American culture in programs, activities, and ceremonies throughout the year.





**Councilmember Sophie Hahn**  
**City of Berkeley, District 5**

**To:** Honorable Members of the City Council  
**From:** Councilmembers Sophie Hahn (Author) and Terry Taplin (Co-Sponsor)  
**Subject:** Kala Art Institute 2023 Relinquishment of Council Office Budget  
 Funds to General Fund and Grant of Such Funds

#### RECOMMENDATION

Adopt a resolution approving the expenditure of an amount not to exceed \$500 per Councilmember, including \$250 from Councilmember Hahn and \$500 from Councilmember Taplin, to the Kala Art Institute, a 501(c)(3) non-profit organization, to support Art Kala 2023, an exhibition, auction, and benefit to support Kala's artistic, cultural, and educational programs, with funds relinquished to the City's general fund for this purpose from the discretionary Council office budgets of Councilmembers Hahn and Taplin, and from any other Councilmembers who would like to contribute.

#### BACKGROUND

Founded in 1974, by Archana Horsting and Yuzo Nakano, as an international residency program rooted in the local community and a forum for ideas, Kala Art Institute encourages artistic experimentation. Over four decades -- from a garage studio with one etching press and a single hot plate to a 15,200 sq. ft. facility in the historic West Berkeley Heinz building -- Kala has grown steadily in the breadth of its offerings and in the size of its operation, yet remains true to its mission to be a workshop of ideas and to engage the community through exhibitions, education, and public programs.

In 2009, Kala dynamically expanded its facility providing new opportunities for artists and the community. With improved studios, project rooms, classrooms, and a 2,200 sq. ft. light-filled gallery with an accessible street level location, Kala is working to maximize its capacity to serve the community as a vital center for artistic experimentation. Kala serves 35,000 individuals yearly through artist residencies, exhibitions, and community workshops. In addition, Kala's Artists-in-Schools program provides curriculum-based visual arts education to children in neighboring public schools in Berkeley, Emeryville, and Oakland. Overall, their constituents range from 5 to 95 years old and represent a diverse group of participants including local residents and visiting artists from all states and countries -- representing an international spectrum of backgrounds and experience. Bay Area artists represent 85% of participants in Kala's artist residencies.

Kala Art Institute's mission is to help artists sustain their creative work over time through its Artist-in-Residence and Fellowship Programs, and to engage the community through

exhibitions, public programs, and education.

The heart of Kala's mission as a vital, California art-making hub is supporting artists and engaging the community. Kala offers professional facilities to those working in and across print and digital media, new media, and performance. Artists at Kala are encouraged to work across disciplines, produce innovative artwork of the highest quality, and are given total freedom to realize their artistic vision using media that span the Gutenberg to digital eras. Kala offers access to equipment, time, and space to cultivate creative projects. Kala's studios provide tools for printmaking, photography, video, installation, and digital media. Kala fosters a fresh approach to experimentation, as artists investigate the interface of digital work, work made by hand, work made in the studio, performance-based work that engages the community and everything in between. A spirit of exchange and education is nurtured through all Kala's community programs.

Kala's creative community builds bridges between the intense art-making environment of the Kala studios, located in the historic Heinz ketchup factory in Berkeley and life outside the studio in Kala's immediate neighborhood and far beyond. Additionally, Kala is committed to offering quality art education to the general public and public school children through its on-site and online program of classes and workshops, summer programs and its Artists-in-Schools program, established in 1991, providing multiple week artist-led instruction to students in neighboring East Bay public schools.

Celebrating Kala's 49th year, Art Kala 2023 brings together Kala's creative community and features the inventive and meaningful art being made in the Bay Area. Art Kala 2023 with Honorary Auction Chair Jules Roman will open the auction benefit exhibition on March 30<sup>th</sup> with a free, family friendly preview party and will close the exhibition on May 13, 2023 with a festive closing party with food, drinks, music, a live auction and a short program honoring three local artists Pantea Karimi, Gregory Rick, and Jos Sances. Art Kala 2023 will take place at: Kala Gallery, 2990 San Pablo Avenue, Berkeley, California 94702. All proceeds support Kala's arts education and community arts programs.

More information can be found at: <http://www.kala.org/gallery/spring-gala-and-auction/>.

#### FISCAL IMPACTS OF RECOMMENDATION

A total of up to \$4,500 from Councilmembers' discretionary budgets.

#### ENVIRONMENTAL SUSTAINABILITY AND CLIMATE CHANGE

This item is consistent with the City's vision on sustainability.

#### CONTACT PERSON

Councilmember Sophie Hahn, (510) 981-7150

Attachments: Resolution

RESOLUTION #####-N.S.

AUTHORIZING THE EXPENDITURE OF SURPLUS FUNDS FROM  
THE OFFICE EXPENSE ACCOUNTS OF THE MAYOR AND COUNCILMEMBERS  
FOR A GRANT TO PROVIDE SUPPORT FOR A MUNICIPAL PUBLIC PURPOSE

WHEREAS, Kala Art Institute is a nonprofit organization dedicated to helping artists sustain their creative work over time through its Artist-in-Residence and Fellowship Programs, and to engaging the community through exhibitions, public programs, and education; and

WHEREAS, since 1974, Kala has grown steadily in the breadth of its offerings and in the size of its operation, yet remains true to its mission to be a workshop of ideas and to engage the community through exhibitions, education, and public programs; and

WHEREAS, Kala serves 35,000 individuals yearly through artist residencies, exhibitions, and community workshops, and through its Artists-in-Schools program provides curriculum-based visual arts education to children in neighboring public schools in Berkeley, Emeryville, and Oakland; and

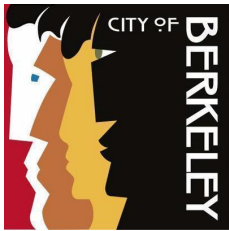
WHEREAS, Kala's constituents range from 5 to 95 years old and represent a diverse group of participants including local residents and visiting artists from all states and countries – representing an international spectrum of backgrounds and experience – with Bay Area artists representing 85% of participants in Kala's artist residencies; and

WHEREAS, Art Kala 2023 brings together Kala's creative community and features inventive and meaningful art being made in the Bay Area, honoring Pantea Karimi, Gregory Rick, and Jos Sances; with a VIP Print by Pavel Acevedo;

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that funds relinquished by the Mayor and Councilmembers from their Council Office Budget, up to \$500 per office, including \$250 from the office of Councilmember Hahn and \$500 from the office of Councilmember Taplin, shall be granted to the Kala Art Institute to support Art Kala 2023 and to celebrate Kala's 49th year of sustaining the creative work of Berkeley artists.







**Councilmember Sophie Hahn**  
City of Berkeley, District 5

CONSENT CALENDAR

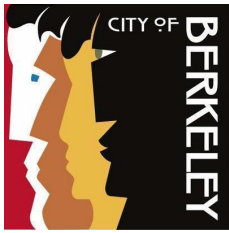
April 11, 2023

**To:** Honorable Members of the City Council  
**From:** Councilmember Sophie Hahn (Author), Councilmembers Ben Bartlett and Terry Taplin (Co-Sponsors)  
**Subject:** Budget Referral: Funds to Study Berkeley's Affordable and Social Housing Needs and Programmatic and Funding Opportunities

RECOMMENDATION

Refer \$250,000 to the June 2023 budget process to study and report to Council on:

1. The need for Affordable Housing in Berkeley to:
  - a. Rehouse Berkeley's unhoused residents.
  - b. Meet the housing needs of very low-, low- and moderate-income Berkeley residents, from less than 30% to 120% of Area Median Income (AMI).
  - c. Significantly increase cooperative, land trust, and other Social Housing, including innovative social housing models that provide significant moderate-income housing opportunities.
  - d. Meet the needs of low-income artists, seniors, individuals with disabilities, and other populations with unique needs.
  - e. Potentially increase Affordable Housing, up to 100%, at North Berkeley and Ashby Bart Stations.
  - f. Meet the City's Housing Element Affordable Housing production requirements of 5,270 units from 30%-120% AMI in a timely manner, prior to the end of the current RHNA cycle in 2031.
2. Existing and potential new programs to increase homeownership for low-income and first-time homebuyers.
3. Needs/programs to accelerate the City's Small Sites Program.
4. Existing and upcoming funds available at the local, County, Regional, State, and Federal levels to support Berkeley in meeting its Affordable and Social Housing needs and requirements.
5. Berkeley-specific funds required to meet Affordable and Social Housing needs and to produce Berkeley's RHNA-required Affordable Housing, including funds to build capacity at Land Trusts and other organizations to deliver Cooperative and Social Housing.
6. Existing sources and amounts of Funding available to meet Berkeley's Affordable and Social Housing needs and requirements.



**Councilmember Sophie Hahn**  
**City of Berkeley, District 5**

7. Potential Bonds or other measures to secure necessary Affordable and Social Housing funds including a potential measure or measures on the November 2024 ballot, based on the success of 2018 Measure O.
8. Added costs of delaying the preservation and construction of Affordable Housing, including potential increased costs for land, financing, and construction, and the yearly/per-individual cost of providing services to Berkeley's unhoused residents.
9. Consequences of failure to meet RHNA Affordable Housing allocations in a timely manner.
10. Potential re-authorization of Measure P in November of 2024 as a permanent measure, to extend additional funding available to support rehousing the homeless.
11. Any other information related to Affordable and Social Housing in Berkeley to help inform residents and the City Council of the need for additional Affordable Housing and Affordable Housing programs and funds, and funds to rehouse the homeless.

Study to be delivered to the City Council no later than December 1, 2023 and to include a plan for Berkeley to meet its Affordable and Social Housing needs and requirements and recommendations for additional funds, programs, and other measures to meet needs over the next decade.

#### FINANCIAL IMPLICATIONS

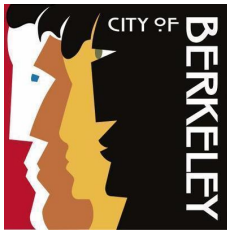
\$250,000 from the General Fund

#### CURRENT SITUATION AND ITS EFFECTS

Measure O, passed by 77.5% of voters in 2018, provided \$135 million in funding for affordable housing in the City of Berkeley. To date, Measure O-funded projects that are completed or under construction have secured an average of \$4.40 of other funding for every \$1.00 of City funds. This trend suggests that once all funds have been fully spent, as much as \$594 million in new affordable housing will have been built, supported, or preserved as a direct result of Measure O.

Currently all Measure O funds have been raised or pre-allocated to upcoming affordable housing projects in the design phase. No additional funding from Measure O remains to support future projects.

At the same time, Berkeley's recently passed Housing Element requires the City to produce a total of 5,270 units of housing affordable to families earning from 30% to 120% of AMI. While numbers have decreased in recent years, Berkeley still counts approximately 1,000 homeless people every night. Working and low-income families struggle to find homes. Lotteries for affordable units attract thousands more people than spaces available. There is a clear need for



**Councilmember Sophie Hahn**  
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the construction, acquisition, and preservation of additional affordable housing for our community.

To continue Berkeley's commitment to building and preserving affordable housing, jump-started with Measure O funds, Berkeley must plan ahead.

Similarly, 2018's Measure P has been tremendously impactful. Berkeley has made quantifiable progress by funding state-of-the-art programs to rehouse the homeless. In fact, during the pandemic years, homelessness in Berkeley decreased by 5% while increasing more than 20% in Alameda County as a whole. The City has successfully rehoused hundreds of individuals, leveraging City of Berkeley funds, supported by Measure P, with additional State and Federal funding. Unfortunately, Measure P sunsets in 2028. This already presents challenges in planning for continued success.

This item funds research and development of comprehensive plans documenting needs and requirements for Affordable and Social Housing and rehousing services for the homeless, and outlining programs and funds needed to meet those needs over the coming decade. With respect to funding needs, this item asks for an assessment of the potential for ballot measures in November of 2024, following on the success of Measures O and P.

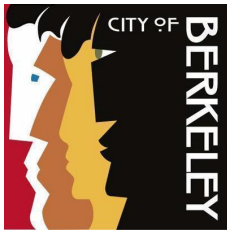
## BACKGROUND

### **Affordable Housing Bond**

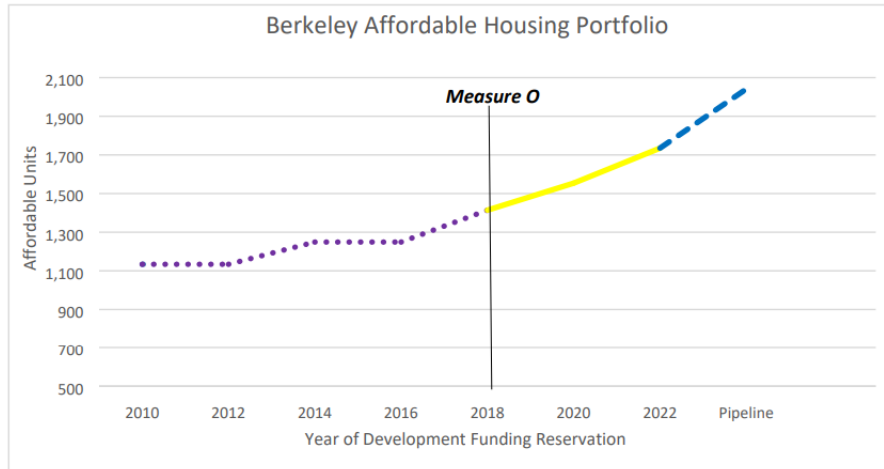
In November 2018 Berkeley voters adopted Measure O which allowed the City to issue up to \$135 million in bonds to fund housing for "low-, very low-, low-, median-, and middle-income individuals and working families, including teachers, seniors, veterans, the homeless, students, people with disabilities, and other vulnerable populations."

As a bond measure dedicated to a specific purpose, Measure O required a two-thirds supermajority vote to pass. The measure passed with 77% of Berkeley voters voting in favor.

Measure O included provisions to establish an oversight committee as well as to conduct annual audits. The Measure O Bond Oversight Commission was first convened in April 2019. The Commission met seven times in 2019, one in 2020 prior to the pandemic, and again in February and March of 2021. Subsequently, Council approved the assignment of Measure O oversight to the Housing Advisory Commission and dissolved the Measure O Bond Oversight Commission.



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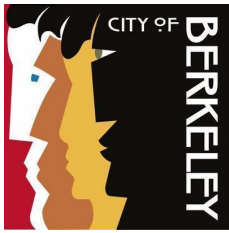
Most affordable housing developments leverage the City’s investment with at least 5-7 other funding sources. Measure O-funded projects that are completed or under construction have secured an average of \$4.40 of other funding for every \$1.00 of City funds.

Per Section 3.6.1 of the Housing Element “A household is considered to have a housing cost burden if it spends more than 30 percent of gross income on housing expenses. Housing expenses include rent or mortgage payments and utilities. For owner households, housing expenses also include taxes and insurance. Households with a cost burden may have trouble making rent, mortgage or utility payments, keeping up with home maintenance, or may have to forego other non-housing related necessities in order to keep up with housing expenses. A household is considered as having a severe cost burden if housing expenses make up over 50 percent of the household’s gross income.”

Table 3.30: Cost Burden in Berkeley, Alameda County, and the Bay Area (2017)

|                 | Cost Burden<br>(>30% of Income Used for Housing) |                 | Severe Cost Burden<br>(>50% of Income Used for Housing) |                 |
|-----------------|--------------------------------------------------|-----------------|---------------------------------------------------------|-----------------|
|                 | # of Households                                  | % of Households | # of Households                                         | % of Households |
| <b>Berkeley</b> |                                                  |                 |                                                         |                 |
| Owner Occupied  | 5,298                                            | 27%             | 2,398                                                   | 12%             |
| Renter Occupied | 13,794                                           | 53%             | 8,182                                                   | 32%             |
| All Households  | 19,092                                           | 42%             | 10,580                                                  | 23%             |
| <b>Region</b>   |                                                  |                 |                                                         |                 |
| Alameda County  | 214,197                                          | 37%             | 96,579                                                  | 17%             |
| Bay Area        | 986,937                                          | 36%             | 447,802                                                 | 16%             |

Source: ABAG Housing Element Data Package (based on U.S. Dept. of Housing and Urban Development (HUD), Comprehensive Housing Affordability Strategy (CHAS), ACS tabulation, 2013-2017 release)



**Councilmember Sophie Hahn**  
City of Berkeley, District 5

As summarized in Table 3.30: Cost Burden in Berkeley, Alameda County, and the Bay Area (2017), 42 percent of all Berkeley households are cost burdened with 23 percent experiencing a severe cost burden. Cost burden is notably more prevalent among renter households, with over half of renter households paying more than 30 percent of their income to housing expenses. When compared to the region, cost burden is more widespread in Berkeley than in Alameda County and the Bay area as a whole.

For the 2023-2031 Housing Element, ABAG assigned the City of Berkeley a RHNA of 8,934 units. This RHNA is divided into four income categories. The RHNA does not include the extremely low category. It is estimated to be ½ of the very-low-income need, per Government Code §65583.a.1. The total very-low-income RHNA is 2,446; therefore, 1,223 units are designated as extremely-low-income and 1,223 units are designated as very-low-income.

| INCOME LEVEL               | 2015-2023 RHNA UNITS | 2023-2031 RHNA UNITS |
|----------------------------|----------------------|----------------------|
| Very Low (< 50% AMI)       | 532                  | 2,446                |
| Low (50-80% AMI)           | 442                  | 1,408                |
| Moderate (80-120% AMI)     | 584                  | 1,416                |
| Above Moderate (>120% AMI) | 1,401                | 3,664                |
| <b>Total</b>               | <b>2,959</b>         | <b>8,934</b>         |

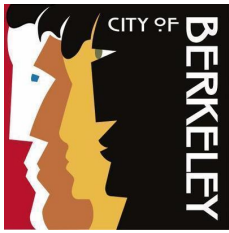
### **Reauthorization of Measure P**

Measure P provides around \$10 million of funding annually from real property transfer taxes to pay for homeless services. Berkeley voters passed Measure P in November 2018 with 72.4% approval.

The City is using funding from Measure P to address immediate street conditions & hygiene, provide emergency shelter and temporary accommodation, establish new permanent housing, and prevent households from becoming homeless again. The City is funding 24 homeless services projects in the current fiscal year with \$16.8 million in Measure P funds.

### **Progress on homeless services projects**

Homeless services projects funded by Measure P are providing support services for unhoused members of the Berkeley community. These services include:



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City of Berkeley, District 5

### **Immediate street conditions and hygiene**

Measure P funds will support nine projects aimed at addressing immediate street conditions and hygiene. These projects address the immediate needs of persons currently living on the streets or in vehicles. The projects provide a range of services, including mental health crisis response, street medicine, lockers, outreach workers, and portable toilets, as well as drop-in services such as food, case management, and help obtaining documents for social services. The City anticipates spending \$3.2 million of Measure P funding on these services through June 2023.

### **Emergency shelter**

Measure P funds five projects that provide immediate shelter and supportive services for a range of adults, including transitional-age youth, those seeking to move out of encampments, and others. Support services include coordinated entry system access, housing navigation, and employment development. The City anticipates spending \$4.3 million of Measure P funding on these services through June 2023.

### **Permanent housing**

Measure P will also fund four permanent housing projects in the current fiscal year. These projects provide immediate housing and supportive services for single adults and families that were formerly homeless. Services provided by the sites include housing retention services, payee support, and mental health treatment. The City anticipates spending \$2.9 million of Measure P funding on permanent housing in the current fiscal year.

### **Homelessness prevention**

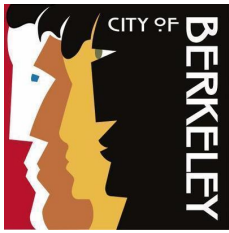
Measure P funds will also target two programs to prevent homelessness through legal assistance, housing retention services, and flexible housing funds. These direct interventions help individuals or families who can immediately avoid homelessness. The city anticipates spending \$1.9 million on these services through June 2023.<sup>1</sup>

Securing stable, long term, predictable funding allows staff to plan strategies, make long term commitments to community partners and peer agencies, compete for and secure competitive grant funding, while continuing to address urgent and shorter term needs as they arrive.

Measures O & P were well received by voters in 2018. Together, they have been extremely successful at generating the physical assets to actually house low income residents while funding the vitally needed services to provide transitional support to rehouse many of our homeless neighbors. Substantially similar follow up funding measures modeled on their success provides a clear pathway forward for our community to honor the commitments we've made to ending homelessness in an effective and proven manner.

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<sup>1</sup> <https://berkeleyca.gov/your-government/our-work/bond-revenue-measures/measure-p>



**Councilmember Sophie Hahn**  
City of Berkeley, District 5

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

The City's Housing Trust Fund Guidelines identify sustainable development as a City priority, and encourage developers to incorporate as many green building strategies and materials as is feasible. New construction affordable housing developments are typically built to third-party, green building standards such as LEED or GreenPoint Rated.

CONTACT PERSON

Councilmember Sophie Hahn, (510) 981-7150

Attachments:

1. Measure O Bond Impacts on Affordable Housing Development in Berkeley
2. Measure P Program Projection as of 9/1/22
3. Affordable Housing Projects Funded by Measure O and Other Sources since 2018



Office of the City Manager

ACTION CALENDAR  
October 11, 2022

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: Lisa Warhuus, Director, Health, Housing and Community Services  
 Subject: Measure O Bond Impacts on Affordable Housing Development in Berkeley

RECOMMENDATION

Review and discuss the presentation on Measure O Bond impacts on affordable housing development in Berkeley.

SUMMARY

In 2018 Berkeley voters approved Measure O, a general obligation bond that will generate up to \$135 million for affordable housing developments. As this report demonstrates, the funds have had a significant impact on the production of new affordable housing units; expanding the City’s Housing Trust Fund portfolio and creating a robust pipeline of new housing developments.

CURRENT SITUATION AND ITS EFFECTS

As of September 30, 2022, \$111,379,307 in Measure O funds have either been committed (via an executed loan agreement) or awarded (by Council action) for specific affordable housing development projects. The projects with either committed or awarded Measure O funds are listed below:

| Project Name                     | Address           | Units | Measure O    | Status             |
|----------------------------------|-------------------|-------|--------------|--------------------|
| Jordan Court                     | 1601 Oxford       | 35    | \$3,501,884  | Occupied           |
| Berkeley Way – BRIDGE Affordable | 2020 Berkeley Way | 89    | \$179,494    | Lease-up           |
| Berkeley Way Hope Center - PSH   | 2012 Berkeley Way | 53    | \$6,731,092  | Lease-up           |
| Berkeley Way Hope Center Shelter |                   | 44*   | \$6,909,837  | Lease-up           |
| Maudelle Miller Shirek Community | 2001 Ashby        | 87    | \$12,932,000 | Under construction |
| Blake Apartments                 | 2527 San Pablo    | 63    | \$9,125,000  | Under construction |
| 1740 San Pablo                   | 1740 San Pablo    | 54    | \$7,500,000  | Predevelopment     |



|                          |                             |                      |                      |                |
|--------------------------|-----------------------------|----------------------|----------------------|----------------|
| BUSD Workforce Housing   | 1701 San Pablo              | 110                  | \$24,500,000         | Predevelopment |
| BART sites               | North Berkeley & Ashby BART | TBD                  | \$40,000,000         | Planning       |
| <b>Measure O impact:</b> |                             | <b>&gt;535 units</b> | <b>\$111,379,307</b> |                |

\* Shelter beds

Council also reserved \$17 million from the third issuance of Measure O (anticipated in 2025) to support the following pipeline projects:

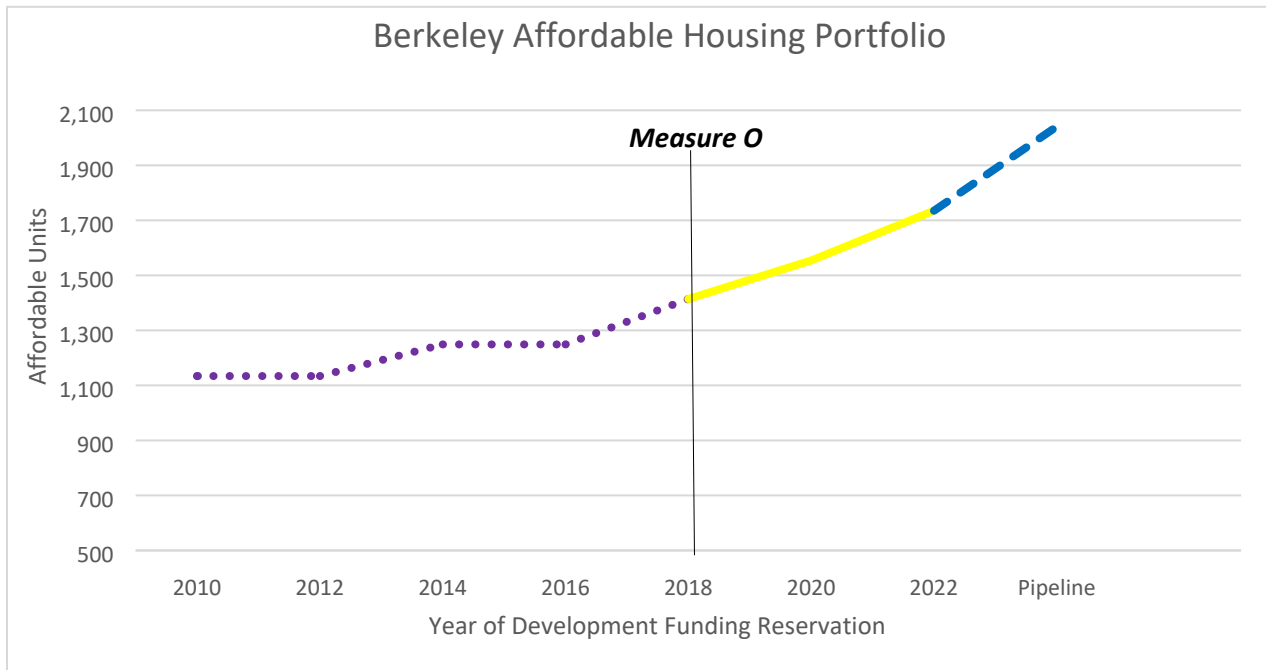
| Project Name                        | Address    | Units | City Funding | Status         |
|-------------------------------------|------------|-------|--------------|----------------|
| Supportive Housing in People’s Park | 2566 Haste | 119   | \$14,359,593 | Predevelopment |
| St. Paul Terrace                    | 2024 Ashby | 50    | \$12,250,000 | Predevelopment |

Together, the awarded, committed, and reserved funds account for \$128,379,307 in Measure O funds. More details about these projects can be found in the attached Measure O Projects spreadsheet.

*Measure O’s Impact on the City’s Affordable Housing Portfolio*

Measure O supplements the City’s Housing Trust Fund, which pools Affordable Housing Mitigation Fees, Inclusionary Fees, Commercial Linkage Fees, Condo Conversion Fees, and entitlement funds from the federal HOME program. Prior to Measure O, the City was able to fund no more than one new construction project every few years. The 15-unit Harmon Gardens was completed in 2011, and the next affordable new construction project was the 42-unit Harper Crossing, which was completed in 2018. The City issued a Request for Proposals in 2019 through which Council approved funding reservations for five new construction projects, all supported with Measure O, including two that were completed earlier this year. In 2010, the City had approximately 1,134 apartments in its portfolio of restricted affordable housing units. With completed projects, active projects, and pipeline projects, the City is on track to nearly double its portfolio in the coming years to over 2,000 apartments.

The following table shows the growth in the City’s affordable housing portfolio since 2010, and the impact Measure O has had on increasing the City’s inventory of apartments affordable to extremely low-, very low-, and low-income households.



**Leveraging of City Funds**

The City’s affordable housing development funds are most often reserved early in the predevelopment process. This allows project sponsors to compete for state and federal funds. Typically, the City executes a loan agreement once all permits are ready to issue and full financing has been secured, a process which usually takes years. At times City funds are loaned at site acquisition. As a result, funds may be reserved or committed for years before they are expended.

Most affordable housing developments leverage the City’s investment with at least 5-7 other funding sources. Measure O-funded projects that are completed or under construction have secured an average of \$4.40 of other funding for every \$1.00 of City funds. Leveraging data for funded developments can be found in the attachment to this report.

**Measure O Disbursements**

Once Measure O funds are committed to a project, they are typically disbursed on a monthly (or less frequent) schedule when the project sponsor has incurred eligible project expenses as well as satisfied various conditions of the loan agreement. The project sponsor submits an invoice along with documentation of each expense, which is reviewed and approved by multiple City staff before funds are released.

As of 9/30/2022 the City had disbursed \$28,871,911 in Measure O funds through seven development loans. Four housing developments are complete or substantially complete

(Berkeley Hope Center, Berkeley Hope Center Permanent Supportive Housing, BRIDGE Berkeley Way, and Jordan Court), two are in construction (Maudelle Miller Shirek Community and Blake Apartments), and site acquisition has been completed for 1740 San Pablo Ave. These represent a total of 221 units (including 44 shelter beds) completed with Measure O support to date, and another 150 currently in construction.

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

### BACKGROUND

In November 2018 Berkeley voters adopted Measure O which allowed the City to issue up to \$135 million in bonds 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."

As a bond measure dedicated to a specific purpose, Measure O required a two-thirds supermajority vote to pass. The measure passed with 77% of Berkeley voters voting in favor.

The City has issued Measure O bonds twice so far:

- In FY2020 the City issued \$38,000,000 in Measure O bonds. The cost of issuing these bonds, including bond counsel, was \$785,000. Net funds received were \$37,215,000.
- In May 2022 the City issued \$40,000,000 in Measure O bonds. The cost of issuing these bonds, including bond counsel, was \$432,800. Net funds received were \$39,567,200.

Measure O included provisions to establish an oversight committee as well as to conduct annual audits. The Measure O Bond Oversight Commission was first convened in April 2019. The Commission met seven times in 2019, one in 2020 prior to the pandemic, and again in February and March of 2021.

Subsequently, Council approved the assignment of Measure O oversight to the Housing Advisory Commission and dissolved the Measure O Bond Oversight Commission. The Commissions have reviewed requests for funding, made funding recommendations to Council and received information about the status of funding reservations and commitments. Neither commission produced its own report assessing the status of Measure O. Full commission packets are not available on the City's new website.

Staff are in the process of contracting with an outside auditor to audit Measure O expenditures as required by the ballot measure. The first fiscal year including Measure O expenditures ended on June 30, 2021 and will be the first year to be audited.

Members of the public who are interested in learning more about Measure O funds as they are allocated and expended can consult the Housing Advisory Commission meeting agendas and materials online, and/or attend the Commission meetings.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

The City's Housing Trust Fund Guidelines identify sustainable development as a City priority, and encourage developers to incorporate as many green building strategies and materials as is feasible. New construction affordable housing developments are typically built to third-party, green building standards such as LEED or GreenPoint Rated.

POSSIBLE FUTURE ACTION

Council will review and take action on funding reservations related to the development of affordable housing at the BART sites, which will be partially funded with Measure O funds.

FISCAL IMPACTS OF POSSIBLE FUTURE ACTION

Council's funding reservations for pipeline or new affordable housing developments would allocate the remaining Measure O funds, and other available Housing Trust Funds.

CONTACT PERSON

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

Attachment:

1: Measure O-Funded Developments

City of Berkeley  
**Affordable Housing Projects Supported by Measure O**  
 Total Authorized Bonds = \$135M

| Project Name                                                                          | Project Address          | Development Partner                                   | Description                                                                                                                                                                                | Units <sup>1</sup> | Affordability    | Total Measure O Funds Committed or Reserved <sup>2</sup> | Measure O Disbursements Through September 2022 | Total City Funds Reserved | Projected Sources of Funds <sup>3</sup>                                      | Project Status               |
|---------------------------------------------------------------------------------------|--------------------------|-------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------|------------------|----------------------------------------------------------|------------------------------------------------|---------------------------|------------------------------------------------------------------------------|------------------------------|
| <b>Projects with Measure O Commitments and Reservations</b>                           |                          |                                                       |                                                                                                                                                                                            |                    |                  |                                                          |                                                |                           |                                                                              |                              |
| <a href="#">BRIDGE Berkeley Way</a>                                                   | 2012 Berkeley Way        | BRIDGE Housing                                        | 89 affordable homes and services for low- and very low- income families.                                                                                                                   | 89                 | 50-60% AMI       | \$179,494                                                | \$161,544                                      | \$2,774,925               | Measure O, HTF                                                               | Under Construction           |
| <a href="#">BFHP Hope Center</a>                                                      | 2012 Berkeley Way        | Berkeley Food & Housing Project (BFHP)/BRIDGE Housing | 32-bed homeless shelter, 12 transitional beds for homeless veterans, a community kitchen and wrap-around services for mental health, substance abuse, job training and social activities.  | 44                 | 0-30% AMI        | \$6,909,837                                              | \$5,354,255                                    | \$16,964,507              | Berkeley's Housing Trust Fund (HTF), Measure U1 <sup>4</sup> (U1), Measure O | Under Construction           |
| <a href="#">BFHP Hope Center Permanent Supportive Housing</a>                         | 2012 Berkeley Way        | BFHP/ BRIDGE Housing                                  | 53 permanent supportive housing apartments.                                                                                                                                                | 53                 | 0-30% AMI        | \$6,731,092                                              | \$6,250,345                                    | \$7,727,630               | Measure O, HTF                                                               | Under Construction           |
| <a href="#">Jordan Court</a>                                                          | 1601 Oxford Street       | Satellite Affordable Housing Associates (SAHA)        | 34 affordable studio units for seniors. 12 units will also be set aside for formerly homeless households.                                                                                  | 35                 | 20-60% AMI       | \$3,501,884                                              | \$2,906,118                                    | \$6,026,927               | HTF, Measure O                                                               | Completed                    |
| <a href="#">Maudelle Miller Shirek Community</a>                                      | 2001 Ashby Avenue        | Resources for Community Development (RCD)             | 86 apartments for families and individuals. 12 units will also be set aside for formerly homeless households.                                                                              | 87                 | 20-80% AMI       | \$12,932,000                                             | \$2,336,537                                    | \$17,000,000              | Measure O, U1, LHFTF                                                         | Under Construction           |
| <a href="#">Blake Apartments</a>                                                      | 2527 San Pablo Avenue    | SAHA                                                  | 21 studio units, eight one-bedroom units, 33 two-bedroom units and one three-bedroom manager's unit. 12 units are prioritized for people with an intellectual or developmental disability. | 63                 | 30-60% AMI       | \$9,125,000                                              | \$6,992,872                                    | \$12,000,000              | Measure O, U1, State Local Housing Trust Fund (LHFTF)                        | Under Construction           |
| <a href="#">1740 San Pablo Avenue</a>                                                 | 1740 San Pablo Avenue    | BRIDGE Housing                                        | 53 new affordable homes for families                                                                                                                                                       | 54                 | 30-60% AMI       | \$7,500,000                                              | \$4,870,239                                    | \$7,500,000               | Measure O                                                                    | Acquisition / Predevelopment |
| <a href="#">Berkeley Unified School District (BUSD) Workforce Housing Development</a> | 1701 San Pablo Avenue    | BUSD/SAHA/Abode                                       | Approximately 109 homes in a five to six story building. Employees of BUSD and their households will have a leasing preference.                                                            | 110                | 30-120% AMI      | \$24,500,000                                             | -                                              | \$24,500,000              | Measure O                                                                    | Acquisition / Predevelopment |
| <a href="#">BART Sites</a>                                                            | Ashby and North Berkeley | TBD                                                   | TBD                                                                                                                                                                                        | TBD                | TBD              | \$40,000,000                                             | -                                              | \$53,000,000              | TBD                                                                          | Planning                     |
| <b>Measure O Impact</b>                                                               |                          |                                                       |                                                                                                                                                                                            | <b>&gt;535</b>     | <b>New Units</b> | <b>\$111,379,307</b>                                     | <b>\$28,871,911</b>                            | <b>\$147,493,989</b>      |                                                                              |                              |
| <b>Projects with City Funding Reservations</b>                                        |                          |                                                       |                                                                                                                                                                                            |                    |                  |                                                          |                                                |                           |                                                                              |                              |
| <a href="#">Supportive Housing at People's Park</a>                                   | 2556 Haste Street        | RCD                                                   | 118 affordable units with 62 units set aside for formerly homeless households.                                                                                                             | 119                | 10-50% AMI       | FR <sup>5</sup>                                          | -                                              | \$14,359,593              | TBD                                                                          | Acquisition / Predevelopment |
| <a href="#">St. Paul Terrace</a>                                                      | 2024 Ashby Avenue        | Community Housing Development Corporation (CHDC)      | 49 affordable units, including 11 studios, 6 one-bedrooms and 17 two-bedrooms, and 15 three-bedrooms.                                                                                      | 50                 | 30-60% AMI       | FR                                                       | -                                              | \$12,250,000              | TBD                                                                          | Predevelopment               |
| <a href="#">Ephesians Legacy Court</a>                                                | 1708 Harmon Avenue       | CHDC                                                  | 79 one-bedroom units.                                                                                                                                                                      | 80                 | 30-60% AMI       | FP <sup>6</sup>                                          | -                                              | \$3,556,400               | TBD                                                                          | Predevelopment               |
|                                                                                       |                          |                                                       |                                                                                                                                                                                            | <b>249</b>         |                  |                                                          |                                                | <b>\$30,165,993</b>       |                                                                              |                              |

<sup>1</sup> total units, including managers' units

<sup>2</sup> committed = in contract, and reserved = set aside for a particular project

<sup>3</sup> the final mix of funds is determined at loan closing

<sup>4</sup> General Funds generated pursuant to Measure U1

<sup>5</sup> Funding Reservation that the City Council has approved from currently available affordable housing funds and from forward reservations of up to \$17 million from the third issuance of Measure O bonds and \$2.5 million in FY2023 general funds generated pursuant to Measure U1

<sup>6</sup> Funding Prioritization by City Council prioritizing future housing funds (including but not limited to HTF and Measure O funds)

| Leveraging of Measure O/City Subsidy                          |                |                                  |                |                  |                                                        |                                                                                                                                                                                                                                             |
|---------------------------------------------------------------|----------------|----------------------------------|----------------|------------------|--------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Project Name                                                  | Project Budget | City Funds (including Measure O) | Non-City Funds | Leveraging Ratio | Non-City Sources                                       | Notes                                                                                                                                                                                                                                       |
| <a href="#">BRIDGE Berkeley Way</a>                           | \$ 62,563,741  | \$ 2,774,925                     | \$ 59,788,816  | 22.5             | A1, AHP, AHSC, Tax Credits, TE Bond                    | average leveraging ratio for Berkeley Way as a whole = 4.4<br><br>BRIDGE and BFHP spread the City subsidy amongst the three projects, but prioritized the shelter portion for City funding due to limited sources for that type of housing. |
| <a href="#">BFHP Hope Center</a>                              | \$ 19,917,041  | \$ 16,964,507                    | \$ 2,952,534   | 1.2              | A1, BFHP                                               |                                                                                                                                                                                                                                             |
| <a href="#">BFHP Hope Center Permanent Supportive Housing</a> | \$ 39,589,497  | \$ 7,727,630                     | \$ 31,861,867  | 5.1              | A1, Boomerang, AHSC, NPLH, SHMHP, Tax Credits, TE Bond |                                                                                                                                                                                                                                             |
| <a href="#">Jordan Court</a>                                  | \$ 24,961,105  | \$ 6,026,927                     | \$ 18,934,178  | 4.1              | A1, AHP, NPLH, Tax Credits, TE Bond                    |                                                                                                                                                                                                                                             |
| <a href="#">Maudelle Miller Shirek Community</a>              | \$ 86,930,256  | \$ 17,000,000                    | \$ 69,930,256  | 5.1              | AHSC, IIG, NPLH, Tax Credits, TE Bond                  |                                                                                                                                                                                                                                             |
| <a href="#">Blake Apartments</a>                              | \$ 52,284,217  | \$ 12,000,000                    | \$ 40,284,217  | 4.4              | AHSC, DDS, HCD Accelerator, IIG                        |                                                                                                                                                                                                                                             |

**Non-City Funding Sources:**

|                 |                                                                                              |
|-----------------|----------------------------------------------------------------------------------------------|
| A1              | Alameda County A1 Bond funds                                                                 |
| BFHP            | Berkeley Food and Housing Project Capital Campaign                                           |
| Boomerang       | Alameda County funds                                                                         |
| AHP             | Federal Home Loan Bank - Affordable Housing Program                                          |
| AHSC            | CA HCD - Affordable Housing and Sustainable Communities Program                              |
| DDS             | Department of Developmental Services                                                         |
| HCD Accelerator | CA HCD - Housing Accelerator Fund                                                            |
| IIG             | CA HCD - Infill Infrastructure Grant Program                                                 |
| NPLH            | CA HCD - No Place Like Home Program                                                          |
| SHMHP           | CA HCD - Supportive Housing Multifamily Housing Program                                      |
| Tax Credits     | California Tax Credit Allocation Committee                                                   |
| TE Bonds        | California Debt Limit Allocation Committee - Tax Exempt Bonds are paired with 4% tax credits |



| TRANSFER TAX -- MEASURE P PROGRAM PROJECTION AS OF 9/1/22  |                |                |                |                |                  |                  |
|------------------------------------------------------------|----------------|----------------|----------------|----------------|------------------|------------------|
|                                                            | FY 2019 Actual | FY 2020 Actual | FY 2021 Actual | FY 2022 Actual | FY 2023 Estimate | FY 2024 Estimate |
| <b>Revenues</b>                                            |                |                |                |                |                  |                  |
| <i>Beginning Fund Balance</i>                              | \$ -           | \$ 2,932,313   | \$ 9,859,779   | \$ 17,032,464  | \$ 21,771,787    | \$ 18,340,647    |
| <i>Measure P Revenues*</i>                                 | \$ 2,932,313   | \$ 9,512,603   | \$ 10,919,576  | \$ 20,591,313  | \$ 14,073,750    | \$ 14,073,750    |
| <b>Total Revenues and Balance of Funds</b>                 | \$ 2,932,313   | \$ 12,444,916  | \$ 20,779,355  | \$ 37,623,777  | \$ 35,845,537    | \$ 32,414,397    |
| <b>LESS: Total Expenses</b>                                | \$ -           | \$ 2,585,137   | \$ 3,746,891   | \$ 15,851,991  | \$ 17,504,890    | \$ 16,435,517    |
| <b><u>Personnel Costs</u></b>                              | \$ -           | \$ 118,521     | \$ 155,753     | \$ 281,989     | \$ 695,730       | \$ 722,413       |
| CMO: Homeless Services Coordinator                         | \$ -           | \$ -           | \$ -           | \$ -           | \$ 196,348       | \$ 202,899       |
| Finance: Accountant II                                     | \$ -           | \$ -           | \$ 70,784      | \$ 200,380     | \$ 178,858       | \$ 193,441       |
| Finance: Contract Staffing                                 | \$ -           | \$ 38,266      | \$ -           | \$ -           | \$ -             | \$ -             |
| HHCS: Community Services Specialist II                     | \$ -           | \$ 80,255      | \$ 84,969      | \$ 81,609      | \$ -             | \$ -             |
| HHCS: 50% Senior Management Analyst                        | \$ -           | \$ -           | \$ -           | \$ -           | \$ 113,085       | \$ 116,560       |
| HHCS: 2 Year Limited Term Community Services Specialist II | \$ -           | \$ -           | \$ -           | \$ -           | \$ 207,439       | \$ 209,513       |
| <b><u>Non-Personnel Costs/ Program Expenses</u></b>        | \$ -           | \$ 2,466,616   | \$ 3,591,138   | \$ 15,570,002  | \$ 16,809,160    | \$ 15,713,104    |
| Fire: 5150 Response & Transport                            | \$ -           | \$ 846,616     | \$ 1,601,639   | \$ 1,003,931   | \$ 1,900,000     | \$ 1,900,000     |
| Dorothy Day House Shelter                                  | \$ -           | \$ -           | \$ 300,000     | \$ 566,000     | \$ 566,000       | \$ 566,000       |
| Dorothy Day House Drop In                                  | \$ -           | \$ -           | \$ 21,340      | \$ 182,000     | \$ 182,000       | \$ 182,000       |
| Pathways STAIR Center                                      | \$ -           | \$ -           | \$ 1,200,000   | \$ 1,499,525   | \$ 2,499,525     | \$ 2,499,525     |
| Pathways STAIR Center - ADA/Conversion Project             | \$ -           | \$ -           | \$ -           | \$ -           | \$ -             | \$ -             |
| No Place Like Home                                         | \$ -           | \$ -           | \$ -           | \$ -           | \$ 128,750       | \$ 128,750       |
| Hope Center - Mental Health Services                       | \$ -           | \$ -           | \$ -           | \$ -           | \$ 71,250        | \$ 71,250        |
| Coordinated Entry System                                   | \$ -           | \$ -           | \$ -           | \$ 1,000,000   | \$ 1,000,000     | \$ 1,000,000     |
| BDIC Locker Program                                        | \$ -           | \$ -           | \$ 25,000      | \$ 50,000      | \$ 50,000        | \$ 50,000        |
| LifeLong Medical - Street Medicine                         | \$ -           | \$ -           | \$ -           | \$ 525,000     | \$ 525,000       | \$ 525,000       |
| YSA Tiny Home                                              | \$ -           | \$ -           | \$ 117,000     | \$ 78,000      | \$ 78,000        | \$ 78,000        |
| DBA- Homeless Outreach Worker                              | \$ -           | \$ 20,000      | \$ 40,000      | \$ 40,000      | \$ 40,000        | \$ 40,000        |
| Downtown Streets Team                                      | \$ -           | \$ -           | \$ 111,243     | \$ 225,000     | \$ 225,000       | \$ 225,000       |
| Horizon Shelter at 742 Grayson Street                      | \$ -           | \$ -           | \$ 86,633      | \$ 1,002,000   | \$ 1,011,900     | \$ 1,011,900     |
| SPARK Safe RV Parking Program                              | \$ -           | \$ -           | \$ -           | \$ 398,096     | \$ -             | \$ -             |
| Project Homekey                                            | \$ -           | \$ -           | \$ -           | \$ 7,400,000   | \$ -             | \$ -             |



|                                                                                                                                                                                                         |              |              |               |               |                |                |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------|--------------|---------------|---------------|----------------|----------------|
| Permanent Housing Subsidies / Shallow Subsidies                                                                                                                                                         | \$ -         | \$ -         | \$ -          | \$ 650,000    | \$ 1,600,000   | \$ 1,600,000   |
| 1367 University Avenue Step Up Housing Project                                                                                                                                                          | \$ -         | \$ -         | \$ -          | \$ -          | \$ 1,133,244   | \$ 900,000     |
| HHCS: Square One Hotel Vouchers                                                                                                                                                                         | \$ -         | \$ -         | \$ -          | \$ -          | \$ -           | \$ -           |
| Training and Evaluation                                                                                                                                                                                 | \$ -         | \$ -         | \$ -          | \$ 50,000     | \$ 133,334     | \$ 133,334     |
| Homeless Response Team                                                                                                                                                                                  | \$ -         | \$ -         | \$ 88,283     | \$ 900,450    | \$ 918,149     | \$ 920,085     |
| Berkeley Relief Fund                                                                                                                                                                                    | \$ -         | \$ 1,600,000 | \$ -          | \$ -          | \$ -           | \$ -           |
| Portable Toilets                                                                                                                                                                                        | \$ -         | \$ -         | \$ -          | \$ -          | \$ 96,000      | \$ 96,000      |
| Berkeley Emergency Storm Shelter                                                                                                                                                                        | \$ -         | \$ -         | \$ -          | \$ -          | \$ 186,500     | \$ 186,500     |
| One-Time Use of Measure P for Nexus Community Programs                                                                                                                                                  | \$ -         | \$ -         | \$ -          | \$ -          | \$ 2,722,903   | \$ 2,722,903   |
| Reimagining Public Safety-Expand Downtown Streets Teams as placement for low-level violations                                                                                                           | \$ -         | \$ -         | \$ -          | \$ -          | \$ 50,000      | \$ 50,000      |
| Expand the scope of services for the Downtown Streets Team to address the need for enhanced services around commercial and industrial areas in the Gilman District twice weekly                         | \$ -         | \$ -         | \$ -          | \$ -          | \$ 50,000      | \$ 50,000      |
| Reimagining Public Safety: Conduct a service needs assessment based on 911 and non-911 calls for service, dispatch, and response and capacity assessment of crisis response and crisis-related services | \$ -         | \$ -         | \$ -          | \$ -          | \$ 100,000     | \$ -           |
| Reimagining: Respite from Gender/Domestic Violence                                                                                                                                                      | \$ -         | \$ -         | \$ -          | \$ -          | \$ 220,000     | \$ 220,000     |
| COVID-19 Emergency Housing Assistance - Housing Retention Program                                                                                                                                       | \$ -         | \$ -         | \$ -          | \$ -          | \$ 1,000,000   | \$ -           |
| Anti-Displacement Programs (Legal Assistance, Housing Retention Program, Flexible Housing Funds)                                                                                                        | \$ -         | \$ -         | \$ -          | \$ -          | \$ 900,000     | \$ 900,000     |
| Ramp-down 5150 transport for people without nexus to homelessness - transfer to General Fund                                                                                                            | \$ -         | \$ -         | \$ -          | \$ -          | \$ (578,395)   | \$ (343,143)   |
| Fiscal Year Surplus (Shortfall)                                                                                                                                                                         | \$ 2,932,313 | \$ 6,927,466 | \$ 7,172,686  | \$ 4,739,322  | \$ (3,431,140) | \$ (2,361,767) |
| Ending Fund Balance                                                                                                                                                                                     | \$ 2,932,313 | \$ 9,859,779 | \$ 17,032,464 | \$ 21,771,787 | \$ 18,340,647  | \$ 15,978,880  |

Attachment 1  
9/14/2022

City of Berkeley  
**Affordable Housing Projects Funded by Measure O and Other Sources since 2018**  
 Total Authorized Measure O Bond = \$135M  
 Total Funded and Reserved from All City Sources = \$198M

**Projects with Measure O + Other Funding Reservations and Commitments**

| Project Name                                                                          | Project Address          | Development Partner                                   | Description                                                                                                                                                                                | Units <sup>1</sup> | Affordability | Total Measure O Funds Committed or Reserved <sup>2</sup> | Total U1 Funds Committed or Reserved | Total City Funds | Projected City Sources of Funds <sup>3</sup>                                 | Project Type             | Project Status                            |
|---------------------------------------------------------------------------------------|--------------------------|-------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------|---------------|----------------------------------------------------------|--------------------------------------|------------------|------------------------------------------------------------------------------|--------------------------|-------------------------------------------|
| <a href="#">BFHP Hope Center</a>                                                      | 2012 Berkeley Way        | Berkeley Food & Housing Project (BFHP)/BRIDGE Housing | 32-bed homeless shelter, 12 transitional beds for homeless veterans, a community kitchen and wrap-around services for mental health, substance abuse, job training and social activities.  | 44                 | 0-30% AMI     | \$6,909,837                                              | \$6,023,365                          | \$16,964,507     | Berkeley's Housing Trust Fund (HTF), Measure U1 <sup>4</sup> (U1), Measure O | New Construction         | Under Construction                        |
| <a href="#">BFHP Hope Center Permanent Supportive Housing</a>                         | 2012 Berkeley Way        | BFHP/ BRIDGE Housing                                  | 53 permanent supportive housing apartments.                                                                                                                                                | 53                 | 0-30% AMI     | \$6,731,092                                              |                                      | \$7,727,630      | Measure O, HTF                                                               | New Construction         | Under Construction                        |
| <a href="#">BRIDGE Berkeley Way</a>                                                   | 2012 Berkeley Way        | BRIDGE Housing                                        | 89 affordable homes and services for low- and very low- income families.                                                                                                                   | 89                 | 50-60% AMI    | \$179,494                                                |                                      | \$2,774,925      | Measure O, HTF                                                               | New Construction         | Under Construction                        |
| <a href="#">Jordan Court</a>                                                          | 1601 Oxford Street       | Satellite Affordable Housing Associates (SAHA)        | 34 affordable studio units for seniors. 12 units will also be set aside for formerly homeless households.                                                                                  | 35                 | 20-60% AMI    | \$3,501,884                                              |                                      | \$6,026,927      | HTF, Measure O                                                               | New Construction         | Completed                                 |
| <a href="#">Maudelle Miller Shirek Community</a>                                      | 2001 Ashby Avenue        | Resources for Community Development (RCD)             | 86 apartments for families and individuals. 12 units will also be set aside for formerly homeless households.                                                                              | 87                 | 20-80% AMI    | \$12,932,000                                             | \$1,568,000                          | \$17,000,000     | Measure O, U1, State Local Housing Trust Fund (LHTF)                         | New Construction         | Under Construction                        |
| <a href="#">Blake Apartments</a>                                                      | 2527 San Pablo Avenue    | SAHA                                                  | 21 studio units, eight one-bedroom units, 33 two-bedroom units and one three-bedroom manager's unit. 12 units are prioritized for people with an intellectual or developmental disability. | 63                 | 30-60% AMI    | \$9,125,000                                              | \$500,000                            | \$12,000,000     | Measure O, U1, LHTF                                                          | New Construction         | Under Construction                        |
| <a href="#">1740 San Pablo Avenue</a>                                                 | 1740 San Pablo Avenue    | BRIDGE Housing                                        | 53 new affordable homes for families                                                                                                                                                       | 54                 | 30-60% AMI    | \$7,500,000                                              |                                      | \$7,500,000      | Measure O                                                                    | New Construction         | Acquisition / Predevelopment              |
| <a href="#">Berkeley Unified School District (BUSD) Workforce Housing Development</a> | 1701 San Pablo Avenue    | BUSD/SAHA/Abode                                       | 110 homes in a five to six story building. Employees of BUSD and their households will have a leasing preference.                                                                          | 110                | 30-120% AMI   | \$24,500,000                                             |                                      | \$24,500,000     | Measure O                                                                    | New Construction         | Acquisition / Predevelopment              |
| <a href="#">BART Sites</a>                                                            | Ashby and North Berkeley | TBD                                                   | TBD                                                                                                                                                                                        | TBD                | TBD           | \$40,000,000                                             |                                      | \$53,000,000     | TBD                                                                          | New Construction         | <a href="#">Planning/ MOU established</a> |
| <a href="#">Northern California Land Trust's Anti-Displacement Project</a>            | 2321-2323 10th Street    | Northern California Land Trust                        | renovation of an 8-unit, occupied property                                                                                                                                                 | 8                  | 80% AMI       |                                                          | \$1,620,640                          | \$1,620,640      | U1                                                                           | Acquisition / Renovation | Acquired/ Predevelopment                  |
| MLK House                                                                             | 2942-2944 MLK Jr. Way    | RCD                                                   | Occupied HTF project (SROs) primarily serving clients of Berkeley Mental Health                                                                                                            | 12                 | 60% AMI       |                                                          |                                      | \$1,178,974      | State Permanent Local Housing Allocation (PLHA)                              | Renovation               | Predevelopment/ Pending renovation        |
| Ashby Lofts                                                                           | 2909-2919 Ninth St.      | SAHA                                                  | Occupied HTF project - 54-units, providing housing at 30%-50% Area Median Income (AMI), including many with physical or mental disabilities                                                | 54                 | 30-50% AMI    |                                                          |                                      | \$850,000        | PLHA                                                                         | Renovation               | Predevelopment/ Pending renovation        |

|                                                                         |                          |                                                             |                                                                                                                      |            |            |  |                      |                     |                 |                          |                                       |
|-------------------------------------------------------------------------|--------------------------|-------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------|------------|------------|--|----------------------|---------------------|-----------------|--------------------------|---------------------------------------|
| Lorin Station                                                           | 3253-3269 Adeline Street | South Berkeley Neighborhood Development Corporation (SBNDP) | 14 affordable units, including 5 one-bedrooms, 7 two-bedrooms, and 2 three-bedrooms                                  | 14         | 60% AMI    |  |                      | \$730,742           | CDBG            | Renovation               | Predevelopment/<br>Pending renovation |
| Rosewood Manor                                                          | 1615 Russell Street      | SBNDP                                                       | 35 affordable units, including 8 one-bedrooms, 21 two-bedrooms, and 6 three-bedroom apartments                       | 35         | 60% AMI    |  |                      | \$1,792,491         | CDBG, HTF       | Renovation               | Predevelopment/<br>Pending renovation |
| <a href="#">Golden Bear Homes - Homekey Project</a>                     | 1620 San Pablo Ave       | Memar Properties and Bay Area Community Services (BACS)     | Acquisition of the Golden Bear Inn to be converted to permanent supportive housing under the State's Homekey Program | 44         | 30% AMI    |  |                      | \$8,463,535         | PLHA, Measure P | Acquisition / Renovation | Predevelopment/<br>Pending renovation |
| <a href="#">Stuart Street Apartments at McGee Avenue Baptist Church</a> | 1640/1638 Stuart St      | Bay Area Community Land Trust (BACL T)                      | renovation of a vacant 8-unit property on church-owned site                                                          | 8          | 80% AMI    |  | \$2,002,500          | \$2,002,500         | U1              | Acquisition / Renovation | Under Construction                    |
| <a href="#">Solano Ave. Apartments</a>                                  | 1685 Solano Ave          | BACL T                                                      | acquisition and renovation of a 13-unit, partially occupied property                                                 | 13         | 80% AMI    |  | \$1,400,000          | \$3,900,000         | U1, HTF         | Acquisition / Renovation | Under Construction                    |
| <a href="#">Supportive Housing in People's Park</a>                     | 2556 Haste Street        | Resources for Community Development (RCD)                   | 119 total units with 62 units set aside for formerly homeless households.                                            | 119        | 10-50% AMI |  |                      | \$14,359,593        | TBD             | New Construction         | Acquisition /<br>Predevelopment       |
| <a href="#">St. Paul Terrace</a>                                        | 2024 Ashby Avenue        | Community Housing Development Corporation (CHDC)            | 49 affordable units, including 11 studios, 6 one-bedrooms and 17 two-bedrooms, and 15 three-bedrooms.                | 50         | 30-60% AMI |  |                      | \$12,250,000        | TBD             | New Construction         | Predevelopment                        |
| <a href="#">Ephesians Legacy Court</a>                                  | 1708 Harmon Avenue       | CHDC                                                        | 79 one-bedroom units.                                                                                                | 80         | 30-60% AMI |  |                      | \$3,556,400         | TBD             | New Construction         | Predevelopment                        |
|                                                                         |                          |                                                             |                                                                                                                      | <b>972</b> |            |  | <b>\$111,379,303</b> | <b>\$13,114,505</b> |                 |                          | <b>\$198,198,864</b>                  |

<sup>1</sup> total units, including managers' units

<sup>2</sup> committed = in contract, and reserved = set aside for a particular project

<sup>3</sup> the final mix of funds is determined at loan closing

<sup>4</sup> General Funds generated pursuant to Measure U1

<sup>5</sup> Funding Reservation that the City Council has approved from currently available affordable housing funds and from forward reservations of up to \$17 million from the third issuance of Measure O bonds and \$2.5 million in FY2023 general funds generated pursuant to Measure U1

<sup>6</sup> Funding Prioritization by City Council prioritizing future housing funds (including but not limited to HTF and Measure O funds)





Susan Wengraf  
Councilmember District 6

CONSENT CALENDAR  
April 11, 2023

To: Honorable Mayor and Members of the City Council  
From: Councilmember Wengraf  
Subject: Budget Referral: \$30,000 for Yield Signs at Two Unmarked Intersections

RECOMMENDATION

In support of the City’s Pedestrian Plan with a vision that, “Berkeley is a model walkable city where traveling on foot or with an assistive device is safe, comfortable, and convenient for people of all races, ethnicities, incomes, ages, and abilities,” refer to the Fiscal Year 2024 Budget Process an allocation of \$30,000 to install “YIELD” signs at two unmarked intersections at Shasta and Queens and Quail and Queens.

FINANCIAL IMPLICATIONS

\$30,000

BACKGROUND

In recent years, hills streets have experienced an increase in traffic volume as navigation apps send vehicles through residential streets in search of the fastest route.

There are no sidewalks along the narrow and curvy roads that lead to the intersections at Shasta Road & Queens Road and Quail Avenue & Queens Road.

Pedestrians, both elderly and young, fear for their lives as they walk across the intersections, where roads meet without any traffic control signage.

“YIELD” signs installed at these two intersections will warn drivers that they must slow down and yield the right-of-way to pedestrians and vehicles that are approaching from another direction.

ENVIRONMENTAL SUSTAINABILITY

No direct impact

CONTACT PERSON

Councilmember Wengraf                      Council District 6                      510-981-7160





Susan Wengraf  
Councilmember District 6

CONSENT CALENDAR  
April 11, 2023

To: Honorable Mayor and Members of the City Council

From: Councilmember Wengraf (author) Councilmember Hahn, Councilmember Humbert, and Councilmember Taplin (co-sponsors)

Subject: Budget Referral: \$150,000 for Handrails, Lights and Signage for City Pedestrian Path Network

RECOMMENDATION

In support of the City's goals as stated in the "General Plan," "Local Hazard Mitigation Plan," "Pedestrian Plan," and "Community Wildfire Protection Plan", refer to the Fiscal Year 2024 Budget Process an allocation of \$150,000 for the installation of lighting, handrails and signage on paths deemed most critical for safe evacuation throughout Berkeley.

FINANCIAL IMPLICATIONS

\$150,000

BACKGROUND

The City of Berkeley is home to a system of more than 130 pedestrian paths, most of which were originally built into our hillsides as short-cuts to access transportation and commerce. However, today they also serve as a critical element and key resource in our disaster evacuation strategy, providing routes for access and egress for people threatened by both wildfire and earthquake and for first responders and other emergency personnel.

It is critical to have a safe, well-maintained pathway system. Most of the paths have no lighting or handrails, making them a treacherous and dangerous option for pedestrians fleeing a threat, on foot. Installing lighting and handrails and signage identifying the path as an evacuation route would make them a safer option for use in the event they need to be used in an emergency.

The importance of the City's pedestrian pathway network is acknowledged in many City documents:

The 2019 Local Hazard Mitigation Plan states,

*“In the city’s many steep neighborhoods with winding roads, these paths take the shortest, most direct routes, mimicking city block grids that do not exist. In addition to producing a community recreation asset, these pathways can assist evacuation and firefighting efforts in the hills. In preparedness outreach, the City instructs community members to always be ready to evacuate without a car and to be aware of the locations of developed paths that may reduce evacuation distance. However, because developed pathway conditions vary widely from those with concrete steps and railings to those with wooden steps with no railings, these paths may not be good options for evacuees with mobility issues or low vision. As indicated on the map, there are many small paths in the Berkeley hills that can help with fire evacuation and firefighting efforts.”*

The Draft Community Wildfire Protection Plan states:

*“Ensure that all public pathways are maintained to provide safe and accessible pedestrian evacuation routes from the hill areas.”*

The General Plan, Policy T-28 B states:

*“Maintain and improve pedestrian pathways throughout the City that are dedicated for public use and provide alternatives to the streets in case of emergency evacuation.”*

The General Plan, Policy T-52D states:

*“Continue to make repairs and safety improvements on public paths and restore unimproved paths.”*

For more than twenty years, the Berkeley Path Wanderers Association, a group of dedicated volunteers, have donated their labor to help the City of Berkeley maintain the pathway network, clearing vegetation and constructing new useable routes and making essential upgrades to the existing path system. They have been an invaluable partner in the shared goal of restoration and improvements to our path network and have consistently and conscientiously worked collaboratively with our Public Works Department. The City can leverage their contribution by working together with the Berkeley Path Wanderers to improve the conditions of the paths.

#### ENVIRONMENTAL SUSTAINABILITY

Pedestrian Pathway improvements are in keeping with our goals for environmental sustainability.

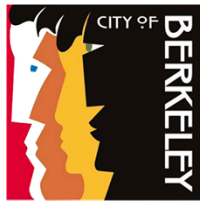
#### CONTACT PERSON

Councilmember Wengraf

Council District 6

510-981-7160





CITY COUNCILMEMBER  
**RIGEL ROBINSON**  
 DISTRICT 7

CONSENT CALENDAR  
 April 11, 2023

To: Honorable Mayor and Members of the City Council

From: Councilmember Rigel Robinson (Author), Mayor Jesse Arreguin (Co-Author), Councilmember Kate Harrison (Co-Sponsor), Councilmember Sophie Hahn (Co-Sponsor)

Subject: Approval of the Public Bank East Bay Viability Study

RECOMMENDATION

Refer to the Budget & Finance Policy Subcommittee to review and discuss the Public Bank East Bay Viability Study and consider the following recommendations for the full Council:

- (1) Adopt a resolution formally adopting the viability study
- (2) Adopt a resolution of intention to form the Public Bank East Bay alongside Oakland & Richmond
- (3) Refer to the City Manager to coordinate with the Friends of the Public Bank of the East Bay and the staff of the cities of Oakland and Richmond on the development of a business plan for the Public Bank of the East Bay, or designate the appropriate staff to do so
- (4) Refer to the City Manager to engage an independent consultant with expertise in banking operations and financing to advise city staff as they coordinate with the Friends of the Public Bank East Bay and participating jurisdictions in the production of a business plan for a public bank

POLICY COMMITTEE RECOMMENDATION

On March 9, 2023, the Budget & Finance Committee adopted the following action: M/S/C (Arreguín/Harrison) to send the item to Council with a positive recommendation. Vote: Ayes – Harrison, Arreguín; Noes – None; Abstain – None; Absent – Kesarwani.

BACKGROUND

Public Bank East Bay seeks to establish a publicly operated bank—the Public Bank East Bay (PBEB)—serving the East Bay and prioritizing social equity and environmental stewardship above mere profits.<sup>1</sup> PBEB would operate as an alternative to—and alongside—the private banking system. It would allow individuals, businesses, and

<sup>1</sup> “Vision & Values — Public Bank East Bay.” n.d. Public Bank East Bay. Accessed January 19, 2023. <https://publicbankeastbay.org/vision>.

other entities to access standard banking services. Importantly, PBEB would prioritize access for individuals, economic sectors, and municipalities that have been traditionally underserved or exploited by the financial industry.

In 2019, Governor Gavin Newsom signed AB 857, providing guidelines for establishing public banks in California.<sup>2</sup> AB 857 makes California the first state in the nation to legalize public sector banks.

PBEB advocates prepared a Viability Study in 2022 that meets the requirements set forth in AB 857. These include proving the purpose of the bank, analyzing costs, identifying the amount of initial capital required to establish the bank, financial projections for the first five years of operation, proving the PBEB complies with the California State Constitution, and how regulations would be implemented to prevent corruption.<sup>3</sup> The Viability Study has already been approved by the Richmond City Council<sup>4</sup> and the Oakland City Council.<sup>5</sup>

### FINANCIAL IMPLICATIONS

Adoption of these recommendations has no general fund impact.

The development of the public bank, however, will be a significant financial endeavor. It is the objective of the Business Plan to fully assess the financial benefits and risks of forming the Public Bank East Bay.

This resolution does not appropriate or commit any City of Berkeley funds to the establishment of the PBEB, or to any organization. If a consultant is engaged, Finance has indicated that these costs, estimated at \$50,000, can be accounted for in the existing Finance department budget.

### ENVIRONMENTAL SUSTAINABILITY

None.

### CONTACT PERSON

Councilmember Rigel Robinson, (510) 981-7170  
Sam Greenberg, Legislative Assistant

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<sup>2</sup> Sgourous, Tom. 2022. "Public Bank East Bay Viability Study." Public Bank East Bay. <https://static1.squarespace.com/static/5ee14314979f2e18b9b6ed03/t/622a351f48637e3569cc3fcd/1646933281581/PBEB+Viability+Study+March+2022.pdf>.

<sup>3</sup> "Public Bank East Bay Viability Study." Page 34

<sup>4</sup> "Richmond Approves Viability Study." 2022. Public Bank East Bay.

<https://publicbankeastbay.org/news/0vitc9jw0cyug7jqkvub64mbaky3qb-6axls-mm2f3-twl3l>.

<sup>5</sup> "Meeting Minutes: Concurrent Meeting of the Oakland Redevelopment Successor Agency and the City Council." 2022. City of Oakland.

<https://oakland.legistar.com/View.ashx?M=M&ID=1001259&GUID=57EC77BF-AC2B-4E18-837E-6427F9DC88AC>. Page 20

Attachments:

1: Resolution

2: Resolution

3: Public Bank East Bay Viability Study

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

RESOLUTION OF INTENTION TO FORM THE PUBLIC BANK EAST BAY WITH THE CITY OF BERKELEY AS A FOUNDING MEMBER ALONG WITH THE CITIES OF OAKLAND AND RICHMOND

WHEREAS, public banks are financial institutions that are owned by public agencies such as cities and counties and can serve as a tool to invest, lend, and provide banking services to local communities that are often left out of financial opportunities from larger firms; and

WHEREAS, the City of Berkeley began formally assessing the feasibility of establishing a public bank with a \$25,000 allocation made in 2017 to support the development of a feasibility study for the Public Bank of the East Bay; and

WHEREAS, a public bank can serve the residents of Berkeley through investment and lending activities that support small local businesses, affordable housing production, climate resilience, infrastructure projects and more; and

WHEREAS, the City of Berkeley intends to be one of the founding owners of the Public Bank East Bay; and

WHEREAS, the other proposed founding owners of the Public Bank East Bay are the cities of Oakland and Richmond; and

WHEREAS, the County of Alameda is proposed to be a non-founding owner of the Public Bank East Bay that will take an ownership stake shortly after the Public Bank East Bay's licensing by the State; and

WHEREAS, the Public Bank East Bay's proposed governance plan requires that each member city designate one councilmember to sit on the Public Bank East Bay's Board of Directors; and

WHEREAS, the California Public Banking Act further mandates that "a motion to move forward with an application for a public banking charter shall be approved by a majority vote of the governing body at a public meeting";

now, therefore, be it RESOLVED: That the City of Berkeley intends to be a founding member of the Public Bank East Bay as part of the application for a public banking charter;

and be it FURTHER RESOLVED: That the Berkeley City Council requests that the Alameda County Supervisors commit to joining the Public Bank East Bay as a full voting member immediately upon California state approval of the Public Bank East Bay's charter application;

and be it FURTHER RESOLVED: That the City Manager or designee is authorized to direct City staff to provide the necessary financial and other details to assist the Friends of the Public Bank East Bay in the production of a business plan for the ongoing operation of a public bank and return to the City Council with a report outlining anticipated capital contributions and any necessary budgetary amendments along with a final draft public bank business plan for approval;

and be it FURTHER RESOLVED: That the City Manager or designee is authorized to review and propose the probable terms of any articles of incorporation, operating agreements, and other nonprofit public benefit corporation documents or nonprofit mutual benefit corporation documents that may be required by California Government Code Section 57600 et seq., which may be finally negotiated and executed upon the City Council's adoption of the business plan;

and be it FURTHER RESOLVED: That the Berkeley City Council designates Councilmember Rigel Robinson as a representative to the Friends of the Public Bank East Bay to help guide the Public Bank East Bay's opening process and to serve as Berkeley's initial representative on the Public Bank East Bay's Board of Directors;

and be it FURTHER RESOLVED: That all the aforementioned charter(s), agreements, and articles shall be approved as to form and legality by the Office of the City Attorney and placed on file in the Office of the City Clerk;

and be it FURTHER RESOLVED: That this Resolution be conveyed immediately to the City Councils of Oakland and Richmond and to the Alameda County Board of Supervisors.

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

RESOLUTION APPROVING THE PUBLIC BANK EAST BAY VIABILITY STUDY

WHEREAS, public banks are financial institutions that are owned by public agencies such as cities and counties and can serve as a tool to invest, lend, and provide banking services to local communities that are often left out of financial opportunities from larger firms; and

WHEREAS, a public bank can serve the residents of Berkeley through investment and lending activities that support small local businesses, affordable housing production, climate resilience, infrastructure projects, and more; and

WHEREAS, the City of Berkeley intends to be one of the founding owners of the Public Bank East Bay; and

WHEREAS, the other proposed founding owners of the Public Bank East Bay are the cities of Oakland and Richmond; and

WHEREAS, the County of Alameda is proposed to be a non-founding owner of the Public Bank East Bay that will take an ownership stake shortly after the Public Bank East Bay's licensing by the State; and

WHEREAS, the California Public Banking Act mandates that "a local agency shall conduct a study to assess the viability of the proposed public bank," hereafter referred to as the Viability Study; and

WHEREAS, the California Public Banking Act mandates that "The study required shall be presented to and approved by the governing body of the local agency;" and

WHEREAS, the City of Richmond approved the Viability Study on April 5, 2022; and

WHEREAS, the City of Oakland approved the Viability Study on December 20, 2022; and

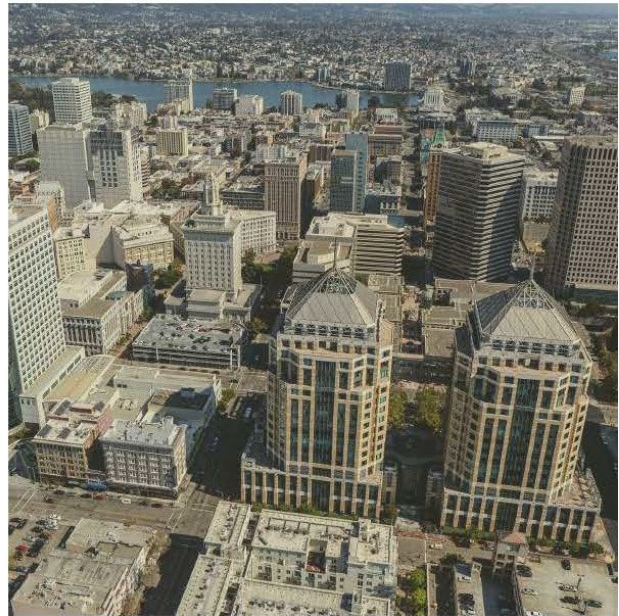
WHEREAS, the 2022 Public Bank East Bay Viability Study proposes lending in four main areas: affordable housing, small businesses, electrification/greening, and refinancing municipal bonds, and concludes that the Public Bank East Bay will be fiscally viable;

now, therefore, be it RESOLVED: That the Berkeley City Council approves the Public Bank East Bay Viability Study;

and be it FURTHER RESOLVED: That this Resolution be conveyed immediately to the City Councils of Oakland and Richmond and to the Alameda County Board of Supervisors.



## Public Bank East Bay Viability Study



Prepared by Tom Sgouros  
Commissioned by Friends of the Public Bank East Bay  
March 2022





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## Executive Summary

This Viability Study demonstrates that the Public Bank East Bay (“PBEB”), a cooperative venture among the cities of Oakland, Berkeley, and Richmond and Alameda County, is a viable entity which can:

- achieve fiscal stability within the first three years;
- provide loan support to underserved sectors of the local economy;
- address local infrastructure needs;
- reduce local government dependency on Wall Street banks;
- decrease local fossil fuel and other harmful investments;
- partner with local financial institutions to the economic and social benefit of all;
- mitigate economic inequity in the region;
- serve as a model for public banks around the state and the country.

This Study and the accompanying financial projections show that the PBEB can achieve these goals while operating in a conservative and secure way, minimizing the financial risk to its sponsor governments.

The PBEB will be a low-overhead enterprise, with a small staff to run lending programs in partnership with existing local financial institutions. The lending programs will include:

- making loans to local small businesses, in cooperation with local community development financial institutions (CDFIs) and local banks;
- providing nimble capital to non-profit affordable housing developers for property acquisition, bridge financing, or foreclosure prevention, as well as financing for rehabilitation projects;
- extending credit to help the East Bay do its part to ameliorate the climate emergency, financing building electrification as well as small-scale renewable energy installations;
- supporting municipal finance, by providing modest credit to the member governments for small projects.

As the Bank grows and adds capacity, it will also be able to provide an alternative to Wall Street banks for cash handling for the member governments. Through careful management of these programs, the PBEB can deliver benefits worth many times the initial investment, and provide a vibrant institution that is a vital part of the East Bay economy for decades to come.

## Introduction

### Why The East Bay Needs a Public Bank

The current national, California, and East Bay financial systems are not meeting the needs of the East Bay. The urgent issues we face include:

- The ongoing climate crisis is inescapable. Localities cannot wait for a paralyzed federal government to deliver, and must find ways to increase local funding for initiatives that will dramatically reduce greenhouse gas emissions and increase availability and affordability of green energy solutions.
- The Bay Area is experiencing a housing crisis of extreme scale, visible along so many major thoroughfares. Quality affordable housing that does not accelerate displacement is desperately needed, and solutions cannot take ten years to ramp up. New local funding, along with streamlining availability of existing funds, is badly needed.
- BIPOC small businesses lack funding. Nationally the unmet credit needs among entrepreneurs of color are 15-25% higher than those of white entrepreneurs.<sup>1</sup>
- Worker cooperatives, employee-owned firms, community land trusts, and other community-based models of ownership are poised to grow in scope and scale, but they are often unable to access traditional bank funding.

Financing alone cannot solve these problems. However, access to inexpensive capital will inevitably play an essential role in all solutions. A public bank—that directs public assets to solve public problems—*can and will* be part of a solution that helps participating cities and counties tackle these issues, and more, by adding a component of financial infrastructure to the existing mix.

Responsible and responsive banking of public funds will be an invaluable tool in transforming the current system to one that works for the people who need it. This Study demonstrates that the East Bay region of Northern California can be the home of a stable, productive, and transparent public bank—the Public Bank East Bay—which can help its region address essential structural problems.

Wall Street banks which handle the vast majority of public funds in the East Bay and around the country have consistently placed profits and shareholders over the needs of everyone else. Self-admitted felonies by banks resulted in nearly \$2 billion dollars<sup>2</sup> paid in fines and fees over the past 20 years. Additionally, bank policies such as subprime mortgages and financialization led directly to the housing bubble and financial crisis of 2008 that devastated families and communities. People of color disproportionately lost wealth during this crisis. Banks were held accountable trivially if at all in the recovery from the crisis, and continued to play fast and loose with customers' money. The phantom account scandals at Wells Fargo (where the bank created millions of accounts for customers without their knowledge or consent) demonstrate how bank customers are often at risk from the banks themselves. Wall Street takes people's money, uses it to gamble in their high-stakes casino, and leaves customers holding the pieces

---

<sup>1</sup> Small Business Survey 2019.

<sup>2</sup> <https://bettermarkets.org/newsroom/new-report-details-first-time-20-plus-year-crime-spree-six-largest-wall-street-banks/>

when they lose. Sad experience shows that states and municipalities are equally at risk as customers of private banks.<sup>3</sup>

Just as online commerce and big-box wholesale stores have decimated local businesses, including hardware, stationery, and book stores, small banks have been driven out of the market by Wall Street banks, or have been bought out or merged into larger banks. This has left banking deserts around the state, including in the East Bay. In 1994, the state had 500 community banks, but by 2017 it had only 124<sup>4</sup>. While this corporate concentration may have brought convenience for some customers, it has caused pain to many others, in the form of less accessibility, fewer options, higher fees, and greater disconnection of banks from community priorities and control. Moreover, banks do not merely *hold* money, they *do* things with it.

The major role of Wall Street banks in funding the fossil-fuel industry underscores the profound mismatch of these banks with the values of our region. Many jurisdictions, including Alameda County, Oakland, Berkeley, and Richmond have voted to divest public funds from fossil fuels, but have been unable to do so, due to their inescapable relationships with Wall Street banks. For example, Alameda County, which has voted to divest, currently has 30% of its funds in banks with heavy fossil fuel investments, including \$300 million in JP Morgan Chase alone.

As easy as it is to enumerate the active ways in which the money-center banks harm our lives and our communities, it is just as important to examine what they fail to do. Over the past few decades, more and more bank revenue has been generated by fee income, i.e., direct charges made to bank customers for the service of handling money. This income has increased in importance, because interest income entails risk to the banks in a way that fee income does not. Consequently, bank management has emphasized fees over loans. In practice this has caused the big banks to cut back underwriting all but the most standard loans, eliminating much if not all of their lending risk. Plenty of mortgage credit is available; however, this market is highly controlled, subsidized, and insured by the federal government. Business credit is plentiful for big corporations, especially those large enough to access the bond market. But other market demand—including extending credit to BIPOC- and women-owned small businesses, worker cooperatives and land trusts, innovative green energy initiatives, and climate resilience measures—goes unmet. Even affordable housing, for which oceans of capital are theoretically available from federal, state, and private sources, suffers from a tragic lack of nimble capital that does not take years to approve.<sup>5</sup> The consequences to the nation’s economy have been severe, with bank credit to small businesses shriveling, and rising prices for mundane and low-risk municipal investments.

Transformative financial programs are essential to comprehensive solutions to these problems. By keeping overhead low, partnering with local financial institutions, reinvesting revenue to the business, using inexpensive public monies, and not being bound to reap high profits, public banks can make credit more available and more equitable, underwrite new initiatives, and serve as clearinghouses and

---

<sup>3</sup> Sgouros, T, “Predatory Public Finance”, *The Journal of Law and Society*, 17:1 (2016), pp 91-102. <https://law.wayne.edu/academics/co-curricular/journal-law-society>

<sup>4</sup> <https://www.bankingstrategist.com/community-banks-number-by-state-and-asset-size>

<sup>5</sup> Vitaly important in a state where approximately 160,000 people are experiencing homelessness on any given day. See <sup>5</sup><https://www.usich.gov/homelessness-statistics/ca/>

conduits for more efficient and restorative uses of public money. Public banks cannot fully address these crises on their own, but public banks are an essential component of addressing them.

In countries around the world, including Germany, Costa Rica, India, Vietnam, and many more, publicly owned banks have helped create and direct new financial tools to serve public needs. The Bank of North Dakota is the only major publicly owned bank in the United States. In its century of existence, it has maintained and strengthened community banks, reduced student loan debt, compensated for the 2008 financial crisis, and equitably distributed federal pandemic relief—and shown substantial financial success while doing so.

The public banking movement is growing around the country. California has led the way with the California Public Banking Act (AB 857), which authorizes the formation of public banks to engage in the lending of public monies under public ownership. This legislation sets out the path for PBEB to open its doors.

### Mission Statement

PBEB will invest public monies from participating governmental agencies to meet the needs of local communities. PBEB will seek to return a reasonable, but not excessive, profit to its stakeholders by making economically sustainable loans and providing a high level of service to its partners and stakeholders. It will adhere to the principles of the United Nations Declaration on the Rights of Indigenous People, and will prioritize environmentally regenerative, culturally equitable and participatory practices that reverse discrimination against members of economically and socially marginalized communities.

The Bank's decisions will be based on five key values:

- **Equity:** We are committed to a public bank that acknowledges and attempts to relieve the contemporary and historical burdens carried by disenfranchised communities, including low-income communities of color and other marginalized groups.
- **Social Responsibility:** Decisions regarding loan recipients, sponsored projects, and who benefits from PBEB policies will all prioritize investing our money into the wealth and health of local communities and the environment.
- **Fiscal Responsibility:** As a steward of public money collected by depositing agencies from individuals and businesses in the East Bay, the Bank is committed to compliance with the directives and policies of state and federal regulators. It is equally committed to active and constant attention to managing risk and making fiscally responsible decisions so as to maintain PBEB in a safe and sound condition.
- **Accountability:** The Bank is accountable to the residents of the East Bay, who have a right to fully transparent explanations of PBEB's actions and choices.
- **Democracy:** The Bank will be governed using inclusive and participatory processes which consciously and intentionally adhere to the values/principles listed above.

## What Will PBEB Do?

PBEB's primary function is to employ public funds to meet public needs. This will entail working with member government agencies (initially the cities of Berkeley, Oakland and Richmond, and the County of Alameda) to gradually redirect tax and fee assets and locally generated funds to:

- *increase available capital to the local economy* with a focus on affordable and community-controlled housing, small-business and worker ownership lending, green infrastructure projects, and cost-saving funding of municipal bonds.
- *support equitable economic development* in the region. By prioritizing the least served businesses and by attending to local infrastructure needs, the Bank can provide money to various enterprises and initiatives that are currently neglected, jump-starting needed changes with increased resources.
- *manage and invest municipal funds safely and cost-effectively*. Safeguards, regulatory oversight and conservative loss reserves will make the Bank a reliable guardian of public funds.
- *enable local governments to redirect public funds from Wall Street banks*. The nation's big banks invest our money in places that are not only irrelevant to our communities but are actively harmful to them. Those practices cannot change without adequate alternative institutions to manage those dollars.
- *harness public funds to invest in public goals*. Traditional banking models incentivize decision-makers to prioritize profits above all else. PBEB will remain committed to financial viability, safety and solidity, balancing the essential need to be profitable with its commitment to our region's social needs and the Bank's social mandates.
- *nimbly, transparently, and democratically modify these goals as local priorities change*.

To meet these goals, PBEB will partner with and complement local financial institutions, such as Community Development Financial Institutions (CDFIs), credit unions, and local community banks<sup>6</sup>. PBEB will be managed by professionals experienced in banking and community finance, independent of the member county and cities. It will have a strong democratic and multi-stakeholder operational and governance structure, including a Board of Directors, with community members and representatives of the governmental agencies filling a majority of seats. The mission, operations, and decision-making of PBEB will ensure financial viability, as demonstrated in this Study, while prioritizing community value above maximized profit.

A democratically organized Bank with strong community oversight, PBEB will be governed by a Board of 15 people who bring banking and financial expertise along with social and political experience. The Board members will have a varied knowledge base and a shared commitment to representing and meeting the needs of systemically underserved communities – and all East Bay residents. Meetings will be public except for discussion of private customer information, personnel matters and appropriate regulatory issues, and the Bank will hold a highly publicized annual meeting to share results with the community and get feedback on future priorities. The Bank and the Board will also adhere to the highest standards with regards to records accessibility and transparency.

A discussion of governance issues is on p. 35 and a detailed governance plan is included in Appendix A.

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<sup>6</sup> A strong positive for PBEB which is also required by AB 857

## Programs

The purpose of the PBEB is to redirect a portion of the cash and investments of its member governments from bonds and CDs issued by Wall Street banks<sup>7</sup> to local lending. This study lays out four initial target programs: housing, climate, business lending, and municipal finance. The credit market needs—and the outline of a plan for fulfilling them—are described in the following sections, and referenced in the financial projections.

A rough market analysis was done for each of the four target lines. For housing, climate, and business lending, the analysis included interviews with market participants and review of various reports and studies made on the subject. The review of municipal borrowing added an analysis of public bond documents as filed on the EMMA website of the Municipal Securities Regulation Board.<sup>8</sup>

## Housing

The lack of affordable housing in our country has reached crisis level. According to Alameda County's 2021 Affordable Housing Needs report,<sup>9</sup> 52,254 low-income renters do not have access to an affordable home and 71% of extremely low-income households are paying more than half of their income in housing costs. Renters in Alameda County need 2.9 times the minimum wage to afford the average asking rent. The housing crisis has been growing over time as housing construction has slowed<sup>10</sup> and has been exacerbated by the Covid-19 pandemic. Over the course of the pandemic, nationally, rents have increased 11.4% in 2021 compared to about a 3% annual increase pre-pandemic.<sup>11</sup>

The homeownership rate for Black and Hispanic residents stands at 45.1% and 49.3% respectively. For whites, the rate is 73.8%. Moreover, this gap has not changed significantly over the 50 years since the Fair Housing Act. Similar inequities are also found in home ownership by income level.

As is evident in places like the Bay Area, the high cost of housing in many areas—especially those experiencing significant levels of real estate speculation—forces many lower-income families out of established, often better-resourced communities and into concentrated pockets of poverty within the city or in a neighboring jurisdiction.

Lastly, there is evidence of significant generational inequality, with younger Americans unable to access homeownership at the same rates as previous generations. This is particularly true for the "millennial generation" (roughly born between 1981 and 1996), which has significantly lower median

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<sup>7</sup> Over \$300M (4.5%) of Alameda County's portfolio is invested in JP Morgan alone according to its annual reports.

<sup>8</sup> <https://emma.msrb.com>

<sup>9</sup> <https://chpc.net/resources/alameda-county-housing-need-report-2021/>

<sup>10</sup> <https://www.nytimes.com/2021/08/10/opinion/housing-crisis-eviction.html>

<sup>11</sup> Research for this section included interviews with directors and staff at ten of the largest non-profit developers of affordable housing in the service area. This is a \$500M per year market, and the demand is still growing.

wealth than previous generations did at the same age and high levels of student loan debt. Many millennials are disproportionately burdened by housing costs, and fewer are able to purchase homes.<sup>12</sup>

### Short-term financing for housing development and preservation

The goal of increasing the region's stock of affordable housing will not be reached merely by increasing the amount of available credit. A great deal of credit is available for affordable housing development, but the credit that is available does not always match the credit that is needed. In addition, securing the credit and managing all the other logistical aspects of building an affordable housing development is an arduous and complex process that can take three to five years from the time a property is identified to when the units are move-in ready. A single affordable housing development might rely on over 20 sources of funding.

Unfortunately, though both government and private credit is available in theory, it is difficult or expensive to find credit that can be deployed quickly, which can allow a non-profit developer to act on a property that comes up for sale suddenly, or to participate in the foreclosure or tax sale markets to preserve affordability of properties that come up for sale. Perhaps more important, a housing agency with a flexible and readily-deployed source of capital would also be better equipped to prevent those foreclosures or tax sales, and the cascade of negative impacts that result for the people who lose their homes. Foreclosures can also cause harm to neighborhoods and financial institutions by lowering neighborhood home values. During the pandemic, a moratorium was placed on foreclosure actions, however, that moratorium has been lifted and foreclosures are beginning again.

Housing agencies also frequently require bridge finance, to get a project underway while the longer-term financing is worked out. This tends to be expensive. Offering non-profit housing developers a flexible line of credit will help them obtain the cash they need efficiently, and will allow agencies the flexibility to deploy credit quickly. PBEB will coordinate this program with other financing agencies. Many of the developers interviewed for this study identified permitting and grants as a major obstacle to building more affordable housing and expressed hopes that as a public bank, PBEB would be in a better position to reach out to local agencies and governments, to help navigate public permits and grants and ensure ongoing municipal support for housing projects, saving money for projects overall.

The credit line will work as credit lines do for individuals, with a credit limit and a repayment schedule for each drawdown of credit based on a 3-5-year amortization of the balance. Many non-profit developers have equity in past developments which can be used to help secure such a credit line, and the acquisitions made with it can also be pledged as security. Participating in the housing market, and the security pledged for this housing credit could allow the PBEB to access the resources of the Federal Home Loan Bank, a potentially valuable source of collateral. This form of credit is a departure for this market, so it can be expected to take a bit longer to build out this component of the Bank's portfolio.

### Affordable housing rehabilitation and other housing finance options

Affordable housing rehabilitation is another largely unmet need in the East Bay.<sup>13</sup> Many affordable units were built decades ago and are overdue for repairs to their roofs, cabinets, plumbing, electric service,

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<sup>12</sup> <https://thenextsystem.org/learn/stories/revisiting-community-control-land-and-housing-wake-covid-19>

<sup>13</sup> <https://baysfuture.org/time-to-fill-a-crucial-gap-in-affordable-housing-financing/>



and more. This kind of lending is smaller than new construction or home purchase finance, typically in the tens of thousands per unit, and the terms also tend to be much shorter: in the 5-10 year range, or perhaps 15 for a roof. This is compatible with the strategy of focusing on shorter term loans in the formation stage of the PBEB. Some of the same agencies who might be line-of-credit clients could be partners to take on the underwriting overhead.

Financing Accessory Dwelling Units (ADUs) is another area where traditional housing finance is largely unavailable to meet current and future needs.<sup>14</sup> Given the state of the housing market, this demand could be quite substantial and an important component to addressing affordable housing in the East Bay. The referenced study identified over 15,000 parcels where an ADU would be possible, so this has potential to add a substantial amount of housing.

Providing this credit, however, will require substantial underwriting effort, as well as navigating some legal issues, especially concerning the value of existing mortgages on properties where an ADU is proposed. From a policy perspective this is an important area to address, but providing this credit will require an investment in time and expertise beyond what is envisioned at the early stage of the PBEB. Without an obvious partner to absorb that overhead, this is not covered in this Study and the financials. It is mentioned here as a fruitful early place to expand PBEB business as the Bank Board and management deem feasible.

## Climate

At this late date in the progress of the climate crisis, there is not nearly enough credit available to reduce the carbon footprint of our society. The PBEB can help by focusing funds on important climate goals, like reducing the carbon footprint of our buildings and adding renewable energy production capacity.

## Electrification of residential buildings

Buildings generate an estimated 40% of annual global climate emissions, with building operations being responsible for most of those emissions. Though addressing the carbon contribution of individual buildings may seem unimportant, this is not only a vital step towards a low-carbon economy, it is also among the lowest-hanging fruit.<sup>15</sup> Multiple plans have been developed in the Bay Area to decarbonize existing buildings. Electrification of new and existing buildings is a critical aspect of these plans. The City of Berkeley's Existing Building Electrification Strategy recognizes that:

*"Beneficial electrification takes this idea further and ensures that electrification results in reduced GHG emissions, more grid resiliency, and lower energy costs for residents. With the availability of renewable electricity associated with Senate Bill (SB) 100 and EBCE, this switch to electrification, if done equitably, opens up the potential for significant benefits including reductions in GHG emissions, improved health and safety, cost savings, and more."<sup>16</sup>*

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<sup>14</sup> [https://communityinnovation.berkeley.edu/sites/default/files/a\\_solution\\_on\\_the\\_ground\\_report\\_9-27.pdf](https://communityinnovation.berkeley.edu/sites/default/files/a_solution_on_the_ground_report_9-27.pdf)

<sup>15</sup> <https://www.rewiringamerica.org/policy/rewiring-communities>

<sup>16</sup> [https://www.cityofberkeley.info/uploadedFiles/Planning\\_and\\_Development/Level\\_3\\_-\\_Energy\\_and\\_Sustainable\\_Development/Draft\\_Berkeley\\_Existing\\_Bldg\\_Electrification\\_Strategy\\_20210415.pdf](https://www.cityofberkeley.info/uploadedFiles/Planning_and_Development/Level_3_-_Energy_and_Sustainable_Development/Draft_Berkeley_Existing_Bldg_Electrification_Strategy_20210415.pdf)

Over 42 cities in California have banned fossil fuel infrastructure such as natural gas heating systems in new construction, however electrifying existing buildings remains a challenge. Retrofitting existing buildings is more costly and complicated than electrifying new buildings. From a fiscal perspective, there is plenty of evidence for long-term savings associated with building electrification. Unfortunately, available and affordable financing of upfront costs is difficult to obtain. PBEB will provide low-cost credit to address this community need.

Providing low-cost electrification loans to residential properties owners will also strengthen local economies by creating an economic boom for local businesses and tradespeople. Electricians, plumbers, and carpenters are just some of the professions that will benefit from the increase in demand for residential home conversions.

Estimates from across the region give a glimpse of the size of the need for financing electrification loans. In a recent report, the City of Berkeley estimated the average cost of transitioning a residential building to be \$30K, with an estimated 32,500 existing residential buildings. The 2020 census for Alameda County counted approximately 625,000 residential housing units (not buildings) which would put the cost of electrification somewhere over \$10B.

Compared to many other kinds of credit, retrofit loans are relatively small with terms of five to ten years. Many will be only a few thousand dollars, though some will reach the tens of thousands. To keep the cost of underwriting as low as possible, the assessment of eligibility and approval can be partially automated, with much of the paperwork effort delegated to software run by the plumbers, electricians, and HVAC contractors who will be the customer's point of contact.

For security, customers can be offered a choice between an unsecured personal loan, repaid via an additional charge on their utility bill<sup>17</sup> and a property lien, which might merit a lower rate. An on-bill tariff will also make the lending more responsive to the cost-effectiveness of the proposed improvements instead of the economic resources of the bill payer.

Costa Rica's BPDC serves as an example of the successful public financing of energy transition.<sup>18</sup> There, the public bank financed a large-scale conversion to LED lighting by analyzing the potential cost-savings of the switch and then granting low-interest loans based on those savings. The switch to LED allowed the project sponsor to receive a carbon neutral certification and continues to provide additional cost reductions.

With a substantial push for building electrification, the potential size of loan demand for electrification will be much greater than the PBEB as proposed can accommodate. This can be addressed by carving out some subset of demand for intensive attention, either by geographic area, or perhaps by the type of

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<sup>17</sup> We are assuming the cooperation of the utility over issues like cash flow and the locus of default risk. These issues have been overcome in several other states and territories, e.g. <https://www.myrec.coop/bill-tariff-energy-efficiency-program>. California's AB 841 contains incentives for in-state electric utilities to adopt measures like these, and directs them to obey PUC directives to establish them.

[https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill\\_id=201920200AB841](https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201920200AB841)

<sup>18</sup> <https://www.tni.org/en/publication/how-public-banks-can-help-finance-a-green-and-just-energy-transformation>

appliance (e.g. loans for batteries, or for heat exchangers). The financial projections indicate the prospective PBEB capacity, and assume that the main problem facing policymakers will be to contain the demand for electrification loans rather than to find borrowers.<sup>19</sup> Cooperation from local utilities with either incentives or obligations to improve energy efficiency, in the form of grants and/or paying for some of the work, is not calculated into these projections because it requires substantial negotiation. If this were to be successfully arranged, the scope of this project could grow significantly.

### Other green energy finance

Finance is needed, both to increase the green energy supply, and for load-balancing features, like in-house backup batteries, that will allow the existing electrical grid to accommodate that increase in supply without burning fossil fuels. Large solar and other energy projects take time to come online, while smaller projects can be built and installed relatively quickly.

According to the consulting firm Wood Mackenzie, a national goal of 50% renewable energy will require more than a trillion dollars in finance capital.<sup>20</sup> California represents 6-7% of the national electricity market,<sup>21</sup> and the state's own goal is even more aggressive, seeking to achieve 60% renewables by 2030 and 100% by 2045.<sup>22</sup> The state's financing needs are thus in the several tens of billions for the next decade, and the East Bay's share of that is in the range of \$3-7B. Obviously not all of that financing falls within the PBEB service area or initial target projects, but any appreciable fraction represents several hundred million in demand for financing, providing a substantial opportunity for the low-cost capital the PBEB can provide.

We recognize the current controversy around home solar policy costs proposed by the California Public Utilities Commission (CPUC). If approved, that will discourage the construction of small renewable installations in the near term,<sup>23</sup> however, the larger goal may be expected to prevail over the next 2-4 years unless the state also disavows its renewable energy targets. The financial projections are based on providing credit to small-scale renewable installations with the expectation that, though the details may change substantially based on possible state action, the demand will remain substantial.

Another benefit to focusing on renewable energy installation in partnership with local lending institutions is the potential for funding to be included in upcoming infrastructure legislation and

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<sup>19</sup> Alternatively, one might use the bond market to supply the lion's share of lendable funds, and use funding through the public bank as a liquidity reserve for that lending program and to augment the loanable funds. This would allow the PBEB to meet much more of this demand than is envisioned in this proposal, and reduce the risk to the bondholders, which would result in a lower cost of funds. This would be a substantially different institution than is proposed in this document.

<sup>20</sup> Presentation to the American Clean Power Association, December 2020. <https://cleanpower.org/wp-content/uploads/2021/02/american-clean-power-renewable-energy-and-infrastucture-policy-analysis.pdf>

<sup>21</sup> [https://www.eia.gov/state/seds/data.php?incfile=/state/seds/sep\\_fuel/html/fuel\\_use\\_es.html&sid=US](https://www.eia.gov/state/seds/data.php?incfile=/state/seds/sep_fuel/html/fuel_use_es.html&sid=US)

<sup>22</sup> <https://www.ncsl.org/research/energy/renewable-portfolio-standards.aspx>

<sup>23</sup> <https://kesq.com/news/local-news/2021/12/17/residents-heated-over-california-legislators-proposal-to-rollback-solar-incentives/> (accessed 1/26/21)

regulation to benefit “green banks.”<sup>24</sup> Designating PBEB as a green bank may open up other funding opportunities as state and federal energy policies evolve.

### Business lending

The severe lack of access to capital for small businesses, in particular for very small and woman- and BIPOC- owned businesses, is well documented nationwide and in the Bay Area.<sup>25</sup> In 2019, the Federal Reserve Bank of Atlanta published a report showing that Hispanic- and Black-owned businesses are less likely to be approved for bank loans and receive less money when they do.<sup>26</sup> It estimates that nationally the unmet credit needs among entrepreneurs of color is 15-25% higher than those of white entrepreneurs. These findings were confirmed in a more recent study by the Federal Reserve in 2021.<sup>27</sup> In an academic study from 2021 researchers showed that Black-owned businesses received loans that were 50% lower than observationally similar white-owned businesses.<sup>28</sup> The racial disparity in small business lending worsened during the pandemic, where Black-owned businesses were more likely to shut down<sup>29</sup> and less likely to receive government support through the Paycheck Protection program (PPP).<sup>30</sup> An SBA report has shown that in 2020 Black-owned businesses received only 2% of PPP loans while white-owned businesses received 83%.<sup>31</sup>

This racial disparity in small business lending is structural. A perceived higher risk-level for the part of the population that has been historically excluded from the formal banking sector, the generational impacts of poverty (e.g. entrepreneurs of color often have few assets to pledge as collateral for loans, and less wealthy family networks to tap into for starting a business) as well as a general lack of trust in banking institutions among people of color are some of the factors resulting in the lending discrepancy.

Typically, the loans needed by BIPOC-owned small businesses are too small for commercial banks to earn a profit. The cost to originate and service an individual loan is almost the same for a \$25K loan as it is for a multi-million-dollar loan, so Wall Street banks as well as community oriented local banks and credit unions, more often than not choose the larger loan, as they are structurally mandated to fulfill their private shareholders’ expectation for competitive profit rates. Out of \$1.1B of commercial loans

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<sup>24</sup> [Clean Energy Finance: Green Banking Strategies for Local Governments \(epa.gov\)](https://www.epa.gov/clean-energy/clean-energy-finance-green-banking-strategies-for-local-governments)

<sup>25</sup> See <https://cameonetwork.org/microenterprise-research-policy/> for a rich collection of reports on this topic.

<sup>26</sup> Federal Reserve Bank of Atlanta (2019): Small Business Credit Survey. <https://www.fedsmallbusiness.org/medialibrary/fedsmallbusiness/files/2019/20191211-ced-minority-owned-firms-report.pdf>

<sup>27</sup> Federal Reserve (2021): Small Business Credit Survey. Report on firms owned by people of color. <https://www.fedsmallbusiness.org/medialibrary/FedSmallBusiness/files/2021/sbcs-report-on-firms-owned-by-people-of-color>

<sup>28</sup> Atkins, Cook, Seamans (2021): Discrimination in lending? Evidence from the Paycheck Protection Program. In Small Bus Econ, July 2021, <https://link.springer.com/content/pdf/10.1007/s11187-021-00533-1.pdf>

<sup>29</sup> [National Geographic Article](#)

<sup>30</sup> [Brookings Article](#)

<sup>31</sup> See Wilmuth (2020): “The Effects of the COVID-19 Pandemic on Small Businesses.” SBA Office of Advocacy. See also the report by NCRC (2002): [“Lending Discrimination within the Paycheck Protection Program”](#)

lent among the six community banks headquartered in Alameda County, only \$93M (7%) was issued in amounts of \$100K or less.<sup>32</sup>

In a recent report created by the Bay Area Association of Black-Owned Businesses for the Friends of the Public Bank East Bay, these general observations have been confirmed through surveys of the borrowing needs of Black-owned businesses in the East Bay region.<sup>33</sup> The majority of surveyed businesses operate with revenues less than \$75K, implying needed loan amounts of well below \$50K. Many Black business owners reported a lack of trust in banking and government institutions, including fear of being rejected and reluctance to carry debt in general. These concerns often keep business owners from applying for the credit that might be necessary to grow. Trustworthy institutions rooted in the community, low-interest loans, ease of access, flexible repayment terms, and more situational evaluation of the risk created by borrowers with lower-than-typical credit scores can all help address these concerns.

One type of lending institution is currently providing such loans: CDFIs are organizations, frequently nonprofit, with the federally assigned mission to provide loans to people and businesses underserved by the traditional banking system. The Bay Area has one of the highest densities of CDFIs in the country with more than ten CDFIs headquartered, and many more actively lending, in the area (Appendix D). These institutions have a strong track record of distributing a majority of their funds to BIPOC- and women-owned businesses, originating loans with amounts as small as \$5K, and providing technical assistance to help borrowers succeed. This includes determining the right type and amount of financing and writing a sound business plan. The goal is simply to help borrowers grow and succeed in their businesses—and repay their loan.<sup>34</sup>

Providing loans and assistance with this level of engagement is costly. As they are committed to providing low rates, most CDFIs finance their operations primarily through grants and donations. Loan funds generally come from banks who are comfortable issuing loans to CDFIs at low rates (currently as low as 2-3%) in order to satisfy their Community Reinvestment Act (CRA) requirements. All CDFI executives we talked to confirmed that there is currently no lack of bank loans at low rates. In some cases, CDFIs commit to pay back 100% of the principal to the banks, even if the underlying borrowers fail, relying on grant money to cover any losses. This dependence on grants and donations to provide their loans often makes it challenging for CDFIs to grow, as they need to raise additional capital to enable additional debt financing for a growing portfolio.<sup>35</sup>

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<sup>32</sup> This is based on an analysis of the latest published annual reports for these six banks (Fremont Bank, Summit Bank, Community Bank of the Bay, Beneficial State Bank, Gateway Bank, Metropolitan Bank.

<sup>33</sup> “Borrowing Needs of Black Owned Businesses” A report by the Bay Area Organization of Black Owned Businesses (BAOBOB), commissioned by the Friends of the Public Bank East Bay. See Appendix C for more information.

<sup>34</sup> Many representatives of CDFIs who we talked to during our research (see Appendix D) were proud of not letting any of their customers fail or rejecting them for their loan applications, instead they are doing everything in their capacities to help them succeed.

<sup>35</sup> See Simmons, Bereton and Klein (2021): [“Addressing the Capitalization and Financial Constraints of CDFI Microlenders”](#)

This situation is structurally unsustainable. Private banks satisfy their federally regulated requirements to lend to low-to-moderate income businesses without incurring the cost of issuing these loans themselves and without taking on any significant risk, while still returning profits to their private shareholders.<sup>36</sup> The CDFIs, on the other hand, do all the work necessary to issue these loans and additional services, operating with lower resources, distributing no profits, and financing their operations and loan losses through grant money.<sup>37</sup>

When lenders complain they cannot find enough qualified borrowers, it means either that they have too few applications, or they do not feel comfortable with the level of risk implied by the applications they see. The PBEB can help with both aspects of this problem, primarily by providing an additional stable source of funding for CDFIs in the region at low interest rates (3% or less), in the form of a revolving line of credit. In the short term, this will provide additional financing sources for CDFIs eager to grow their portfolios. In the longer term this would guarantee the availability of low-cost funds in times when commercial banks might not be willing to lend at similarly low rates, thereby creating an interest rate ceiling that is crucial for ensuring the access to low interest rate loans for small businesses in the future.

Another way the PBEB can assist is to buttress the management of loan guarantees, to allow local lenders to be comfortable with applicants further out on the risk spectrum. One successful program for helping financial institutions occupy space further out on the risk spectrum has been the California Capital Access Program (CalCAP). Though the program has been a success for years, recent changes in both federal and state rules have made the program less attractive in some different ways.<sup>38</sup> The PBEB can address some of these issues, partly by providing a locus for joint management of guarantee funds for multiple local lenders, and partly by foregoing some interest rate revenue to offset the loss of state subsidy on participation loans. For example, a borrower might have loaned \$50K to an entrepreneur. Under CalCAP, both would contribute 2-3% to a guarantee fund, or about \$1250 each. With a participation loan, the originating bank would contribute half that amount, with PBEB making up the other half. To make up for the absent state subsidy, PBEB can offer half its revenue from that loan for the first two years. Unlike the state subsidy, this can be sustainable indefinitely, so long as PBEB can keep its underwriting and administrative expenses down.

The CalCAP program works best when the volume of lending is high enough for the statistics of a guarantee fund to work well. A 5% loss ratio for some category of a hundred loans held by multiple banks can still be devastating for a single bank that only made a few of those loans if they are unlucky enough to hold more than one default. PBEB can aggregate activity from a variety of small banks and CDFIs, thus spreading the risk across multiple banks.

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<sup>36</sup> Default rates for CDFI loans are generally not higher than for typical bank loans. For 2019, the delinquency rate of all reported CDFI loans was 1.08%. See the report by the Opportunity Finance Network (2019): "[Opportunity Finance Institutions Side by Side](#)", p. 5

<sup>37</sup> The Financial Times recently summarized this unsustainable situation well. Financial Times, 12/13/2021: "[Race and Finance: America's Segregated Finance Sector](#)".

<sup>38</sup>

[https://www.urban.org/sites/default/files/publication/98051/capital\\_access\\_programs\\_cdfi\\_case\\_study\\_on\\_the\\_california\\_capital\\_access\\_programs.pdf](https://www.urban.org/sites/default/files/publication/98051/capital_access_programs_cdfi_case_study_on_the_california_capital_access_programs.pdf)



In addition, PBEB could improve the climate for local small businesses in other ways, not currently reflected by this Study's financial model.

- PBEB could purchase loans from CDFIs, securitize them and sell them on the secondary markets to banks and other lenders, thereby freeing up the balance sheets of CDFIs that will allow them to make more loans. Centralizing the purchase, securitization and sale of these small assets at a public bank could reduce costs for participating community banks and CDFIs that are already doing these types of transactions.<sup>39</sup> Given that these credits would mostly be CRA eligible, a high demand on the secondary market for these loans is almost guaranteed.
- PBEB could help smaller CDFIs or other non-profit lenders with technical loan infrastructure. These lenders create great value in the time-intensive customer-centric interactions with the customers focusing on their actual needs; the training provided in understanding their borrowing needs, business plan, accounting, growth, and much more. The technical infrastructure for distributing and servicing loans on the other hand could probably be standardized and centralized, thereby reducing the cost of lending for CDFIs.
- PBEB could act as a referral agency supporting the growth of CDFIs. Every single CDFI representative we talked to mentioned a lack of awareness among small business owners in the Bay Area of the existence of alternative and mission-oriented lenders like themselves. Public agencies, such as cities' economic development offices, are much more known to small business owners. By developing a trusted public brand and cross-subsidizing significant marketing and platform building, PBEB could take on the role of referring incoming loan inquiries to the most relevant CDFI or community bank in the area.<sup>40</sup>

Approximately [ten CDFIs](#) headquartered in the Bay Area focus on small businesses (primarily low-income, BIPOC-owned). They (very roughly) have originated approximately \$50M in such loans over the last year. The East Bay makes up about 1/3 of the Bay Area by population, so the CDFI loan volume in the East Bay can be estimated at about \$17M. Beyond the CDFIs, the six community banks located in Alameda County have around \$90M in small business loans (loan amounts below \$100K) on their books. Assuming 10-year terms, this is about \$9M in business each year. Adding credit unions and other lenders implies as much as \$30M in small business lending in the PBEB service area each year.

If partnerships with the PBEB could expand the range of businesses to which these CDFIs could lend, either by lowering the interest rate, or providing access to a guarantee fund, this sum could increase substantially, and the PBEB might be able to grow into a share of that expansion. This is incorporated into the financial projections.

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<sup>39</sup> Michael Herne from LISC made the case for creating a secondary market for CDFI loans. Herne (2021): [“A Quantum Leap” for CDFI Funding: The Potential of Securitization](#).”

<sup>40</sup> Darien Louie's report for Alameda County in 2019 came to a similar conclusion. While there are plenty of resources in the East Bay providing loans and assistance to small businesses, few of them are widely known. Darien Louie (2020): “Community Investment and Local Banking Initiative Study.”

## Municipal finance

Most municipal borrowing is served by the nation's investment banks and the market for municipal bonds they have developed, and yet there is value in including municipal lending in the services provided by the PBEB, both to the Bank and to its member municipalities. In 2020 alone, the four initial member governments issued more than \$350M in bonds, not counting short-term tax anticipation notes. These bonds had a wide range of terms, ranging from 1 to 20 years, with a few even longer than that. The mid-to-longer term bonds have rates ranging from 2% to 3%. Some of these bonds are for taxable purposes, and those are for slightly higher rates, up to 4%. The nation may be entering a climate of somewhat higher rates than has been the case for several years.

From a government's perspective, bond debt is slow and relatively inflexible. A program must be thoroughly described in bond documents prepared months in advance, and once a bond is sold, there is no negotiation if the agency's programmatic needs or economic circumstances change. The bond market can be a huge resource to the government of a wealthy community, which can access seemingly endless quantities of money at low rates. Less affluent communities, however, can struggle to access affordable interest rates, even though the actual difference in risk to the bondholder is barely detectable. PBEB can relieve some of these burdens, providing a valuable asset to the member governments.

Though it will take time to grow into an institution that can address these needs at large scale, the Bank can help in a small way simply by being one additional buyer for members' municipal debt. This is especially true because it is not driven by maximizing profit and thus may be able to consider lending at a lower cost and set a ceiling on bond rates secured by the member governments.

Beyond that, with sufficient expertise and personnel, the Bank could actually underwrite some small bond issues. Apart from the basics of filing regulatory documents, the fundamentals of underwriting are twofold: finding buyers and making a market, which simply means promising to buy bonds in the future if some bondholder wishes to sell. (The price is not predetermined.) Collateral requirements mean the Bank will usually have the liquidity necessary to make a market for a modest issue because the state-required collateral can be repurposed to purchase these securities, which also count as collateral.

Finding buyers for these bonds is related to other prospective components of PBEB business. For example, the PBEB might choose to securitize and sell packages of small business loans or green energy loans, and presumably the buyers of those securities might also be buyers of the municipal bonds.

Being able to underwrite some bonds could potentially save on issuance costs for the member government and provide revenue to PBEB. It could also help the member governments in future negotiations with potential underwriters to have additional options for underwriting, especially an option that provides a degree of transparency about what it earns. Finally—and this gets to the original point of a public bank—it makes sense to be able to deploy public assets in service of important public policy goals. If a PBEB can make some of its member governments' own capital available for their needs, that is all to the good.

From the Bank's perspective, municipal debt is valuable not only for its security, but also for its predictability. Because of the bond market's inflexibility, bond issues are generally planned far in advance. This allows the PBEB to have a high degree of confidence in certain components of its business,



especially important during the opening phase of the Bank, where the guarantee of some income can allow the PBEB to show incoming revenue much sooner than is usual for a startup.<sup>41</sup> In fact, recent years have seen a substantial amount of project finance move from the open bond market to private placements with banks for exactly these reasons, especially for smaller projects.<sup>42</sup> These are attractive lending opportunities for any bank, not just a public bank.

The PBEB will not start at a scale that could accommodate hundreds of millions in loans per year, but setting a precedent that it will lend to its members may be useful, both to the member governments and to the Bank itself. However, if at its inception, the Bank were to buy a substantial amount of upcoming bond issues, it would have a fair amount of interest income available from the start, that could be liquidated as it builds out other components of its lending portfolio. It could buy this either by participating in a standard bond sale, or underwriting the bond and keeping some fraction of the issue.

## Financing

The basics of a bank are the money invested in it and the money it invests. The first constitutes the bank's capital, the foundation of its financial stability, and the second, its funding, the deposits and invested funds with which the bank makes its loans. We describe these in turn.

### Capitalization

Any bank must account for the capital with which it is begun. This is the original money invested in creating the bank, and that continues through its life to be the difference between the bank's assets and the deposits and investments that it must eventually return to others. The PBEB is to be a mutual institution, where ownership is by the members who invest "pledged" deposits that count as capital. These are deposits that are meant to be permanent.<sup>43</sup> Pledged deposit accounts do not bear interest, though the ownership share they represent can acquire additional value through retained earnings. Because of this, it is likely not within the purview of investment administrators alone to make such an investment, and will require an explicit appropriation by the relevant legislative body. These pledged deposits are to be fully collateralized.

The financial projections accompanying this report assume that the Bank begins with a commitment of \$40M in pledged deposits from the initial four member governments: Oakland, Berkeley, Richmond, and Alameda County. They show that running the Bank in a conservative and careful fashion can result in an institution worth over \$250M within a decade. Much of the activity of a bank—the number of loans issued, the amounts, the deposits and investments behind them—can be scaled arbitrarily. Some of the important costs, however, do not scale as conveniently. These components of the Bank's overhead

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<sup>41</sup> A more mature and financially stronger bank can offer more flexibility, but this will not be true at the beginning, at least not at the scale at which most bonds are issued. At smaller scale, it will certainly be true, and pieces of the original bond issue can be liquidated to fund such loans.

<sup>42</sup> See Ivanov and Zimmerman, "[The Privatization of Municipal Debt](https://www.brookings.edu/wp-content/uploads/2018/08/WP45.pdf)" Brookings, 2018. The privatization is not all to the good, and can have the effect of impeding access to the bond market for financially weaker governments. <https://www.brookings.edu/wp-content/uploads/2018/08/WP45.pdf>

<sup>43</sup> The pledge contracts can conceivably be drawn to allow for gradual withdrawal as the Bank is able to replace the pledged monies with capital accumulated through operations, or through other contributions.

include the costs of staff, as well as the costs of the necessary data processing infrastructure, legal expenses, and regulatory compliance. The smaller the bank, the more difficult it is to amortize these costs and the more expensive the services it provides become. In effect, a policy goal of low-cost capital sets a minimum size for the institution. We have tried here to specify the minimum size necessary to carry these overhead costs and still achieve the policy goals of low interest rates and security.

## Funding

This study does not address the question of municipal budgeting to identify how the initial investment might be appropriated by each member government.<sup>44</sup> As identified in the financial projections, the total amount constitutes less than half a percent of the collective value of the cash and investments of the four founding member governments, or about 0.75% of their collective annual budgets. The money could be appropriated from those investment balances as a one-time expense invested in the PBEB.

In addition to the bank capital, any bank plan must also account for the money to be loaned. For the PBEB, this will include liabilities in the form of tradable bonds, or notes of the Bank, as well as more traditional deposits. These bank bonds are specifically permitted by California code 53601(r), and are not required to be collateralized.

Large institutions widely use bonds and large denomination CDs as a store of value. These investments are secure and easily cashed in to provide necessary liquidity. The PBEB founding agencies are no different from thousands of other institutions. Alameda County has over 30% of its portfolio in money market funds and commercial paper, including over \$300M at JP Morgan. PBEB bonds will be another option available to the cash managers for storing their money and keeping it safe.

Investments like these are made for security and liquidity, not yield. The average rate of return for Alameda County is 1.12% (July 2020-June 2021) and the rate for the three cities is even lower; the rates PBEB investment returns will mirror the rest of the market. The agencies investing their money in PBEB notes will not have to sacrifice yield to do so. The use of these funds and their relation to the budgets and assets of the sponsoring agencies is explored further in the financial projections.

In addition to the member governments, the Bank can accept deposits, or note purchases, from area non-profits and foundations. These have considerable cash resources. According to publicly available tax disclosure forms and annual reports, the assets of twenty of the largest non-profits and foundations in the local area include more than \$1.3B in cash and equivalents, and billions more in equities and longer-term bonds. Moreover, institutions such as these (especially in health and education) are increasingly adopting the “anchor mission” approach to their relationship with local communities, and a significant part of this includes re-directing a portion of their financial assets to locally beneficial strategies (such as affordable housing, environmental sustainability, and economic development). Attracting only a percent or two of that cash alone could amount to tens of millions potentially available to the Bank. There are also many smaller non-profits and foundations in the area, from which PBEB might receive investable funds. These funds would provide valuable flexibility and be an important component to the liquidity

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<sup>44</sup> All numbers referencing the cities’ and County’s finances in this section are based on an analysis of the last five years of the four agencies’ monthly treasurer’s/cash management reports published on their websites.

risk management strategy (see Risk analysis, p. 29). The financial projections reference deposits and investments made from these cash balances amounting to a bit more than one percent of the available cash.

The bank deposits from the member governments, including the pledged deposits, are required by California state law to be collateralized. This will provide a substantial amount of available liquidity that can be used for the management of the municipal lending operation, such as the market-making suggested there.

Finally, according to the state Treasurer's investment guidelines, doing business with the PBEB will require adjustments to the investment policies of its member governments. The City of Oakland has already made this change, approving the option to invest in public banks.<sup>45</sup>

### Expenses

The goal of the PBEB is to provide credit as safely and inexpensively as possible. To achieve this goal, lending programs are designed to capitalize on existing networks and partner banks, and to eschew expensive underwriting operations wherever possible. In similar fashion, the day-to-day operations are intended to take advantage of existing infrastructure and avoid expensive expenditure for buildings and real estate. Thus, the financial projections include minimal funds for facilities; the assumption is that most if not all of the Bank operations can be housed in facilities already owned by the member governments.

Similarly, the staffing projections beyond the C-suite employees use salary numbers comparable to those appropriate for senior civil servants and employees of local CDFIs in the area. People should be paid fairly—with the cost of living in the East Bay taken into account and commensurate with their expertise and ability to contribute to the operation of PBEB—but not exorbitantly. Details of the staffing levels and salaries can be found on the assumptions sheet of the financial projections.

### Expansion and growth

The Bank can become an integral component of the financial management and policy apparatus of the member governments. However, it will have to grow substantially from its inception in order to fill that role and some constraints on the growth of the PBEB must be considered. At the outset, PBEB does not anticipate providing demand accounts (checking services) to its member agencies. Governments are high-engagement customers for this service, which requires complex bookkeeping and instantly responsive customer service. The PBEB may grow into this role for its members over time, at the discretion of its Board.

At this juncture, we have focused on keeping costs low, to demonstrate that keeping costs low is viable. A future PBEB board might choose to stress capital growth to a greater degree by increasing rates for some business lines. A mutual bank can only grow as fast as its investors—or its business operations—build up its capital. Since part of the policy goal is to provide credit as cheaply as possible, there will always be tension between providing low costs and increasing capital.

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<sup>45</sup> Oakland ordinance: <https://cao-94612.s3.amazonaws.com/documents/IPFY22.pdf>

One growth strategy for the PBEB is to ask its member governments to increase the amount of capital and funding they invest. Though there is considerable room between the initial investment level envisioned here and the limits prescribed by the concentration risk treasury policies of the member governments, there are obvious limits to growth by that strategy even beyond concentration risk.

Another growth strategy is to increase the PBEB's capital by including other agencies as members. Though Oakland and Berkeley are the two largest cities in Alameda County, a dozen others could also join, representing growth potential of another 20-25% of assets. Alameda school districts and other quasi-governmental agencies (not counting BART) would add another 20-25%. BART alone would add 10%. Beyond the borders of Alameda, other nearby county governments and their cities and agencies offer the possibility of perhaps four to five times more investments. There is, therefore, ample room for growth by expanding membership.

## Financial Projections

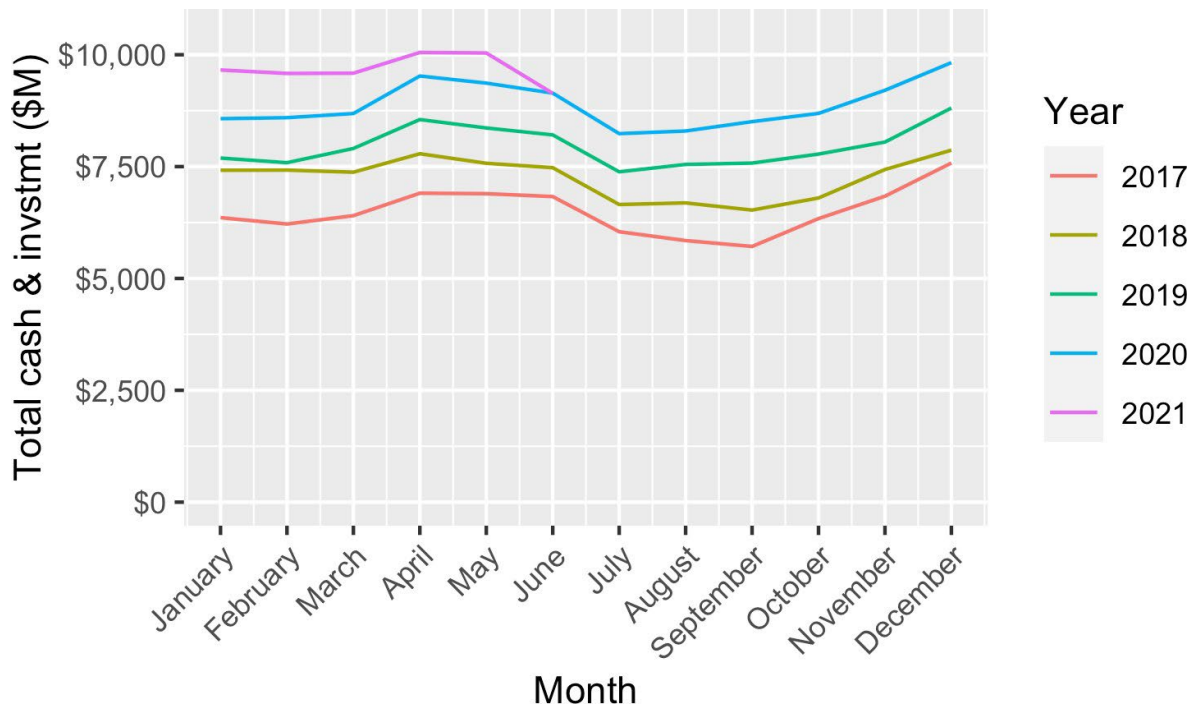
The following financial projections do not incorporate growth assumptions beyond increases in loan demand and modest increases in the amount of assets invested, such as increases in membership, or substantially higher investment levels. Given that we have projected that this small and conservative form of the Bank is viable, growth opportunities are likely to arise naturally.

The financial projections for the PBEB depend on an analysis of the available assets and estimates of the demand for credit in the various lines of business anticipated. A bank run in a conservative, steady fashion will result in a tremendous benefit to the member governments and their citizens.

The projections show a bank with assets approximately six times the size of its capital—substantially more conservative than the 10-to-1 or more that is typical of private banks—while still doubling in size over the course of its first few years, as it fills out its loan portfolio. Because these projections are conservative, the Bank may grow more quickly than these projections suggest.

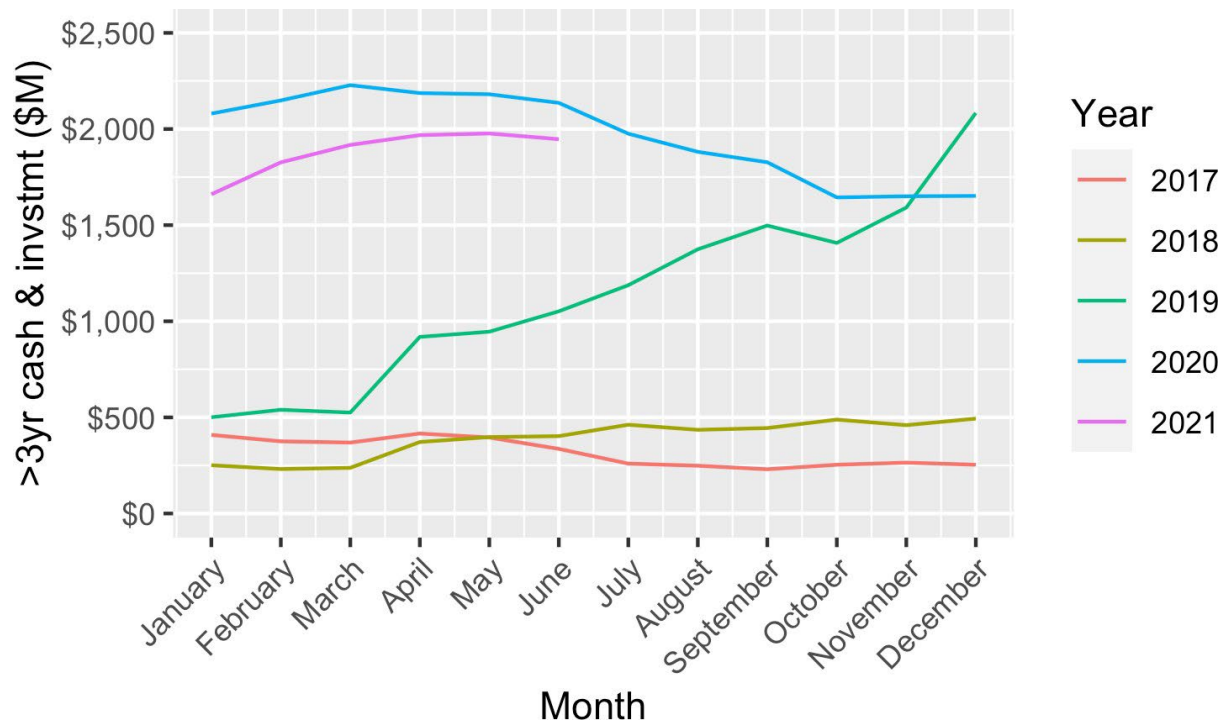
For clarity, the PBEB’s pledged deposits and accrued earnings are presented separately in the financial projections. How the earnings accrue to the Bank’s original investors and how much is reinvested is a matter to be determined by the member governments and Bank management.

The design of the PBEB assumes that some portion of the cash and investments of each of the member governments will be made available for investment by the Bank. In making estimates of how much might be available, it is important to consider not only the economic cycle of boom years and busts, but also the annual cycle of tax payments. Municipal governments in California tend to be flush with tax revenue in April and May of each year, and at a low ebb a few months later, as fall approaches.



The above graph shows the annual cycle of collective cash and investments for all four prospective member governments. At the low ebb in 2017, the treasuries of those governments still held more than \$5 billion. For the sake of financial projections, we assume that only a little more than 1% of the funds available for investment at the low ebb of August and September of that year might be invested in the PBEB in 2022. Except for the initial capital investment, these would be time deposits or notes, available for liquidation at the end of the investment term, though we assume that most or all are normally reinvested when their term is complete.

The sponsoring agencies already make longer-term investments with these funds. The graph below shows the levels of investments for terms longer than three years. Again, looking back to the low ebb of these funds in 2017 and 2018, there were more than \$250 million invested at these terms by the member governments. There is considerably more today, almost \$2 billion according to annual treasury reports, as the second graph indicates.



The financial projections envision these notes to be issued in 1, 3, and 5-year terms, currently estimated at 0.5, 1.0, and 1.5% interest. The projections assume that the member governments invest in the Bank proportionally to the relative size of their portfolios.

The projections show that with a \$40 million investment, the member governments will create a bank able to invest many times that number in their local economy. Assuming moderate growth and making conservative assumptions about investments, the PBEB will have loaned over \$120 million by year 3. By the end of a decade, the original investment will result in over \$250 million in assets, and almost \$400 million in loans made.

Basic financial projections are on the next three pages. The full spreadsheet of the financials is available on request; please email [publicbankeastbay@gmail.com](mailto:publicbankeastbay@gmail.com).

**Balance Sheet**

(dollar figures in thousands)

**Assets**Term Loans and Lines of Credit

|                                      | Y1            | Y2             | Y3             | Y4             | Y5             | Y6             | Y7             | Y8             | Y9             | Y10            |
|--------------------------------------|---------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|
| Municipal Bonds                      | 50,000        | 50,000         | 50,000         | 50,000         | 50,000         | 50,000         | 50,000         | 50,000         | 50,000         | 50,000         |
| Electrification Loans                | 11,760        | 27,440         | 43,120         | 50,000         | 50,000         | 50,000         | 50,000         | 50,000         | 50,000         | 50,000         |
| Other Green Energy                   | 1,323         | 3,087          | 4,851          | 6,651          | 8,451          | 10,251         | 12,051         | 13,851         | 15,651         | 17,451         |
| Small business participation lending | 2,026         | 4,637          | 7,248          | 9,968          | 12,688         | 15,408         | 18,128         | 20,848         | 23,568         | 26,288         |
| Affordable Housing Loans             | 1,386         | 2,178          | 2,970          | 3,770          | 4,570          | 5,370          | 6,170          | 6,970          | 7,770          | 8,570          |
| Pre-development Housing LOC          | 6,831         | 13,891         | 20,880         | 28,080         | 35,280         | 42,480         | 49,680         | 50,000         | 50,000         | 50,000         |
| CDFI Small Business Lending LOC      | 1,584         | 2,360          | 3,129          | 3,929          | 4,729          | 5,529          | 6,329          | 7,129          | 7,929          | 8,729          |
| Loan Loss Allowance                  | -113          | -144           | -30            | -117           | -158           | -199           | -240           | -268           | -294           | -321           |
| <b>Total Loans and LOCs</b>          | <b>74,797</b> | <b>103,449</b> | <b>132,168</b> | <b>152,281</b> | <b>165,559</b> | <b>178,838</b> | <b>192,117</b> | <b>198,530</b> | <b>204,623</b> | <b>210,716</b> |

Other Investments

|                                        |               |               |               |               |               |               |               |               |               |               |
|----------------------------------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|
| Government Securities                  | 40,000        | 40,000        | 40,000        | 40,000        | 40,000        | 40,000        | 40,000        | 40,000        | 40,000        | 40,000        |
| Mission-aligned short-term investments | 32,491        | 12,849        | 12,104        | 3,388         | 2,216         | 1,842         | 174           | 1,557         | 3,502         | 5,697         |
| <b>Total Other Investments</b>         | <b>72,491</b> | <b>52,849</b> | <b>52,104</b> | <b>43,388</b> | <b>42,216</b> | <b>41,842</b> | <b>40,174</b> | <b>41,557</b> | <b>43,502</b> | <b>45,697</b> |
| <u>Clearance Account / Cash</u>        | 800           | 800           | 800           | 800           | 800           | 800           | 800           | 800           | 800           | 800           |

|                     |                |                |                |                |                |                |                |                |                |                |
|---------------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|
| <b>Total Assets</b> | <b>148,088</b> | <b>157,097</b> | <b>185,072</b> | <b>196,469</b> | <b>208,575</b> | <b>221,480</b> | <b>233,091</b> | <b>240,887</b> | <b>248,925</b> | <b>257,214</b> |
|---------------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|

**Equity**

|                           |               |               |               |               |               |               |               |               |               |               |
|---------------------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|
| Capital founding agencies | 40,000        | 40,000        | 40,000        | 40,000        | 40,000        | 40,000        | 40,000        | 40,000        | 40,000        | 40,000        |
| Retained Earnings         | -642          | -518          | -82           | 301           | 350           | 452           | 526           | 476           | 434           | 388           |
| <b>Total Equity</b>       | <b>39,358</b> | <b>38,839</b> | <b>38,757</b> | <b>39,058</b> | <b>39,408</b> | <b>39,860</b> | <b>40,386</b> | <b>40,863</b> | <b>41,296</b> | <b>41,684</b> |

**Liabilities**Agency Loans

|                           |                |                |                |                |                |                |                |                |                |                |
|---------------------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|
| 1 year loans              | 61,898         | 67,322         | 73,081         | 79,193         | 85,678         | 92,554         | 98,647         | 102,593        | 106,697        | 110,965        |
| 3 year loans              | 22,925         | 24,934         | 27,067         | 29,331         | 31,732         | 34,279         | 36,536         | 37,998         | 39,517         | 41,098         |
| 5 year loans              | 23,908         | 26,003         | 28,227         | 30,588         | 33,092         | 35,748         | 38,102         | 39,626         | 41,211         | 42,859         |
| <b>Total Agency Loans</b> | <b>108,730</b> | <b>118,258</b> | <b>128,375</b> | <b>139,112</b> | <b>150,502</b> | <b>162,581</b> | <b>173,285</b> | <b>180,217</b> | <b>187,426</b> | <b>194,923</b> |

Non-profit deposits

|                                     |                |                |                |                |                |                |                |                |                |                |
|-------------------------------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|
|                                     | 0              | 0              | 17,940         | 18,299         | 18,665         | 19,038         | 19,419         | 19,807         | 20,203         | 20,607         |
| <b>Total Equity and Liabilities</b> | <b>148,088</b> | <b>157,097</b> | <b>185,072</b> | <b>196,469</b> | <b>208,575</b> | <b>221,480</b> | <b>233,091</b> | <b>240,887</b> | <b>248,925</b> | <b>257,214</b> |

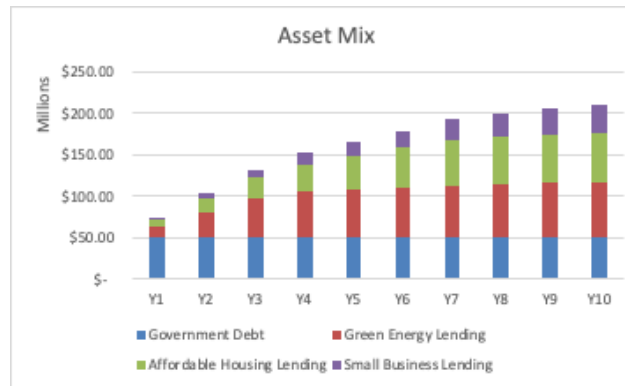
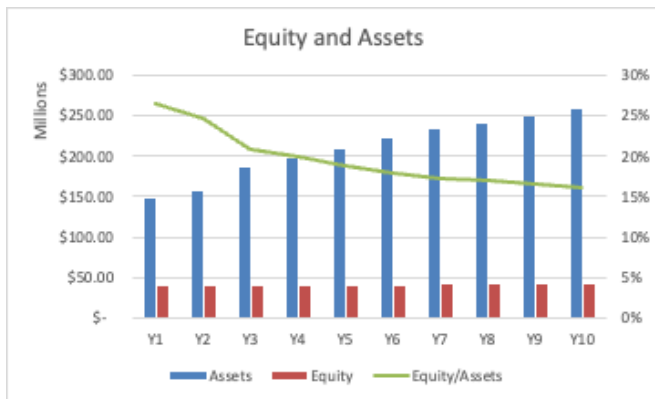
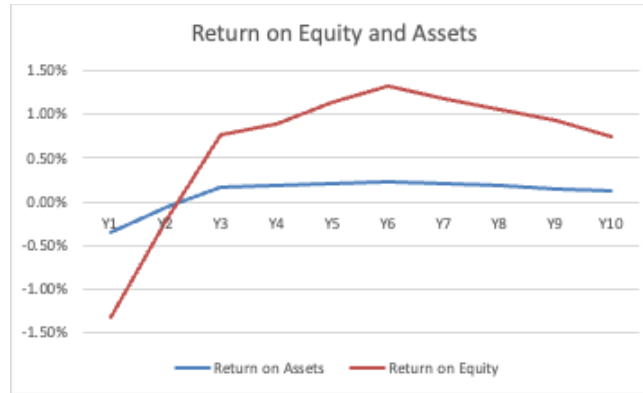
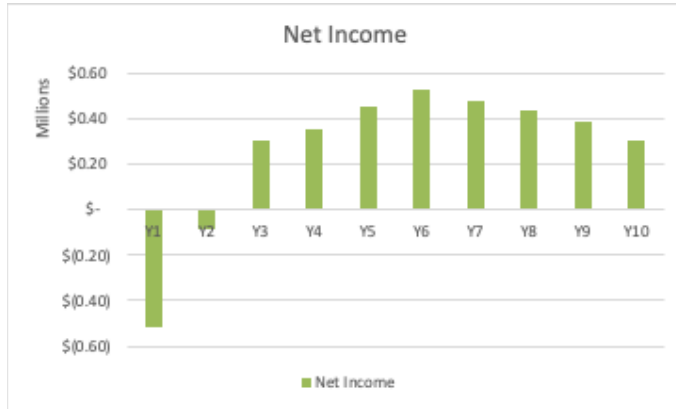
**Profit and Loss**

(dollar figures in thousands)

|                                        | Y1           | Y2           | Y3           | Y4           | Y5           | Y6           | Y7           | Y8           | Y9           | Y10          |
|----------------------------------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|
| <b>Income</b>                          |              |              |              |              |              |              |              |              |              |              |
| <u>Asset Income</u>                    |              |              |              |              |              |              |              |              |              |              |
| Municipal Bonds                        | 1,375        | 1,375        | 1,375        | 1,375        | 1,375        | 1,375        | 1,375        | 1,375        | 1,375        | 1,375        |
| Electrification Loans                  | 240          | 870          | 1,498        | 2,000        | 2,000        | 2,000        | 2,000        | 2,000        | 2,000        | 2,000        |
| Other Green Energy                     | 27           | 98           | 168          | 266          | 338          | 410          | 482          | 554          | 626          | 698          |
| Small business participation lending   | 54           | 186          | 317          | 498          | 634          | 770          | 906          | 1,042        | 1,178        | 1,314        |
| Affordable Housing Loans               | 36           | 75           | 107          | 151          | 183          | 215          | 247          | 279          | 311          | 343          |
| Pre-development Housing LOC            | 137          | 368          | 598          | 913          | 1,147        | 1,381        | 1,615        | 1,625        | 1,625        | 1,625        |
| CDFI Small Business Lending LOC        | 36           | 57           | 79           | 108          | 130          | 152          | 174          | 196          | 218          | 240          |
| Default Losses                         | 0            | -117         | -262         | -403         | -490         | -531         | -572         | -614         | -641         | -668         |
| Total Loan and LOC interest income     | 1,904        | 2,914        | 3,879        | 4,908        | 5,317        | 5,772        | 6,226        | 6,458        | 6,692        | 6,928        |
| <u>Other Investment Income</u>         |              |              |              |              |              |              |              |              |              |              |
| Government Securities                  | 300          | 300          | 300          | 300          | 300          | 300          | 300          | 300          | 300          | 300          |
| Mission-aligned short-term investments | 1,059        | 526          | 369          | 85           | 55           | 46           | 4            | 39           | 88           | 142          |
| Total Other Investment Income          | 1,359        | 826          | 669          | 385          | 355          | 346          | 304          | 339          | 388          | 442          |
| <b>Total Income</b>                    | <b>3,264</b> | <b>3,740</b> | <b>4,548</b> | <b>5,293</b> | <b>5,672</b> | <b>6,118</b> | <b>6,531</b> | <b>6,797</b> | <b>7,080</b> | <b>7,370</b> |
| <b>Expenses</b>                        |              |              |              |              |              |              |              |              |              |              |
| <u>Debt service expenses</u>           |              |              |              |              |              |              |              |              |              |              |
| Interest paid on non-profit deposits   | 0            | 0            | 56           | 91           | 93           | 95           | 97           | 99           | 101          | 103          |
| Interest paid on agency loans          | 889          | 956          | 1,051        | 1,148        | 1,242        | 1,342        | 1,430        | 1,487        | 1,547        | 1,609        |
| Total debt service cost                | 889          | 956          | 1,107        | 1,240        | 1,335        | 1,437        | 1,527        | 1,586        | 1,648        | 1,712        |
| <u>Operations</u>                      |              |              |              |              |              |              |              |              |              |              |
| Total Operations Expenses              | 862          | 964          | 997          | 1,031        | 1,066        | 1,102        | 1,140        | 1,178        | 1,217        | 1,258        |
| <u>Staff</u>                           |              |              |              |              |              |              |              |              |              |              |
| Total personnel cost                   | 2,156        | 2,338        | 2,527        | 2,721        | 2,920        | 3,126        | 3,338        | 3,556        | 3,781        | 4,013        |
| Total Number of staff                  | 11           | 12           | 13           | 14           | 15           | 16           | 17           | 18           | 19           | 20           |
| <b>Total Expenses</b>                  | <b>3,906</b> | <b>4,258</b> | <b>4,630</b> | <b>4,991</b> | <b>5,322</b> | <b>5,665</b> | <b>6,005</b> | <b>6,321</b> | <b>6,646</b> | <b>6,982</b> |
| <b>Net Income</b>                      | <b>-642</b>  | <b>-518</b>  | <b>-82</b>   | <b>301</b>   | <b>350</b>   | <b>452</b>   | <b>526</b>   | <b>476</b>   | <b>434</b>   | <b>388</b>   |



Key Ratios



## Staffing

The PBEB is designed to be as lean as possible. Programs are to be run in partnership with existing institutions and overhead is to be kept as low as feasible. Salaries are projected to be in line with comparable jobs in the government and non-profit sectors.

Following are short, high-level descriptions of the work involved in each of the envisioned programs.

## Housing

Most of the labor involved in supporting the housing program will involve negotiating arrangements with the nonprofit affordable housing developers who want to take advantage of the line of credit program. We anticipate working with one to two dozen of these agencies over the course of the first three years. Much of the time involved will be in the original negotiation of agreements, including reviewing proposed collateral.

In addition, the housing program will involve establishing partnership agreements with lenders who wish to support the proposed rehabilitation lending. Some of these may be the agencies getting a line of credit, and some may be different lenders. We anticipate a relatively small number of lenders relative to the line-of-credit agencies, so not a tremendous additional burden.

## Climate

The climate lending, including both electrification and renewable construction, will involve making arrangements with a small number of partner underwriters and seeking ways to delegate the paperwork to the customer points of contact—plumbers and electricians for the electrification work and installation contractors for the renewable energy lending. This will involve working with a small number of partner lenders, along with software vendors that might produce applications for doing the paperwork, as well as associations of contractors to get the word out.

## Small business lending

Developing relationships with the co-operative businesses, CDFIs and local banks that are to be the backbone of the operation will make this likely the most labor-intensive program included. The underwriting judgments are to be carried out by the partners, but considerable work will be involved in reviewing the terms and outcomes of the partnerships.

## Municipal finance

Municipal finance operations are important to the vision laid out here, but the actual transactions will be relatively few and large compared to the lending programs described above. Managing these transactions, and any potential subsequent repurchases and sales related to the market-making operation, requiring relatively small contributions of time from the CEO, CFO, and treasury management.

## Treasury operations

The treasury operations for the PBEB include managing the sales of the notes that fund the operation, managing collateral, and investing excess funds that are not currently invested in a core lending program. Eventually this will also include deposits from non-profits and foundations.

The treasury will also be involved in the repurchase and resale of municipal securities for which the PBEB is providing market-making service. This must be done daily, and as a consequence requires adequate backup plans, but the number of transactions per day is probably small and can be handled by one person in a morning's work.

### Data processing/IT

A certain amount of baseline IT overhead accrues to every office operation: maintaining the local area network, wi-fi, a computer on each desk, and so on. It is plausible that this can be addressed by colocation of the PBEB in space maintained by one or the other of the founding agencies and participating in their IT system.

Beyond that basic level of support, the PBEB will require financial software in order to support organic growth of future business. Most data processing overhead will be focused on the development and maintenance of that platform. Because this is supplied by an outside vendor, most development and maintenance will happen there, but the PBEB must provide adequate oversight of that outside vendor, as well as local expertise to assist in development and addressing unforeseen situations.

In addition to the backbone software, some lending programs may require specialized software to assist in the underwriting process. For example, we envision a tablet application that plumbers and electricians can use to initiate the underwriting process on behalf of their electrification customers. Because financial software requires a high degree of security, much of this development will probably not be done in-house, with local expertise available to consult and direct. Some development may be done with grants or donations prior to startup.

We project that these tasks can be serviced by a "hands-on" CTO, along with a relatively technical assistant, who will serve as the local point of contact for the networking and other local technology concerns.

### Compliance officer

The PBEB has budgeted a staff member to oversee the Bank's compliance with all the relevant state and federal regulations. In addition, the officer has a budget to employ outside accountants and auditors as required by management and regulatory law.

### Pre-Opening Budget

Some budgeted funds will need to be spent before the start of the financial projections. These funds are being raised separately, via foundation grants and donations and some contributions from member governments. The rough numbers below were generated through conversations with experienced bankers and banking attorneys in California.

|                                                                    |                     |
|--------------------------------------------------------------------|---------------------|
| Developing business plan in collaboration with government agencies | \$ 250,000          |
| Vetting and compensating founding board members                    | 380,000             |
| Hiring and retaining executive staff                               | 650,000             |
| Additional legal and consulting fees                               | 250,000             |
| Technology & Fixed Assets                                          | 725,000             |
| Misc. Fees                                                         | <u>90,000</u>       |
| <b>Total</b>                                                       | <b>\$ 2,345,000</b> |

## Risk analysis

Banking is all about how to manage the risk of taking in money at one set of terms and lending at another. While history has shown that these risks exist, it has also shown how to manage an institution to be resilient against inevitable economic fluctuations. Many banks failed during the Great Depression, for example, but there were also many that did not. Many banks became overextended and collapsed during the bank crisis of 2007-2008, but again, many, including the public Bank of North Dakota, did not. The secrets of resilience are not obscure, but they are routinely ignored in the stampede for greater profit and the quick buck. The PBEB will manage its risk in many small ways: demanding adequate security for its lending, healthy loan-loss reserves (the financial projections assume loan default rates between 1-4%, depending on the program and in line with industry standard), sharing its risk with local bank partners, transparency and auditing, regulatory oversight, governance controls on self-dealing, and more. It will also manage it in a global sense by simply limiting its leverage.

Leverage is the ratio between the bank's equity (what it owns) and what it lends out (its assets). The more a bank lends, the more interest payments it receives and the more profitable it can be. However, the more a bank lends, the more it relies on all its borrowers to repay their loans. A bank with \$50M in capital and \$500M in loans will be rendered insolvent with a 10% default rate, while a bank with the same capital and only \$250M in loans will obviously be hurt, but will survive.

Following the urge to extract every penny possible from their investments, commercial bank management typically pushes leverage up to the regulatory limits. Asset-to-capital ratios approaching 10-to-1 (often written as 10%) are not uncommon. The PBEB is to be run conservatively and carefully to make it resilient, and the financial projections show that this can be done successfully at 6-to-1 (or 16%). Apart from small-scale provisions like loan-loss reserves, this level of capital provides a substantial cushion for when hard times inevitably hit.

Obviously, there is default risk to any loan, but concentration restrictions and other internal controls can address those. Systemic risk must be considered as well. The important risks are a change in interest rates that squeezes the spread between the rates the bank pays and the rates the bank receives, and a recession where default rates go up and borrowing goes down.

The financial projections contain a crude stress test where, in year 4, the default rates double and the growth rate in borrowing drops 90%. As a result, the losses from some lines of business triple and the bank loses money that year. But even so, the losses are much smaller than the cushion available and

though the bank has a negative cash flow, it does not require more cash. The growth of subsequent years quickly makes up for them, though note that those years assume the same conditions as before the recession, and not the typical above-average growth that is usual in the years immediately after such an event.

Following is a discussion of the individual lines of business, their risk, and how they would be impacted by a change in interest rates or a recession.

### Housing

Bridge finance for housing agencies carries some risk because not all complex deals work out in the end. However, the structure of these loans is lines of credit secured by equity the agency already owns, which will limit the risk to the Bank. Importantly, these loans do not depend on the success of any particular deal to be secure.

The sum of the debt of each participating agency is indefinite, though subject to an overall limit, but the terms of each drawdown of that credit is a 3- to 5-year term, which will limit the interest rate risk to the Bank. These lines of credit could also be structured with a floating rate, which would eliminate the interest-rate risk, though it might also make the program less attractive to the housing agencies. The financial projections assume a fixed rate for this line of business.

Loans for affordable housing rehabilitation have longer terms, so the interest rate risk exposure opened by this line of lending is more substantial. Because the PBEB is young and its equity new, it would be best to make this kind of longer-term lending as floating-rate loans. This might reduce the appeal of these loans, but the market is unserved at present, and with low overhead, the PBEB should be able to hold that floating rate down even so. Since many of the debts that built these properties are already fully amortized, these loans can be secured with the property to be rehabilitated, in part or in whole.

### Electrification lending

The loans involved in the electrification program are small and the terms limited to 5-10 years at the outside. Because the terms are relatively short, the risk of rising interest rates is low. The relatively high turnover means that rates to borrowers can be adjusted relatively easily if rising rates produce pressure on the cost of funds.

Automating the underwriting paperwork and delegating some of it to the plumbers and contractors will reduce the administrative burden, but will necessarily increase the borrowing risk somewhat. Adequate loss reserves are thus necessary to make the program successful. If the repayment can be done through the utility bill, this will dramatically lower the risk of default.

### Business

The business lending proposed at the outset is largely in the form of relatively short-term lending to small businesses: loans averaging \$40,000, with terms of 5-7 years. These might be in the form of lines of credit for buying goods or business expansions/construction. This lending will be conducted jointly with other underwriters, who will share some of the risk. The interest rates may float, depending on the risk appetite of the participating bank or CDFI. The relatively short terms will help insulate against interest rate risk.

Other business lending envisioned in this proposal is essentially the maintenance of a guarantee fund, where the risk involved is essentially limited to misapprehension of the default risk for these kinds of loans. The CalCAP program has 20 years of history to draw on, which means that there is good data available for making risk estimates in different economic conditions.

The interest rate risk involved in these loans is no more than the partner bank wishes to take on. Much business lending uses a floating rate, so the risk of rising interest rates will be borne by the borrower. Again, the PBEB's low overhead can offset the disadvantage of the floating rate.

### Municipal lending

The default risk for municipal bonds is very low. A small number of California cities have gone bankrupt in recent history, so the risk is not negligible. But the ledger has two sides: the PBEB will possess not only the debt of its member governments, but some of their assets as well, which will serve as a certain amount of insulation against default risk.

Interest rate risk for municipal obligations is more of a concern, since the likely terms can be substantially longer. The PBEB can address this by limiting its purchase of any particular issue, but also by committing to making a market for that issue. To see how this could work, imagine one of the member governments is planning to issue a \$30M bond for some purpose. The PBEB can buy a third of it at a yield of 2.5%, and use some of its liquid holdings to guarantee a purchaser for the other two-thirds of it. Because the Bank will be required to hold collateral against its deposits, it will always have an ample store of liquidity, and this can be put to use by promising to buy back bonds, which can also serve as collateral. If interest rates rise, the Bank can buy bonds back from bondholders who wish to divest, and resell them. This is the traditional role of the underwriter, but with low enough overhead, the PBEB can afford to support a good price for the bonds, keeping them a good investment for other bondholders.

Alternatively, of course, the issuing government could make the bonds a floating rate, in which case a private placement would not entail interest rate risk. However, it is valuable to develop the risk-management capacity of the PBEB, so this might perhaps be a strategy kept in abeyance as a way to address problems that might occur in the future.

### Liquidity risk

Any bank must address the risk that its investors or depositors will seek to put their money elsewhere. The three scenarios to contemplate are the short-term, and temporary, embarrassment of one of the member governments; some member government wishing to withdraw from the PBEB; and a widespread economic downturn that limits member liquidity.

First, consider the possibility that a member government experiences a budget catastrophe that forces it to withdraw its liquid assets from the PBEB and makes it unable to roll over its investments. In this case, the PBEB would seek to make up the difference from the other members. One member is much larger than the others, but by limiting the amount of investment from each, it should still be feasible for the other members to make up the difference. The projections here envision only 1-2% of all cash and short-term investments going to the Bank, so the difference will be small. If the cities had to make up the difference from losing Alameda County, their contribution might rise from 1% of their investments to 4%.

This is a comparable risk to having some member withdraw from the Bank. Presumably the written agreement of the initial investment will preclude sudden large withdrawals from the Bank's capital. In the event that the obstacles to withdrawal are overcome, the mitigation strategy is roughly the same: to have the other governments step in to make up the difference.

Insulation against these risks is another reason to cultivate a certain level of investments from local non-profits. While few of these organizations could be considered counter-cyclical, their finances are affected in different ways from the member governments. Like the governments, there are social and political reasons for them to support the PBEB, and if stepping in to help alleviate a potential liquidity crisis only involves moving investments from some other bank to the PBEB, this is a small ask to make in a time of crisis.

Finally, consider the effect of a recession. Obviously, a recession reduces the amount of cash and investments available to each of the member governments, and increases their demand for liquidity, too. Here, there are two lines of defense for the PBEB. The first is simply the small demand on the member governments. Again, the financial projections here assume only a small percentage of the available funds are invested in the Bank. Presumably these can be among the last to be liquidated by a government in distress. In the event of a liquidity crisis caused by these events, the PBEB can turn to its non-profit depositors, its correspondent bank, or even the Federal Reserve, for help. Recent recessions have seen the Fed flooding the zone with very cheap or free liquidity to help financial institutions through these kinds of events. Because those efforts have been largely successful, there is ample reason to suspect the same will be true in future recessions.

In addition to these risks, there is liquidity risk involved in the similarity of the PBEB customers. Unlike many other banks, the primary funders of the PBEB are a small and homogeneous group. Their finances are roughly synchronous with each other, with the annual ebbs and flows of their funds occurring in the same months of the year. For this reason, the financial projections depend on allocations derived from the annual minimum balance of cash and investments for the member governments. The PBEB can absorb a certain amount of these ebbs and flows through adjusting investments in a managed investment fund rather than trying to adjust its loan balances.

It is certainly possible—indeed it is to be hoped—that the PBEB will eventually ask for a higher level of investment from its member governments.<sup>46</sup> The flip side of the uniformity of customers is that the finances of the PBEB member governments are highly predictable. Each of the governments makes a budget with short- and long-term financial projections. As the PBEB grows and becomes more successful, these member projections can be made available to the PBEB for liquidity planning purposes.

## Governance

The governance design of the PBEB is a critical component to committing to its community objectives while also ensuring financial viability and compliance with banking regulations. Democratic, local

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<sup>46</sup> Though not too much. California law limits the percentage of its investments a county or city can make in a single entity to 10%, though exceptions may apply. There is a considerable distance between 1-2% and 10%, but expansion of the bank ultimately will depend on accumulating equity or on expanding membership.

control of the PBEB places community members in control of local finance decisions. Community members serving as Directors are more likely to make decisions that will benefit the communities they live in when compared to the traditional private banks that are solely focused on maximizing profits. Additionally, incorporating community priorities and values into the charter of the Public Bank, further ensures that the Bank's decisions will balance those important public interests with the fiscal and regulatory considerations.

The PBEB's Governance Plan, attached as Appendix A, calls for a majority of community representatives on the Bank's Board. Specifically, the Board will provide seats for five governmental agencies (one from each of the three cities and two from the County), two bankers or financial experts, five representatives of grassroots community organizations, and three community representatives who are also financial experts, making a majority of eight community representatives out of a total of 15 Directors. All Board members will be fully vetted and approved by state and federal regulators as part of the process of approving the business plan and the Bank's charter.

PBEB's draft Governance Plan also recognizes that it is critical for all Directors to have a solid foundation in "board member responsibilities, fiduciary responsibility, financial and banking principles, and decision-making processes." The Board of Directors will have responsibilities similar to the directors of community banks and corporate boards, with a much greater emphasis on mission alignment, community participation, and transparency. To accomplish this goal, PBEB will establish an "Academy" to train new Directors and administer a test to Directors before they are seated on the Board. The Academy ensures that Directors all have the requisite banking and financial knowledge to competently serve on the Board and makes Board service available to people who may not have formal knowledge or experience in the financial sector. The existence of the Academy makes Board service accessible to anyone who is interested in serving. Furthermore, the Academy ensures that all Directors will be full participants in Board activity and decision-making.

The PBEB's draft Governance Plan establishes that the Bank will approve a Conflict of Interest Policy to protect against unlawful insider transactions and conflicts of interests. The Academy will also train Directors as to their roles and responsibilities which will include the necessary education to identify and avoid insider transactions and conflicts of interest. The California Department of Financial Protection and Innovation will supervise the Bank closely for its first three years, as will the Federal Deposit Insurance Corporation. The Board policies, Director training, and regulatory agencies provide multiple layers of protection from double-dealing.

PBEB's draft Governance Plan embeds community priorities into PBEB's decision-making process. The Bank has a robust mission statement with five stated values: equity, social responsibility, fiscal responsibility, accountability, democracy. Furthermore, the draft Governance Plan establishes broad loan policies that require Directors to consider the Bank's external policy goals, including "projects that benefit the economic, environmental, and social health of the entire community." Traditional banks have charters that generally focus only on the fiscal health of the bank at the cost of all other considerations. Regulatory agencies focus on consumer protection and the fiscal health of the bank. The PBEB's unique loan policy framework will allow the Bank to make lending decisions that balance the advancement of community benefits, fiscal responsibility, and regulatory expectations.



The PBEB's governance structure, including the structure of the Board of Directors and the loan policy framework, will ensure that the Bank leverages its role in the financial ecosystem to advance projects with just, equitable, and democratic principles in mind. Furthermore, Board training, and the appropriate regulatory oversight will protect against unlawful insider transactions and conflicts of interests.

## Compliance with AB 857 Requirements

Before submitting an application to organize and establish a public bank pursuant to Section 1020 of the Financial Code, a local agency shall conduct a study to assess the viability of the proposed public bank. The study shall include, but is not limited to, all of the following elements:

(1) A discussion of the purposes of the bank including, but not limited to, achieving cost savings, strengthening local economies, supporting community economic development, and addressing infrastructure and housing needs for localities. (p. 3 and throughout)

(2) A fiscal analysis of costs associated with starting the proposed public bank. (p. 22-30)

(3) An estimate of the initial amount of capital to be provided by the local agency to the proposed public bank. (pp. 18-27)

(4) Financial projections, including a pro forma balance sheet and income statement, of the proposed public bank for at least the first five years of operation. The financial projections shall include an estimate of the time period for when expected revenues meet or exceed expected costs and an estimate of the total operating subsidy that the local agency may be required to provide until the proposed public bank generates sufficient revenue to cover its costs. In addition to projections that assume favorable economic conditions, the analysis shall also include a downside scenario that considers the effect of an economic recession on the financial results of the proposed public bank. The projections may include the downside scenario of continuing to do business with the local government's current banker or bankers. (pp. 25-27)

(5) A legal analysis of whether the proposed structure and operations of the public bank would likely comply with Section 6 of Article XVI of the California Constitution, but nothing herein shall compel the waiver of any attorney-client privilege attaching to that legal analysis. (Appendix B)

(6) An analysis of how the proposed governance structure of the public bank would protect the bank from unlawful insider transactions and apparent conflicts of interest. (pp. 34-36)

(b) The study may include any of the following elements:

(1) A fiscal analysis of benefits associated with starting the proposed public bank, including, but not limited to, cost savings, jobs created, jobs retained, economic activity generated, and private capital leveraged. (Not included because of methodology concerns.)

(2) A qualitative assessment of social or environmental benefits of the proposed public bank. (This is included throughout and specifically discussed in Introduction [p. 4] and Programs [beginning on p. 8].)

(3) An estimate of the fees paid to the local agency's current banker or bankers. (Not included in this draft.)

(4) A fiscal analysis of the costs, including social and environmental, of continuing to do business with the local agency's current banker or bankers. (Not included.)

## Appendix A

# Governance Plan

### I. Mission Statement

The mission and values of Public Bank East Bay are set forth on pp. 6 of the Viability Study to which this document is attached.

### II. Board of Directors

PBEB will be a 501(c)(6) mutual benefit corporation under California law, and regulations regarding directors of a mutual benefit corporation will govern. The Board of Directors of any bank, including this one, sets general policy for the Bank, ensures continuing integrity and alignment with the Bank's mission, and is responsible to the stakeholders, in this case the founding depositors and all residents of the East Bay for the Bank's decisions and policies. The Board is also subject to additional scrutiny from the various regulatory agencies that will oversee the safety and soundness of the Bank. The initial Board members will be chosen based on their ability to make sound banking decisions, their adherence to PBEB values, and the understanding that people closest to the problems being addressed are the people with the most robust, innovative, and productive solutions.

### Board Composition

The Board will be composed of people with banking and financial expertise, including the CEO of the Bank, and people who can represent and convey the needs of the various East Bay communities, with an emphasis on financial experience along with representatives of systemically underserved and under-represented communities. In addition, the Board will also oversee the safe and sound operation of the Bank. Directors will be chosen from a substantial pool of applicants identified and initially vetted by the experts creating the bank charter application for Friends of the Public Bank East Bay, and then further vetted and examined by state and federal regulators, specifically including California's Department of Financial Protection and Innovation (DFPI), the Federal Deposit Insurance Corporation (FDIC) and representatives of depositing agencies. All Directors will be accountable to the mission and values of the Bank.

In addition, the treasurers of member agencies, if they are not their agency's appointed representative, will be ex officio non-voting members of the Board of Directors.

In our research, we determined that a Board of at least 15 members, all committed to the same mission and values, is key to keeping the representation diverse and ensuring that the Bank is connected to the needs and concerns of the people it serves.

When we posed the question of recruiting and selecting Directors to several community leaders and all of our supporter organizations at the time, geographic representation was one of the most supported criteria for community representation, along with race/ethnicity, issue representation (such as experts in environmental concerns or affordable housing), and gender.

All potential Directors are required to fill out an application and go through an initial organizers' interview process, as well as undergo formal vetting by an appropriate professional third party. By California law and DFPI process, all Directors will be subject to a rigorous state-run vetting including a conflict-of-interest evaluation and also background checks and fingerprinting. Also per California law, no one will be permitted to serve on the Board if they cannot resolve any issues which arise in the vetting process to the satisfaction of the DFPI and other regulators. The Board will also be subject to a Code of Conduct related to their continued service on the Board.

Applicants will be asked to commit to serving for up to a three-year time period. One-third of the initial Board members will be appointed for a one-year term, one-third for a two-year term, and one-third for a three-year term.

Once a complete operating Board is chosen, preliminary vetting of future Directors will be turned over to a committee of the Board. After three financially sound years of operation, we expect the regulators to leave Director screening entirely in the hands of the Bank Board.

Creating a Board of Directors with as much community representation as possible is worth the challenge and will result in a Bank that meets the needs of the residents. Because many community representatives may not have had previous financial experience, providing educational resources to such Directors is essential. In the future, the advocates plan to create a public-bank focused Academy to educate Bank Directors; in the interim, the start-up costs will pay for educational resources for Directors, such as the programs at [Bank Director](#) and the [FDIC](#). Existing manuals for bank directors will also be used as reference material.

All Directors will be required to participate in trainings and to demonstrate sufficient familiarity with banking theory and practices.

### Terms and Removal of Directors

Most Directors will serve a three-year term; however, the initial Board appointees will serve staggered terms (as discussed above) so that one-third of the Board Members' terms end each year. Once the initial Directors have served their three years, the financial and community Directors' terms will become staggered, so that five people's terms will expire at the end of the third year and five at the end of the fourth year. Initial Directors will opt for one of these term lengths, with a fallback of a lottery if the opting does not work out appropriately.

In addition, the initial Board will be tasked with creating a process, in compliance with California law, for removing Directors if legal or reputational disqualifications are uncovered after their appointment, or for inactivity. This process can be defined by the initial Board, or in the business plan for the Bank.

### Relationship to Bank management, staff, and city and county governments

The initial Chief Executive Officer (CEO) of the Bank and other key senior management personnel must be chosen before the DFPI application is submitted, and will have initial three-year contracts. After that, the Board will be responsible for renewing the CEO's contract or selecting a new CEO. If the Board is fully operational prior to launch, the Board will have the right to review and approve appointment of senior management other than the CEO. Otherwise, while the application is in progress, the Board

candidates will review and recommend the appointment of additional Bank management, some of whom will then have to be confirmed by state and federal regulators.

Directors will have access to confidential customer financial information and will be subject to confidentiality and privacy constraints as required by law and by the Bank's own regulations. Directors will not participate in Bank management's decisions with respect to extending or denying credit to any individual or entity where such Director has any conflict of interest. Directors will be responsible for ensuring that the Bank has a robust and reliable policy specifically drafted to prevent unlawful insider transactions and Board Member conflicts of interest while also ensuring that partnerships, loans, lines of credit, and other Bank services are scrutinized for potential conflicts both before they are initiated and while they are active.

The Bank charter will include a provision for non-liability of Directors, and the initial budget includes professional errors & omissions insurance. The CEO and the Chair of the Board will report to the sponsoring agencies and other government stakeholders every six months for the first three years and at least annually after that. The ex officio members of the Board will present ongoing reports to their agencies. Internal and external audits will be conducted at least annually to ensure that bank assets are being reported honestly and used constructively.

The Bank will incentivize managers and loan officers with long-term benefits like job stability and community recognition, not with exorbitant salaries, short-term performance metrics, or bonuses. In addition, the Board should establish a maximum executive compensation ratio; for example, the Bank's lowest-paid worker should earn no less than 1/5 of what the CEO earns, with a Bay Area living wage as the baseline for lowest-paid workers. The Bank's charter or other governance instruments should also establish a mechanism, such as an annual performance audit by an independent third party, by which the Board can evaluate management performance and take appropriate steps if the Bank incurs consistent losses.

### Compensation

Directors will be paid a modest annual stipend for serving on the Board to make the position more accessible to all community members. They may refuse the stipends if they so choose. The feedback we received through interviewing activists and organizational leaders supported the need for these stipends.

### Frequency of Meetings

The Board should, at minimum, meet quarterly, and more frequently at the discretion of the Directors. We anticipate that the initial Board meetings will need to be more frequent, until procedures are in place and the Bank is running smoothly.

### Public Access

Modeling city councils and county boards of supervisors, community college districts, and many other public bodies, we propose that meetings be open to the public as much as possible, with closed-door sessions as needed. We also recommend an annual public meeting, widely publicized, followed by food

and celebration of the arts, to encourage community awareness of, connection to, and appreciation of the Bank.

In especially sensitive situations, the Directors may desire to hold regular or special meetings at which no Bank senior management is present. At these meetings, Directors may frankly discuss any concerns they have with Bank management.

The Board is also strongly encouraged to undertake periodic formalized self-assessments of its processes and practices.

## Appendix B

### Legal Analysis

Friends of the Public Bank East Bay retained attorney Sylvia Chi to provide a legal analysis of whether the proposed structure and operations of PBEB would likely comply with the California Constitution as required by Cal. Gov. Code § 57606(a)(5). While the statute explicitly allows preservation of attorney-client privilege for such legal analyses, Friends of the Public Bank East Bay is making a copy of the memo available for viewing in the interest of transparency and full disclosure.

Attorney Chi found that under California Assembly Bill 857 the proposed structure and operations of public banks in general and more specifically, PBEB's proposal, would be in compliance with the California Constitution. Attorney Chi's memo follows:

**To:** Friends of Public Bank East Bay  
**From:** Sylvia Chi  
**Re:** Section 6, Article XVI of the California Constitution and the Proposed Public Bank of the East Bay  
**Date:** October 21, 2021

#### Introduction

In 2019, Governor Gavin Newsom signed into law AB 857, establishing the nation's first framework for licensing and regulating city- and county-owned public banks. Under this law, California cities and counties can apply to the Department of Financial Protection and Innovation (DFPI) for a license to operate a public bank.

Prior to a local agency submitting a license application to DFPI, AB 857 requires local agencies to conduct a study to assess the viability of the proposed public bank and specifies mandatory elements of the study. Various elements of this study are specified in the law, including:

*A legal analysis of whether the proposed structure and operations of the public bank would likely comply with Section 6 of Article XVI of the California Constitution, but nothing herein shall compel the waiver of any attorney-client privilege attaching to that legal analysis.*

*Gov. Code § 57606(a)(5).*

This memorandum analyzes Section 6 of Article XVI of the California Constitution and its interpretation by the courts, its implications for AB 857 public banks in general, and provides a preliminary assessment of its application to the structure and operations of the proposed Public Bank East Bay. This memorandum is intended to provide a starting point for the legal analysis required in the Gov. Code § 57606(a)(5).

The proposed structure and operations of any AB 857 public bank, and the proposed public bank to serve the East Bay in particular, is likely to comply with Section 6 of Article XVI of the California

Constitution. The Legislature's findings in AB 857 establish that the extension of the state's credit for the creation of public banks qualify for the public purpose exception to the Constitution's prohibition on subscribing for stock. This prohibition would not apply to AB 857 public banks, since the law requires that such public banks take the form of nonprofit corporations which do not issue stock.

### Section 6, Article XVI of the California Constitution

Section 6, Article XVI of the California Constitution prohibits the California State Legislature from making public gifts. Specifically, Section 6 imposes three types of restrictions on the Legislature:

1. No giving, lending, or authorizing giving/lending of credit of the State or any of its political subdivisions
2. No gifts, or authorizing making of any gifts, of public money or things of value
3. No authorizing the State, or any political subdivision thereof, to subscribe for stock or become a stockholder in any corporation

After these prohibitions were added to the Constitution, and because many contemporaneous activities of the Legislature appeared to violate them, the courts recognized a "public purpose exception" to resolve the apparent contradiction. This "public purpose exception" applies where an expenditure of public funds or extension of credit is made in furtherance of a public purpose, i.e. expenditures "which may tend to make that government subserve the general well-being of society...." *Veterans' Welfare Board v. Jordan*, 189 Cal. 124, 141 (1922). It is well settled that such expenditures for a public purpose "are not a gift within the meaning of [Section 6 of Article XVI]" because "an expenditure for a 'public purpose' is in the nature of consideration and the funds expended are therefore not a gift even though private persons are benefited therefrom." *County of Alameda v. Janssen*, 16 Cal.2d 276, 281 (1940).

In addition to direct expenditures made or authorized by the Legislature, the courts have applied the public purpose exception to the *lending* of public credit. For example, the California Supreme Court confirmed the constitutionality of the Veterans' Welfare Bond Act of 1921, which authorized the lending of public credit through the issuance and sale of state bonds to assist war veterans in acquiring property. *Jordan* at 140-1. Likewise, the California Supreme Court upheld the constitutionality of the Zenovich-Moscone-Chacon Housing and Home Finance Act (Health & Saf. Code § 51000 *et seq.*), which authorized the California Housing Finance Agency to issue revenue bonds, the proceeds of which would be made available to both public and private housing developers in the form of various types of loans to encourage the construction of housing, as well as the purchase of loans from mortgage lenders and refinancing of existing mortgages. *Cal. Hous. Fin. Agency v. Elliott*, 17 Cal.3d 575 (1976). In *Elliott*, the court found that the Act did not violate the constitutional prohibition against the extension of public credit, citing the close relationship between elements of the program and the broad public purposes supporting the program, as identified by the Legislature. *Id.* at 586.

In general, courts defer to the Legislature's discretion regarding what constitutes a public purpose, as long as that determination has a reasonable basis. *County of Alameda v. Janssen*, 16 Cal.2d 276, 282 (1940). Thus, courts have upheld against constitutional challenges a "wide variety of welfare and other social programs." *County of Alameda v. Carleson*, 5 Cal.3d 730, 746 (1971). The Court held in *Jordan* that an action is not made unconstitutional if, "incidental to the main [public] purpose there was an



advantage to the purchaser of the land ultimately derived from the credit of the state.” *Jordan* at 141. In *Carleson*, the California Supreme Court analyzed the challenged state action, disregarding a portion of a household’s earned income in determining eligibility for welfare, and found that “the Legislature could reasonably conclude... that employment incentives are essential to accomplish the goal of self-sufficiency, and that the income-disregard provision was a necessary and proper device for encouraging employment.” *Carleson* at 746.

The public purpose exception has not been recognized by courts as applicable to the third type of restriction in Section 6, Article XVI, regarding subscribing for stock in any corporation. The California Supreme Court has upheld state legislation creating city or county housing authorities, finding that this action did not constitute subscribing for stock or becoming a stockholder in a corporation, since the housing authorities “are public corporations and do not issue stock.” *The Housing Authority v. Dockweiler*, 14 Cal.2d 437 (1939). Although they are not binding, California’s Office of the Attorney General has issued several opinions interpreting this clause, finding that it “operated to prohibit public retirement funds from operating in common stock” and applied to “all public bodies and agencies in the state whose powers and functions are derived from the Legislature,” including hospital, transit, and water districts, but not charter cities. *See* Ops. Cal. Atty. Gen. No. 83-1002 (1984), 10 n.10.

### Section 6, Article XVI of the California Constitution Likely Does Not Apply to AB 857 Public Banks in General

The legislative findings in Section 1 of AB 857 specify that the Legislature’s intent was to “authorize the lending of public credit to public banks and authorize public ownership of public banks for the purpose of achieving cost savings, strengthening local economies, supporting community economic development, and addressing infrastructure and housing needs for localities.” In enacting AB 857, the Legislature determined that the lending of public credit to public banks served the public purposes of achieving cost savings, strengthening local economies, supporting community economic development, and addressing localities’ infrastructure and housing needs. Although such legislative findings are not binding upon courts, courts give them great weight unless they are found to be unreasonable and arbitrary. In the case of public banks proposed under AB 857, courts are likely to find that the Legislature acted reasonably in concluding that establishing a public banking system is necessary and proper to accomplish the broad economic purposes identified in the findings, thus applying the public purpose exception to any public bank organized under AB 857.

As discussed in Part II, *supra*, the courts have found that a “public purpose” exception applies to the California Constitution’s Section 6, Article XVI prohibition on giving public money and credit, but have not found such an exception to the prohibition on subscribing for stock in corporations. However, as provided in AB 857, public banks must take the form of either a nonprofit mutual benefit corporation or nonprofit public benefit corporation. *See* Gov. Code § 57600(b)(1). Neither type of nonprofit corporation provides for the issuance of stock. Thus, consistent with both *Dockweiler* and the Attorney General’s opinion, it seems likely that courts would find that the constitutional prohibition on subscribing for stock does not apply to the creation of AB 857 public banks as nonprofit corporations.

## Section 6, Article XVI of the California Constitution Likely Does Not Apply to the Proposed Public Bank East Bay's Structure and Operations

While local agency owners of a public bank may be described as “shareholders,” the Corporations Code describes nonprofit corporation “owners” as “members.” In the case of the proposed Public Bank East Bay, the members of the public bank have not been finalized, but may include cities such as Oakland, Berkeley, and Richmond, as well as Alameda County and potentially other cities and/or counties. As required by AB 857, the proposed Public Bank East Bay will be organized as either a nonprofit mutual benefit corporation or nonprofit public benefit corporation, and, as discussed in Part III, *supra*, neither type of corporation issues stock.

At this stage, the proposed public bank's potential activities include lending to government agencies, small businesses, minority-owned businesses, worker cooperatives, and affordable housing developers. If these lending activities are ultimately approved by the local agency owners and Board of Directors of the proposed Public Bank East Bay, it is likely that a court would find that the local agencies acted reasonably in authorizing such activities. Even if particular individuals or businesses, such as minority-owned businesses or private sector affordable housing developers, benefit from the public bank's lending activities, these benefits are incidental to the main public purpose of the lending activities. Because these activities are closely related with the broad public purposes expressed in AB 857 regarding supporting community economic development and meeting local needs for infrastructure, and housing, it is likely that a court would apply the public purpose exception to the lending of public credit for the proposed Public Bank East Bay.

While the details of the structure and operations of the proposed Public Bank East Bay have yet to be fully developed, the high-level plan does not appear to introduce any obstacles that would implicate the prohibitions in Section 6, Article XVI of the California Constitution.

## Appendix C

### About This Study

This study was directed and written by Tom Sgouros, with writing assistance from Dawn Euer.

**Tom Sgouros** has worked for over 33 years as a policy consultant specializing in public budgeting, finance, taxation, and other technical issues of public policy. He has consulted to campaigns and office-holders, to activists and media outlets, and has been invited to testify about public finance issues to legislatures in four states. He was Senior Policy Advisor to the Rhode Island General Treasurer, and is now a fellow at The Policy Lab at Brown University, where he is also a member of the research faculty in Computer Science, working on projects in data science, visualization, and information theory.

**Dawn Euer** owns the Law Office of Dawn Euer in Rhode Island where she works with nonprofits, social enterprises, and small businesses. She also serves as a State Senator in the Rhode Island Senate where she is Chair of the Environment & Agriculture Committee and a member of the Judiciary Committee and the Rules, Ethics & Oversight Committee.

Attorney **Sylvia Chi**, a co-author of AB 857, provided the legal analysis included as Appendix B.

We had extensive professional assistance from Gary Findley, principal banking attorney at The Findley Companies, and Graham Seel, Strategic advisor to community banks and community development nonprofits. Friends of the Public Bank East Bay conducted significant research and editing on the final document. Primary contributors include Susan Harman, Debbie Notkin, George Quaye, and Benjamin Streim. Additional help was provided by Alexis Frasz, Thomas Hanna, Margie Lewis, Valerie Myers, and George Syrop.

Friends of the Public Bank East Bay commissioned the Oakland-based organization Bay Area Organization of Black Owned Businesses to conduct a survey of the borrowing needs of Black-owned small businesses in the East Bay. The final report is published as "[Borrowing Needs of Black Owned Businesses](#)."

To inform the research on potential lending demand and programs, Friends of the Public Bank East Bay met and spoke with the following experts. For the purposes of clarity, the people on this list have not reviewed the final Study and are not necessarily endorsers or supporters of this effort.

- José Quiñones, CEO, Mission Asset Fund (small business lending)
- Sara Razavi, CEO, Working Solutions (small business lending)
- Scott Lewis, CFO, Main Street Launch (small business lending)
- Tom Duryea, CEO, Summit Bank (small business lending)

- Shanna McClearn, Director, Sales & Partnerships, Accion Opportunity Fund (small business lending)
- David Green, CEO, 1<sup>st</sup> NorCal Credit Union (small business lending)
- YaVette Holts, CEO, Bay Area Organization of Black Owned Businesses (BAOBOB) (small business lending)
- Dan Leibsohn, CEO, Community Development Finance (small business lending)
- Sally Smith, Community Development Underwriter, LISC Bay Area (affordable housing lending)
- Aubra Levine, Director of Real Estate Development, Unity Council (affordable housing lending)
- Eve Stewart, Director of Real Estate Development, Satellite Affordable Housing Associates (SAHA) (affordable housing lending)
- Louis Chicoine, CEO, Abode Services (affordable housing lending)
- Jim Lutz, local green energy consultant (electrification)
- Michael Theroux, California environmental project consultant (green project opportunities)
- Renee Roy Elias, recently at Center for Community Innovation (UC Berkeley) (small business landscape)

## Appendix D

### Local Community Banks and CDFIs

List of community banks and Community Development Financial Institutions (CDFIs) that are doing business in the East Bay and are potential partners for public bank lending programs

| Community Banks                             | County Headquarters                                                                    | Assets |
|---------------------------------------------|----------------------------------------------------------------------------------------|--------|
| <a href="#">Fremont Bank</a>                | Alameda County                                                                         | \$5.1B |
| <a href="#">Beneficial State Bank</a>       | Alameda County                                                                         | \$1.2B |
| <a href="#">Community Bank of the Bay</a>   | Alameda County                                                                         | \$600M |
| <a href="#">Summit Bank</a>                 | Alameda County                                                                         | \$300M |
| <a href="#">Metropolitan Bank</a>           | Alameda County                                                                         | \$180M |
| <a href="#">Gateway Bank</a> F.S.B.         | Alameda County                                                                         | \$170M |
| <a href="#">United Business Bank</a>        | Contra Costa County                                                                    | \$2.3B |
| <a href="#">California Bank of Commerce</a> | Contra Costa County                                                                    | \$1.9B |
| <a href="#">Amalgamated Bank</a>            | New York (strong presence in the Bay Area, recently acquired local New Resources Bank) | \$4.7B |

| CDFIs                                                   | Headquarters  |
|---------------------------------------------------------|---------------|
| <a href="#">Cooperative Center Federal Credit Union</a> | Berkeley      |
| <a href="#">Self-Help Federal Credit Union</a>          | Oakland       |
| <a href="#">ICA Fund</a>                                | Oakland       |
| <a href="#">Main Street Launch</a>                      | Oakland       |
| <a href="#">Accion Opportunity Fund</a>                 | San Jose      |
| <a href="#">Pacific Community Ventures</a>              | Oakland       |
| <a href="#">Community Vision</a>                        | San Francisco |
| <a href="#">Low Income Investment Fund (LIIF)</a>       | San Francisco |
| <a href="#">SixUp Lending</a>                           | San Francisco |
| <a href="#">Mission Economic Development Agency</a>     | San Francisco |
| <a href="#">Mission Asset Fund</a>                      | San Francisco |
| <a href="#">Working Solutions</a>                       | San Francisco |
| <a href="#">Capital Impact Partners</a>                 | Arlington, VA |
| <a href="#">RSF Social Finance</a>                      | San Francisco |

| <b>Other local lending institutions that are mission aligned and potential partners for PBEB</b> | <b>Headquarters</b> |
|--------------------------------------------------------------------------------------------------|---------------------|
| <a href="#">C-Note</a>                                                                           | Oakland             |
| <a href="#">The Runway Project</a>                                                               | Oakland             |
| <a href="#">CDC Small Business Finance</a>                                                       | San Diego           |
| <a href="#">Oakland Black Business Fund</a>                                                      | Oakland             |
| <a href="#">Kapor Capital</a>                                                                    | Oakland             |
| <a href="#">Kiva</a>                                                                             | San Francisco       |
| <a href="#">Local Initiatives Support Corporation (LISC)</a>                                     | Nationwide, Oakland |
| <a href="#">Cutting Edge Capital</a>                                                             | Oakland             |
| <a href="#">TMC Community Capital</a>                                                            | Oakland             |
| <a href="#">The Bay's Future</a>                                                                 | Oakland             |
| <a href="#">REAL People's Fund</a>                                                               | Oakland             |
| <a href="#">Community Development Finance</a>                                                    | Oakland             |

## Appendix E

### Next Steps

|                                                  |                                                                                                                                                                                                                                                                                                                 |
|--------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Finalize Viability Study</b>                  | Determine initial estimates of capital, proposed loan priorities, and governance structure.                                                                                                                                                                                                                     |
| <b>Pass Viability Study</b>                      | Cities approve resolution and appoint representative to Friends. If needed, amend investment policy to include ability to invest in public banks. Appoint representative to be point person for each agency to help design business plan.                                                                       |
| <b>Form 501(c)(6) Mutual Benefit Corporation</b> | This is the legal structure for initial members. As the County of Alameda cannot be a founding member without a county-wide referendum process, this corporation will begin with the founding charter cities with paperwork in place so that the County can join immediately after the application is approved. |
| <b>Recruit and hire CEO</b>                      | The CEO will work with the banking attorney in writing the business plan. By requirements of the regulators, this person must be in place when the application is submitted.                                                                                                                                    |
| <b>Develop Business Plan</b>                     | Involves identifying capitalization sources and deposits to be moved into the PBEB. Requires a full financial model, detailed explanations/assumptions, corporate governance, and more. To be led by the Friends' banking consultant and the CEO.                                                               |
| <b>Finalize Governance Structure</b>             | Finalize and approve Bank governance plan to be included in the charter application.                                                                                                                                                                                                                            |
| <b>Finalize Bank Board Applicants</b>            | Confirm applicants for the initial Board of Directors for the Bank, who will be included and vetted in the charter application process. Banking consultant performs upfront/initial vetting. Agencies will select who will represent them on Board.                                                             |
| <b>Host Pre-Filing Meeting</b>                   | Pre-filing meeting with the California Department for Financial Protection and Innovation (DFPI), all proposed Board Directors, business plan consultant and CEO.                                                                                                                                               |

|                                        |                                                                                                                                                            |
|----------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Approve Business Plan Locally</b>   | City Councils review and obtain formal authorization to apply for a public banking charter.                                                                |
| <b>Submit Business Plan</b>            | Submit charter application to DFPI and Federal Deposit Insurance Corporation. Submitted by banking consultant on behalf of the agencies.                   |
| <b>Bank Staffing &amp; Setup</b>       | Infrastructure, technology, hiring, etc. (pending application approval), all led by the CEO.                                                               |
| <b>Application Review</b>              | Business plan will undergo rounds of feedback and modification, led by the regulators and managed for all other parties by the banking consultant and CEO. |
| <b>Federal Reserve Approval</b>        | Gain access to Federal Reserve services, including ACH and discount window.                                                                                |
| <b>Transfer Capital &amp; Deposits</b> | Place funds into the Bank.                                                                                                                                 |
| <b>Cut the Ribbon!</b>                 | Loans and other initiatives begin.                                                                                                                         |





**Berkeley City Councilmember**  
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CONSENT CALENDAR

April 11, 2023

To: Members of the Berkeley City Council

From: Councilmember Mark Humbert (Author)  
 Councilmember Rigel Robinson (co-sponsor)

Subject: Budget Referral: Fully fund the City's 50-50 Sidewalk Repair Program

RECOMMENDATION

Refer \$2.2 million to the FY 24 Mid-Biennial Budget Update for the purpose of fully funding clearance of the existing backlog in Berkeley's 50-50 Sidewalk Repair Program. Refer an additional \$1 million per year (above the existing \$1 million baseline funding for sidewalk repair) to future budget processes to ensure all of Berkeley's sidewalks are kept in a state of good repair.

SUMMARY

Providing safe, passable sidewalks is one of the most basic functions of any City government. The [City's 50-50 sidewalk repair program](#) splits sidewalk repair costs 50-50 between the City and property owners. Although Berkeley has made progress in addressing cracked and uneven sidewalks, there is a significant backlog of maintenance requests in the 50-50 repair program. It is estimated that \$2.2 million would be necessary to clear this backlog. It is further estimated that an additional \$1 million per year in regular sidewalk maintenance funding (in addition to the current \$1 million baseline) would be necessary to avoid the creation of a new backlog. Repairing Berkeley's sidewalks more expeditiously has the potential to save the City money in the long run and help fulfill the City's mobility, equity, and climate action goals.

FINANCIAL IMPLICATIONS

\$2.2 million in General Fund impacts in the first year (FY 24), decreasing to an additional \$1 million in General Fund impacts annually (above current baseline) thereafter.

Due to the nature of the backlog and the City's practice of contracting with outside firms for repair, it is expected that these amounts will allow the 50-50 program to easily scale up without requiring significant additional staff time or additional hires.

BACKGROUND

Property owners in Berkeley are responsible for maintaining the sidewalks adjacent to

Budget Referral:  
Fully fund the City's 50-50 Sidewalk Repair Program

Consent Calendar  
April 11th, 2023

their property in a safe condition, including repairing cracks, deterioration, and other damage. ([BMC 16.04.010](#)) To repair a damaged sidewalk, property owners can choose to hire a contractor at their own cost, or request support from the City in repairing the sidewalk through the 50-50 program. The City will perform the repair, then bill the property owner for half the cost. City staff review requests to be added to the 50-50 program. If a request is approved, the City adds the property owner to a waitlist. Being on the waitlist does not relieve property owners of their responsibility to maintain a safe and usable sidewalk.

### CURRENT SITUATION AND ITS EFFECTS

Berkeley's Measure T1 has provided additional funding for sidewalk repairs through the City's 50-50 program. This has allowed the City to make progress on the sidewalk repair backlog, reducing it from over ten years to perhaps 3–4 years.<sup>1</sup> However, an estimated 350–450 properties remain on the waitlist, with new properties being added each year. This results in a significant number of sidewalks remaining uncomfortable or even potentially hazardous for pedestrians longer than they should.

### RATIONALE FOR RECOMMENDATION

Fixing damaged sidewalks is something the City must do eventually, and doing so sooner has the potential to save City resources. Although owners are responsible under state and local law for maintaining sidewalks adjacent to their properties and can be legally liable in the event someone is injured, "trip and falls" remain a significant source of claims against the City, costing staff time and sometimes settlement money—even if a court might hypothetically not ultimately find the City liable. Additionally, regardless of who may be liable, injuries resulting from poor pavement conditions are a burden on those who experience the injury, the medical system, and economic productivity.

Damaged sidewalks are also a deterrent to walking and other forms of alternative transportation and tend to have an outsized effect on the mobility of seniors and people with disabilities. Poor quality sidewalks are difficult to safely navigate, present greater dangers for at-risk groups, and thus discourage people and certain populations in particular from walking for pleasure or everyday tasks.

Front-loading these fixes and then consistently providing the resources to ensure sidewalks remain in a state of good repair can allow residents and the City to enjoy greater benefits and overall cost savings over time. Given that the City will presumably need to eventually fix these sidewalks anyway, the difference in total direct costs over

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<sup>1</sup> "Berkeley's sidewalk repair backlog is shrinking," *Berkeleyside*, Dec. 26, 2022, <https://www.berkeleyside.org/2022/12/26/berkeleys-sidewalk-repair-backlog-is-shrinking>

Budget Referral:  
Fully fund the City’s 50-50 Sidewalk Repair Program

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the long run would be negligible. Moreover, as with roads, sidewalk repair costs tend to compound over time (with early interventions preventing more expensive future failures). Frontloading these repairs could actually result in overall direct cost savings.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

Because this item is fundamentally about accelerating planned repairs to existing infrastructure rather than expanding infrastructure, this item is not anticipated to result in direct sustainability or climate impacts above and beyond what is already anticipated from planned maintenance/repair.

However, this action has the potential to indirectly improve sustainability and climate action outcomes by encouraging alternatives to driving. In the [Climate Action Plan and Resilience Update](#) originally planned to be presented by staff at Council’s March 14th, 2023 meeting<sup>2</sup>, it was reported that transportation accounted for nearly half of Berkeley’s greenhouse gas (GHG) emissions in 2020. Given that use of transportation in general was down significantly in 2020 as a result of the pandemic, it’s reasonable to assume that the proportion of Berkeley’s GHG emissions attributable to transportation has risen again—perhaps to the roughly 60% that had been seen in the times prior to the pandemic. This expectation is consistent with the conclusions of the staff report. Since transportation generates such a large proportion of Berkeley’s GHG emissions and since walking is a low-emissions form of mobility, encouraging more walking by ensuring that sidewalks are safe and pleasant to use can help reduce GHG emissions from transportation in Berkeley.

Encouraging walking in this way is also consistent with Berkeley’s Climate Action Plan and its Electric Mobility Roadmap, both of which seek to reduce reliance on automotive transportation and instead encourage alternatives like walking, biking, transit, and electric micro-mobility devices. Since people on bikes, scooters, and transit are also likely to be pedestrians for some portion of their journey, sidewalk conditions are very important to their safety, comfort, and willingness to use these non-car mobility options.

CONTACT PERSON

Councilmember Mark Humbert    District 8    510-981-7180

ATTACHMENTS

- 1. City of Berkeley Sidewalk Repair Page

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<sup>2</sup> Climate Action Plan and Resilience Update, Berkeley City Council, March 14, 2023  
<https://berkeleyca.gov/sites/default/files/documents/2023-03-14%20Item%202023%20Climate%20Action%20Plan.pdf>

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2. Berkeleyside Story - Berkeley's sidewalk repair backlog is shrinking

[Housing Authority \(https://bha.berkeleyca.gov/\)](https://bha.berkeleyca.gov/)
[Public Library \(https://www.berkeleypubliclibrary.org/\)](https://www.berkeleypubliclibrary.org/)
[Rent Board \(https://rentboard.berkeleyca.gov/\)](https://rentboard.berkeleyca.gov/)
[School District \(https://www.berkeleyschools.net/\)](https://www.berkeleyschools.net/)
 (/) > [City Services \(/city-services\)](/city-services/) >

[Streets, Sidewalks, Sewers, and Utilities \(/city-services/streets-sidewalks-sewers-and-utilities\)](/city-services/streets-sidewalks-sewers-and-utilities/) >

 Share  (<https://www.adc>)

Sidewalk Repair

# Sidewalk Repair

*Property owners must ensure their sidewalks are safe by repairing cracks and damage. Apply for a permit to do the repairs yourself, or split the cost of repairs with the City under the 50-50 program.*

Property owners in Berkeley are responsible for maintaining the sidewalks adjacent to their property in a safe condition, including repairing cracks, deterioration, and other damage. See [BMC 16.04.010 \(https://berkeley.municipal.codes/BMC/16.04\)](https://berkeley.municipal.codes/BMC/16.04) for additional information. Please call 311 to report a sidewalk that is in an unsafe condition. City crews will install a “make-safe” measure to temporarily address the issue. “Make-safes” are not intended to be permanent repairs. To repair your damaged sidewalk, you can choose to hire a contractor at your own cost, or request support from the City in repairing the sidewalk through the 50-50 program. The City will perform the repair, then bill the property owner for half the cost.

## REQUEST SUPPORT WITH SIDEWALK REPAIRS THROUGH THE 50-50 PROGRAM

To request support with sidewalk repairs through the City’s 50-50 program, please call (510) 981-2489 to report your sidewalk issue and request a temporary “make-safe” repair by the City. You will then be sent a notice with a 50-50 application via mail to the mailing address designated on Alameda County’s assessment roll.

Please submit your completed application either:

- By mail: 1947 Center St, 4th Floor, Berkeley, CA 94704

- By email: [PWSidewalks@cityofberkeley.info](mailto:PWSidewalks@cityofberkeley.info) ([Page 9 of 12](https://berkeleyca.gov/city-services/streets-sidewalks-sewers-and-utilities/city-trees-and-coast-live-oak-ordinance))

City staff will review your request to be added to the 50-50 program. If your request is approved, the City will add you to a waitlist. Being on the waitlist does not relieve your responsibility as property owner to maintain a safe and usable sidewalk.

The City will notify you at least one month prior to scheduling the work. The City (or a City-hired contractor) will notify you 1-2 weeks before construction begins, and post "No Parking" signs 72 hours in advance of the work. Following completion of the work, the City will send you an invoice for your half of the repair cost.

## PERFORMING REPAIRS YOURSELF

Property owners can hire a contractor to repair the sidewalk after getting the appropriate permits, but will not qualify for funding from the City.

To repair the sidewalk yourself, first get a quote from a licensed concrete contractor who has a City of Berkeley business license (learn more about [hiring contractors \(/construction-development/permits-design-parameters/permit-process/licensed-contractors-and-design\)](/construction-development/permits-design-parameters/permit-process/licensed-contractors-and-design)). The contractor should submit a line drawing to apply for an Engineering Permit at the [Permit Service Center \(/construction-development/permits-design-parameters/permit-process/permit-service-center\)](/construction-development/permits-design-parameters/permit-process/permit-service-center).

## DAMAGE BY TREE ROOTS

All trees in the strip between the sidewalk and street are City property, and cannot be pruned or removed by anyone except City staff, even if the tree is causing damage to the sidewalk. Learn more about City trees and how to request services by the [City's Urban Forestry Unit \(/city-services/streets-sidewalks-sewers-and-utilities/city-trees-and-coast-live-oak-ordinance\)](/city-services/streets-sidewalks-sewers-and-utilities/city-trees-and-coast-live-oak-ordinance).

If a City tree causes damage to a sidewalk, the City will pay half the cost of repairs under the 50-50 program. If the same tree causes damage again within 10 years, the City will pay the full cost of repairs. If the same tree causes damage a third time, the City will pay the full cost of repairs and the property owner can request removal of the tree, at their own expense.

If a tree on your private property is causing damage to the sidewalk, it is your responsibility to remove or prune the tree yourself unless the tree is a coast live oak. The City of Berkeley has protections for [coast live oak trees \(/city-services/streets-sidewalks-sewers-and-utilities/city-trees-and-coast-live-oak-ordinance\)](/city-services/streets-sidewalks-sewers-and-utilities/city-trees-and-coast-live-oak-ordinance).

IN THIS SECTION



**SIDEWALK REPAIR**

**Email:** [PWSidewalks@cityofberkeley.info](mailto:PWSidewalks@cityofberkeley.info) (mailto:PWSidewalks@cityofberkeley.info)

**Phone:** (510) 981-2489

**Related BMC**

 [BMC 16.04](#)

**WE'RE HERE TO HELP**

*Connect with us online, by phone, or in person.*



**REPORT ONLINE**

(/city-services/report-pay/report-issues)



**(510) 981-2489**



**VISIT**

(/your-government/about-us/city-offices-service-locations)



## CITY

# Berkeley's sidewalk repair backlog is shrinking

The city has helped fund over 2,800 sidewalk repair jobs since 2019 in a popular cost-share program, but the end of the waitlist is years away.

By Kate Darby Rauch

Dec. 26, 2022, 2:01 p.m.



A sidewalk in need of repair in the Berkeley Hills. File photo: Jerome Paulos

Walk around this city these days, and you may notice fresh stretches of concrete underfoot — sidewalk that's been recently repaired or restored.

This doesn't mean other sections of Berkeley's 400 miles of sidewalk aren't rough, rocky or dangerously uneven (mostly from the push of tree roots). It would take \$50 million-plus to fix all



sidewalks citywide, according to a spring 2022 city estimate.

But in the often confusing world of sidewalk responsibility and repair, the city is reporting steady progress in problem-solving, according to Scott Ferris, Berkeley parks director. Recent work is largely attributed to voter-approved **Measure T**, a \$100 million infrastructure and facilities improvement bond, passed in 2016.

“The sidewalk repair backlog has shrunk from 10+ years to 3-4 years, mostly because Measure T1 is funding more repairs,” Ferris wrote in an email.

The repair backlog Ferris refers to specifically applies to a city program that splits the cost of sidewalk repairs with property owners.

Chronically underfunded, the **50/50 cost-share program** had a waiting list of years. So long that some program applicants forgot they had even applied, according to several messages sent to Berkeleyside over the past year. People were confused by letters from the city saying their sidewalks were up for repair work and asking for 50% of the cost.

Measure T funds are helping with sidewalk catch-up, Ferris said.

**Budgeted in stages or phases**, the bond has helped fund around 2,811 sidewalk repairs through the 50/50 program since 2019, Ferris said, including around 550 jobs in the past year. It will assist with another 575 repairs in 2023.

This leaves 350 to 450 applications waiting, with the goal of completing these projects in a few years, Ferris said, noting this list isn't static and always changes.

### **Property owners responsible for sidewalk conditions**

Many people assume city sidewalks, like roads, are maintained by the city.

But in Berkeley, as in most cities in the state, responsibility for sidewalk repair is on property owners.

“**State** and local law place sidewalk maintenance as the responsibility of the property owner,” said Matthai Chakko, city spokesperson. Maintenance must meet city standards.

This also means property owners are liable for legal action stemming from bad sidewalks.

According to the Berkeley Municipal Code: A property owner “owes a duty to members of the public to keep [their] sidewalk in a safe condition. If said owner fails to maintain said sidewalk

in a safe condition, and a person sustains injury or damage as a result of said failure, then the owner shall be liable to such person for the resulting injury or damage.”

“ *It would take \$50 million-plus to fix all sidewalks citywide, according to a spring 2022 city estimate.*

Cities can take on responsibility for sidewalk maintenance under local ordinance, though few do.

Cities can also pitch in to help, such as with

the 50/50 program, which is statewide.

**Participation in the 50/50 program is by application.** All property owners are eligible, and projects are completed on a first-come, first-served basis, Ferris said.

After applying, property owners receive a letter from the city saying, in part:

“Please note that this program is extremely popular and the waitlist is long. Please be advised that being on this waitlist does not waive your liability in the event of a third-party injury, and it does not Relieve your responsibility as property owner to maintain the sidewalk adjacent to your property in a safe and usable condition.”

### **‘Make Safe’ repairs**

There’s another way Berkeley steps in for more urgent sidewalk repairs.

Berkeley sidewalk repair is primarily complaint driven, Ferris said. Complaints drive city inspections, which drive notices to property owners.

If the city doesn’t receive any complaints about a sidewalk issue, the problem can persist.

Ferris said the city responds to all complaints, though some people contacting Berkeleyside said they alerted the city to dangerous sidewalks, without seeing any changes.

Property owners worried about their sidewalks can always make repairs themselves, using city-approved contractors. Or, they can apply for the 50/50 program, risking a wait.

But sidewalk inspections may also drive emergency repairs.

The city does temporary “make-safe” sidewalk repairs “all the time,” said Joe Enke, city engineer, usually asphalt patching and filling. Property owners are told they’re responsible for permanent fixes.

A “make safe” repair may last until someone’s name comes to the top of the 50/50 list.

The city also does sidewalk shaving or grinding, at no cost to property owners. Sidewalk shaving, a relatively quick process, can reduce or eliminate tripping hazards. “We do repairs as they are brought to our attention,” Enke said.

Patching almost always eventually needs additional work, Enke said. But shaving “can solve many identified issues.”

A city shaving contractor just started \$1 million worth of work focused on schools and areas in Southwest and Northwest Berkeley,” Enke said.

### **Street trees belong to the city**

One of the most common ways sidewalks are damaged is by tree roots, uplifting sections of concrete which easily snag feet or wheels.

It's easy to assume property owners, responsible for their sidewalks, are also responsible for trees growing in the strips of land between the sidewalk and the street.

But this isn't so. Sidewalks are one thing, median strips another.

“It's City Right of Way (ROW) and ownership of the ROW [is] complicated,” Ferris said. “The width of the ROW varies from street to street, but typically includes the curb, planting strip, the sidewalk and sometimes a narrow area beyond the sidewalk.

“

***City tree care ultimately falls to the city, even when roots are damaging a sidewalk a property owner must repair.***

the homeowner,” Ferris said.

“The City takes on responsibility of managing and maintaining the trees in the ROW in order to ensure that they are property maintained. The rest of the ROW (sidewalk/vegetation) is the responsibility of

Property owners are welcome, and even encouraged, to partner with the city on tree care, Ferris said. City arborists will offer advice.

But city tree care ultimately falls to the city, even when roots are damaging a sidewalk a property owner must repair.

The worst offenders are some older trees, including liquidambar and camphor trees. To address this challenge, the city's urban foresters are now planting urban site-suitable species such as trident maple, redbud, Chinese flame, Brisbane box, Persian ironwood, Chinese pistache, and

water gum, said Chakko, the city spokesperson.

In Berkeley, as in many cities, many older street trees that are now recognized as poor choices for urban environments were planted before this was clearly understood.

Climate change is also affecting the health of street trees, Chakko said.

### **Disability survey will shed more light on sidewalks**

Soon, Berkeley will know more about the state of its sidewalks. A sidewalk inspection required by the Americans With Disability Act (ADA) was recently completed, Enke said.

“Nearly all of the city sidewalks were surveyed,” Enke said. A contractor did the work.

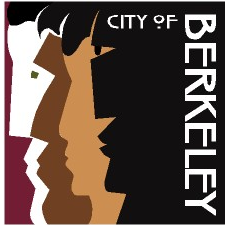
The survey is one part of the city’s **ADA Self Evaluation and Transition Plan**, a framework for complying with pedestrian accessibility requirements of the federal law. The initial plan was completed years ago, but updates are required.

“ADA compliance is ongoing. A timeline for accessibility improvements, including sidewalks, will be developed as the plan is finalized,” Enke said. Budgeting for ADA compliance is up to the city.

Public hearings and reports are part of the transition plan.

To report a broken or dangerous sidewalk or to get information on repairing the sidewalk by your house, including the city’s free shaving or the 50/50 cost sharing program contact the Berkeley Public Works sidewalk division by emailing **PWSidewalks@cityofberkeley.info** or calling 510-981-2489.

*This story has been corrected to better explain which types of trees are most likely to cause sidewalk damage and how urban foresters are addressing the issue. A previous version of the story listed as problematic some types of trees that, the city says, are actually well suited for urban environments.*



Kate Harrison  
Councilmember, District 4

## REVISED AGENDA MATERIAL

**Meeting Date:** March 29, 2023

**Item Number:** 35

**Item Description:** Adopt Ordinance Adding Chapter 2.102 to the Berkeley Municipal Code to Establish a Labor Peace Policy Minimizing Labor/Management Conflict in Berkeley Marina Zone

**Submitted by:** Councilmember Harrison

- Updated transmittal to remove reference to the SFO Airport Commission labor peace policy.
- In consultation with the City Attorney:
  - Added a definition for “City Manager” to include “or designee” and clarified that “Hospitality Operation” is an operation primarily engaging in food and beverage service.
  - Clarified the process for an Employer’s request for excuse from entering into a Labor Peace Agreement as including a mutually-agreed arbitrator, or the Council in the case the Employer and Labor Organization do not agree.
  - Clarified that employers with fewer than 10 employees are exempt from the Chapter.



Kate Harrison  
Councilmember, District 4

CONSENT CALENDAR

March 24 April 11, 2023

To: Honorable Mayor and Members of the City Council

From: Councilmember Harrison (Author), Mayor Arreguín (Co-sponsor), Councilmember Taplin (Co-sponsor) and Councilmember Bartlett (Co-sponsor)

Subject: Adopt Ordinance Adding Chapter 2.102 to the Berkeley Municipal Code to Establish a Labor Peace Policy Minimizing Labor/Management Conflict in Berkeley Marina Zone

RECOMMENDATION:

Adopt Ordinance Adding Chapter 2.102 to the Berkeley Municipal Code (BMC) to Establish a Labor Peace Policy minimizing labor/management conflict in Berkeley Marina Zone.

CURRENT SITUATION AND RATIONALE FOR RECOMMENDATION

The City of Berkeley owns a number of recreational, hospitality and food services properties in the Berkeley Marina and Waterfront. In maintaining these properties, the City has multiple interests, including providing superior facilities for residents and visitors, generating steady income from rents and fees supporting operations, supporting a harmonious labor and business environment, and supporting the Marina Fund.

The City is in the process of finalizing an exclusive negotiation agreement for former HS Lordships Restaurant property located at 199 Seawall Dr, Berkeley, CA 94710. It is in the public interest to avoid high profile and disruptive labor disputes that may arise between tenants, businesses, workers, and labor groups associated with this property and other properties in the Marina Zone.

In recent years, throughout the state of California and elsewhere in the United States, there has been an increase in labor disputes in the hospitality industry. In 2018 workers at HS Lordships restaurant walked out in the middle of brunch in protest of the severance offered by HS Lordships owners. Last year, workers at the DoubleTree Hotel joined nationwide protests to draw attention to the fact that they have been working without a contract since 2018 and their desire for better pay and healthcare benefits.

Adopt Ordinance Adding Chapter 2.102 to the Berkeley Municipal Code to Establish a Labor Peace Policy Minimizing Labor/Management Conflict in Berkeley Marina Zone

Through adopting a Labor Peace Agreement requirement for businesses operating in the Marina, Berkeley can protect its proprietary interest by preventing service and revenue disruptions while simultaneously facilitating a policy that has contributed to mutually beneficial relations between management and labor in other jurisdictions.

### BACKGROUND

Berkeley is a world-class tourist destination, welcoming more than a million visitors annually. The Marina, often recognized as the crown jewel of Berkeley, offers multiple parks, recreation facilities, and restaurants and hotel accommodations. The City Berkeley holds in trust pursuant to the Public Trust Tidelands grant from the State of California property along and near the City's waterfront known as the Berkeley Marina Zone, a major tourist hub and destination. The City leases its real property along and near the Marina Zone facilities to Hospitality Operation companies, and in so doing faces the same risks and liabilities as private businesses participating in management of similar facilities. As a result, the City has an ongoing proprietary interest in the management and use of that Marina real property and harbor facilities and must make prudent business decisions, as would any private business, to ensure efficient and cost-effective management of its business concerns, and to maximize public benefit and minimize risk.

The City's Marina Fund operates as an enterprise fund and therefore funds its activities outside of the general fund through fees, grants, and rents. The City has a strong interest in ensuring that operations and amenities continue to run smoothly to the benefit of residents and visitors alike.

This ordinance is intended to maximize the returns and minimize the risk to the City's proprietary interest resulting from possible conflict between employers leasing, and operating hospitality operations on City property, and labor organizations, arising out of union organizing campaigns, labor negotiations, and disruption that may be caused by such conflict. Experience of public entities and private employers demonstrates that union organizing drives and union efforts to secure representation rights and an initial collective bargaining agreement can deteriorate into protracted and acrimonious conflict. Such conflict threatens the City's proprietary interest when private employers enter into leases to use City property, and labor conflict could jeopardize base rent payments or rent payments calculated on a percentage of sales. That threat is most acute during the period when a labor organization (1) seeks to gain recognition as the collective bargaining representative for employees and (2) if recognized, seeks a first contract with the employer.

The sole purpose of this ordinance is to protect the City's proprietary interest in the hospitality operation leases. This ordinance does not favor any particular procedure for determining employee preference, or lack of preference, regarding labor organization representation, or the outcome of any such procedure; skew such procedures to favor or hinder any party; interfere with the negotiation, terms, or scope of a first contract, if applicable; or express or implement any generally applicable policy regarding private sector labor/management relations, or regulate those relations in any way.



Adopt Ordinance Adding Chapter 2.102 to the Berkeley Municipal Code to Establish a Labor Peace Policy Minimizing Labor/Management Conflict in Berkeley Marina Zone

Other jurisdictions, including the Oakland Airport, BART, Port of San Francisco, the San Francisco International Airport (SFO), and Asilomar State Beach have all implemented Labor Peace Agreement policies at their respective properties requiring businesses to execute a Labor Peace Agreements to prevent disruptive management and labor disputes.<sup>1</sup>

Hotel Labor Peace in California State Parks and other Public Properties

**Asilomar Conference Center-** A 313-room hotel and conference center that is part of Asilomar State Beach. Workers there are members of UNITE HERE Local 483 and are covered by a collective bargaining agreement that guarantees labor peace. The [RFP in 2008](#) for a new concessionaire to operate the facility included a requirement to retain these workers, ensuring continued labor peace.



**SFO Grand Hyatt-** SFO has a labor peace policy that applies to food service as well as hotels under airport leases. The Grand Hyatt at SFO was developed in 2019 under this policy and had a labor peace agreement. Workers are members of UNITE HERE Local 2 and covered by a collective bargaining agreement.



**Bay Area Rapid Transit-** BART has a [labor peace policy](#), passed in 2021, which states that “The District shall not execute any lease, Lease Disposition and Development Agreement (LDDA), or other contract or agreement providing for the development of a Hotel Development Project in which the District has a proprietary interest, unless and until the project applicant, developer, or owner, and any operator or manager of the hotel that has been selected, has signed a Labor Peace Agreement covering any Hospitality Operations at the project.”



~~As illustrated by SFO Airport Commission regulations, labor peace agreements may include “card check” provisions whereby the employer agrees to a neutral procedure for determining whether employees wish to be represented by a labor organization for collective bargaining.<sup>2</sup> Under card check, a neutral third party verifies employee union cards in lieu of holding a formal election. In addition, agreements may include provisions~~

<sup>1</sup> [Labor Peace Agreement Policy - Port of Oakland](#); [Labor Peace Agreement Policy for Transit Oriented Development Hotel Operations](#) – BART; [Labor Peace Policy - Port of San Francisco](#); [Labor Peace/Card Check Rule](#) – SFO.

<sup>2</sup> ~~Appendix C, Labor Peace/Card Check Rule, SFO Airport Commission, <https://www.flysfo.com/sites/default/files/media/sfo/about-sfo/2014%20R&R%20Appx%20C%20-%20Labor%20Peace-Card%20Check%20Program.pdf>.~~



Adopt Ordinance Adding Chapter 2.102 to the Berkeley Municipal Code to Establish a Labor Peace Policy Minimizing Labor/Management Conflict in Berkeley Marina Zone

~~requiring the Employer to be neutral during the organizing campaign and/or to provide access to worksites by employers.<sup>3</sup>~~

The proposed ordinance specifies that the City will not execute hospitality operations leases or make substantial amendments providing for the use, development, or operation of a hospitality operation within the Marina Zone in which the City has a proprietary interest, unless and until the project applicant, developer, or owner, and any operator or manager of the hospitality operation has provided evidence that it has entered into a Labor Peace Agreement. This requirement also applies to any future subcontractor, tenant, sub-lessee, or manager that operates the Hospitality Operation. The ordinance ensures that these requirements are express components of any request for proposal, request for qualifications, or other similar solicitation for a hospitality operation projects in the Marina Zone.

#### FISCAL IMPACTS OF RECOMMENDATION

City Attorney staff time will be necessary to implement the respective requirements in leases, requests for proposals, and other documents.

#### ENVIRONMENTAL SUSTAINABILITY

Not applicable.

#### CONTACT PERSON

Councilmember Kate Harrison, (510) 981-7140

Attachments:

1. Draft Ordinance Adding BMC 2.102

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<sup>3</sup>~~Labor Peace Agreements - U.S. Chamber.~~

~~[https://www.uschamber.com/assets/archived/images/documents/files/labor\\_peace\\_agreements\\_2013\\_09\\_12.pdf](https://www.uschamber.com/assets/archived/images/documents/files/labor_peace_agreements_2013_09_12.pdf).~~

ORDINANCE NO. –N.S.

ADDING CHAPTER 2.102 TO THE BERKELEY MUNICIPAL CODE  
TO ESTABLISH A LABOR PEACE POLICY MINIMIZING LABOR/MANAGEMENT  
CONFLICT IN BERKELEY MARINA ZONE

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

Section 1. That Chapter 2.102 of the Berkeley Municipal Code is added to read as follows:

**Chapter 2.102**

**LABOR PEACE POLICY - MINIMIZING LABOR-MANAGEMENT CONFLICT IN  
BERKELEY MARINA ZONE**

**Sections:**

**2.102.010 Findings and Purpose.**

**2.102.020 Definitions.**

**2.102.030 City of Berkeley—Labor Peace Policy**

**2.102.040 Procedures to Minimize Disruption Caused by Labor/Management  
Conflict.**

**2.102.050 Applicability and Exemptions.**

**2.102.060 Prospective Effect.**

**2.102.070 Preemption.**

**2.102.080 Severability.**

### **2.102.010 Findings and Purpose.**

The Council of the City of Berkeley finds and declares as follows:

- A. Berkeley is a world-class tourist destination, welcoming more than a million visitors annually. The City of Berkeley holds in trust pursuant to the Public Trust Tidelands grant from the State of California property along and near the City's waterfront known as the Berkeley Marina Zone, a major tourist hub and destination. The City leases its real property along and near the Marina Zone facilities to Hospitality Operation companies, and in so doing faces the same risks and liabilities as private businesses participating in management of similar facilities. As a result, the City has an ongoing Proprietary Interest in the management and use of that Marina real property and harbor facilities and must make prudent business decisions, as would any private business, to ensure efficient and cost-effective management of its business concerns, and to maximize benefit and minimize risk.
- B. This Chapter is intended to maximize the returns and minimize the risk to the City's Proprietary Interest resulting from possible conflict between Employers leasing, and operating Hospitality Operations on City property, and Labor Organizations, arising out of union organizing campaigns, labor negotiations, and disruption that may be caused by such conflict. Experience of public entities and private employers demonstrates that union organizing drives and union efforts to secure representation rights and an initial collective bargaining agreement can deteriorate into protracted and acrimonious conflict. Such conflict threatens the City's Proprietary Interest when private employers enter into leases to use City property, and labor conflict could jeopardize base rent payments or rent payments calculated on a percentage of sales. That threat is most acute during the period when a Labor Organization (1) seeks to gain recognition as the collective bargaining representative for Employees and (2) if recognized, seeks a First Contract with the Employer.
- C. The sole purpose of this Chapter is to protect the City's Proprietary Interest in the Hospitality Operation Leases. This Chapter does not favor any particular procedure for determining employee preference, or lack of preference, regarding Labor Organization representation, or the outcome of any such procedure; skew such procedures to favor or hinder any party; interfere with the negotiation, terms, or scope of a First Contract, if applicable; or express or implement any generally applicable policy regarding private sector labor/management relations, or regulate those relations in any way.

### **2.102.020 Definitions.**

"City Manager" means the City Manager of the City of Berkeley or their designee.

"Demand for Recognition Period" means the period during which the Labor Organization seeks recognition as the collective bargaining representative of the Employees.

"Economic Action" means concerted action initiated or conducted by a Labor Organization, or Employees acting in concert with a Labor Organization, at the Employees' worksite, to bring economic pressure to bear on an Employer, as part of a campaign to organize Employees or prospective Employees of that Employer, or in attempting to secure a First Contract, if applicable. "Economic Action" includes such activities as striking, picketing, or boycotting. "Economic Action" does not include a lawsuit to enforce this Chapter.

"Employee" means anyone performing work for an Employer for compensation relating to Hospitality Operations on a full-time, part-time, seasonal, or temporary basis,

including those made available to work for the Employer through a temporary service, staffing agency, or similar agency.

“Employer” means any person or entity, including a subcontractor, with Employees engaged in Hospitality Operations.

“Hospitality Operations Lease” means a lease, sublease, license, sublicense, or other means of granting the right to a Hospitality Operation to use Marina Zone property, in which the City receives rent, a flat fee, or a charge. An “Hospitality Operations Lease” must be for a term of at least 12 months.

“Hospitality Operation” shall mean any hotel or motel operation, conference center, restaurant, bar, or other operation primarily engaging in food and beverage service, ~~operation~~ meeting the criteria specified in Section 2.102.050.

“Hospitality Operations” means any work done by Employees at or relating to a Hospitality Operation under a Hospitality Operation Lease.

“First Contract” means the first enforceable contract entered into between an Employer and a Labor Organization setting one or more terms or conditions of employment.

“First Contract Period” means, if a Labor Organization is recognized as the collective bargaining representative of Employees, the period between such recognition and execution of a First Contract.

“Labor Organization” means any organization of any kind, or any agency or employee representation committee, in which Employees participate and which exists for the purpose, in whole or part, of dealing with Employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or other terms and conditions of employment.

“Labor Peace Agreement” shall mean a binding and enforceable agreement with any Employer and a Labor Organization that represents or seeks to represent Hospitality Operations workers, as described more fully in Section 2.102.040.

“Marina Zone” shall mean all land held in trust by the City of Berkeley pursuant to the Public Trust Tidelands grant from the State of California to the City of Berkeley, Stats. 1962, Ch. 55; specifically, Aquatic Park and all land, including submerged land, which is west of Marina Boulevard as it is presently constructed and as if it were extended, in both northerly and southerly directions, to the Berkeley city limits and all land north of Spinnaker Way as it is presently constructed and as if it were extended to the shoreline, to the east, and to the Berkeley city limits, to the west.

“Proprietary Interest” means any nonregulatory arrangement or circumstance in which the City has a financial or other nonregulatory interest including any of the following:

- (1) through a lease of real property that is owned by the City and used for the Hospitality Operation, the City receives ongoing revenue, excluding government fees, tax revenue, or assessment revenue, or similar fees and revenues, except for tax revenue under the circumstances specified in paragraphs (2) and (3) of this subsection;
- (2) the City receives ongoing revenue from the Hospitality Operation to repay loans provided by the City to assist in the development or operation of the project;
- (3) the City receives ongoing revenue from the Hospitality Operation to pay debt service on bonds provided by the City to assist in the development of the project;
- (4) the City has assets at risk because it has agreed to underwrite or guarantee the development of the hospitality operation or loans related to the hospitality operation; or
- (5) the City has an ongoing economic and non-regulatory interest at risk in the financial success of a Hospitality Operation which is likely to be adversely affected by labor-management conflict, except that no interest shall be considered economic and non-

regulatory if it arises from the exercise of regulatory or police powers such as taxation (except as set forth in paragraphs (2) and (3) of this subsection), zoning, or the issuance of permits or licenses.

“Parties” means an Employer and Labor Organization that has requested to be, or has been, recognized as the collective bargaining representative of Employees.

“Pre-existing Lease” means any Hospitality Operation Lease entered into before the effective date of this Chapter.

“Subcontract” means any agreement between the authorized tenant, licensee, or other user under a Hospitality Operation Lease and another person or entity that contemplates or permits that other person or entity to operate or manage all or a portion of the Hospitality Operations.

“Subcontractor” means the person or entity that operates or manages all or a portion of Hospitality Operations under a Subcontract.

“Substantial Amendment” means an amendment to, or the City’s discretionary renewal or extension of:

(1) A lease of Marina Zone property entered into before the effective date of this Chapter that did not include Hospitality Operations but is expanded to include Hospitality Operations; or

(2) A Pre-existing Lease that provides for, or permits, any of the following:

(i) A new term that extends the duration of the lease beyond that provided in the Pre-existing Lease;

(ii) The right to construct improvements to support or serve Hospitality Operations, if not previously allowed under the Pre-existing Lease;

(iii) Rent credits or potential rent credits to a Marina Zone Hospitality Operation tenant that may be applied against 25% or more of the fixed rent under the Pre-existing Lease during the period in which the rent credits may be used; or

(iv) Rent credits or potential rent credits to a Marina Zone Hospitality Operation tenant that may be applied against 50% or more of the remaining percentage or participation rent (not including any portion of the rent), if any, under the Pre-existing Lease during the period in which the rent credits may be used.

### **2.102.030 City of Berkeley—Labor Peace Policy**

A. The City shall not execute Hospitality Operations Lease or Substantial Amendment providing for the use, development, or operation of a Hospitality Operation within the Marina Zone in which the City has a proprietary interest, unless and until the project applicant, developer, or owner, and any operator or manager of the Hospitality Operation has provided evidence that it has entered into a Labor Peace Agreement covering the Hospitality Operations as specified pursuant to Section 2.102.040.

B. Each such Hospitality Operations Lease or other contract or agreement shall further require that any future Subcontractor, tenant, sub-lessee, or manager that operates the Hospitality Operation shall be required to enter into a Labor Peace Agreement as specified under Section 2.102.040.

C. The City shall make these requirements express components of any request for proposal, request for qualifications, or other similar solicitation for a Hospitality Operation projects.

### **2.102.040 Procedures to Minimize Disruption Caused by Labor/Management Conflict.**

A. An Employer who receives a written request by a Labor Organization to enter into a Labor Peace Agreement shall:

- (1) Inform the City Manager, within five business days of receiving the request, that a Labor Organization seeking to represent its Employees has requested the Employer to enter into a Labor Peace Agreement required by this Chapter;
- (2) Enter into a Labor Peace Agreement, with the Labor Organization as to the Employees it seeks to represent, containing the following provisions:
  - (i) The Labor Organization, on behalf of itself and its members, in exchange for good and valuable consideration agrees not to engage in Economic Action against the Employer during the Demand for Recognition Period, and should the Labor Organization be recognized, the First Contract Period;
- (3) Upon the City Manager's request, promptly provide to the City Manager a report attesting to the status of the Employer's compliance with the requirements of this Section 2.102.040, including a statement by any Labor Organization that has requested that the Employer enter into a Labor Peace Agreement certifying the accuracy of the Employer's report; and
- (4) Include as a material term in any Subcontract a provision requiring the Subcontractor(s) to comply with this Chapter. This provision shall be a material and mandatory term of such Subcontract, and shall state: "Berkeley Municipal Code Chapter 2, commencing at Section 2.102.040, which applies to [Subcontractor], incorporated herein by reference. To the extent [Subcontractor] employs Employees in Hospitality Operations within the scope of Berkeley Municipal Code 2.102.040, [Subcontractor] hereby agrees as a material condition of this subcontract to enter into and abide by a Labor Peace Agreement with a Labor Organization or Organizations that represents, or seeks to represent, [Subcontractor's] Employees, if and as required by Chapter 2, and to otherwise fully comply with the requirements of that Chapter."

B. In the event that an Employer is unable to ~~agree to terms of a negotiate a~~ Labor Peace Agreement with a Labor Organization within thirty (30) days ~~of a written request by a Labor Organization for a Labor Peace Agreement, the Employer~~ it may file a request with the Berkeley City Council to be excused from such obligations with respect to that Labor Organization. The Employer and Labor Organization may agree to have the Employer's request for excuse heard by a mutually-agreed upon arbitrator for final and binding arbitration. If the Employer and Labor Organization do not agree to have the Employer's request for excuse heard by an arbitrator, then a public hearing shall be held by the City Council on the Employer's request for excuse. Notice of the public hearing shall be sent at least ten days before the public hearing date to the requesting Employer and the subject Labor Organization. The hearing shall be conducted in the same manner as public hearings for land use, zoning, landmarks, and public nuisance matters.

The arbitrator or Council may approve a request by The Employer ~~may to~~ be relieved of and excused from its obligations under this Section 2.102.040(A) with respect to the subject Labor Organization if the arbitrator or Council, after hearing, ~~finds ,after holding the noticed hearing,~~ that forcing-requiring the Employer to ~~adhere to the requirements of comply with~~ this Section 2.102.040(A) would be detrimental to the City's Proprietary Interests because: a. the Employer has attempted in good faith to reach a Labor Peace Agreement with the subject Labor Organization, and b. the Labor Organization has (i) refused to negotiate in good faith to reach a Labor Peace Agreement or (ii) placed condition(s) on Labor Peace Agreement that are arbitrary and capricious, in light of

practices at other, similar venues that are subject to governmental labor peace requirements. The decision of the arbitrator or Council on the Employer's request for excuse under this section shall be final and not subject to further review.

DC. The City Manager shall include in every Hospitality Operation Lease a provision requiring the tenant, and any Employers operating under the Hospitality Operation Lease, to comply with the requirements of this Chapter and all other applicable laws.

### **2.102.050 Applicability and Exemptions.**

A. This Chapter shall not apply to any Employer that does not employ employees in a Hospitality Operation. The City Manager shall determine the applicability of an exemption under this subsection A. on a case-by-case basis. Any Employer claiming an exemption must submit a written request, including the evidentiary basis for the exemption, to the City Manager within five business days of receiving a request to enter into a Labor Peace Agreement. The Employer shall have the burden of proving that an exemption is applicable.

B. This Chapter shall not apply to an Employer if:

(1) ~~The City has no Proprietary Interest in the Hospitality Operation Lease under which the Employer operates a Hospitality Operation, or a Hospitality Operation Lease in which the City's cumulative investment, or the present value of its expected revenues, is less than \$100,000; The Employer employs fewer than ten (10) employees;~~

(2) The Employer operates under a Pre-existing Lease. This exemption applies to an Employer for the duration of such Pre-existing Lease unless the Pre-Existing Lease is subject to a Substantial Amendment after the effective date of this Ordinance;

(3) The Employer is a signatory to valid and binding collective bargaining agreement(s) covering all of its Employees at the Marina Zone property;

(4) The Employer is a governmental agency, and the law would prohibit application of this Chapter;

C. Nothing in this Ordinance shall require or compel an employee to be a member of any labor organization, nor shall it require the developer, operator or any tenant, subcontractor, or sub-tenant of a Hospitality Operation to recognize a labor organization as the bargaining representative for its employees or to enter into a collective bargaining agreement with any labor organization.

### **2.102.060 Prospective Effect.**

This Chapter is intended to have prospective effect only. This Chapter shall be interpreted to avoid violating any laws that prevent the City from impairing obligations under any Pre-existing Lease.

### **2.102.070 Preemption.**

Nothing in this Chapter shall be interpreted or applied so as to create any right, power, or duty in conflict with any Federal or State law.

### **2.102.080 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 prescribed 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.

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





Kate Harrison  
Councilmember, District 4

ACTION CALENDAR

April 11, 2023

*(Continued from March 21, 2023)*

To: Honorable Mayor and Members of the City Council

From: Councilmember Harrison (Author), Mayor Arreguín (Co-sponsor), Councilmember Taplin (Co-sponsor) and Councilmember Bartlett (Co-sponsor)

Subject: Adopt Ordinance Adding Chapter 2.102 to the Berkeley Municipal Code to Establish a Labor Peace Policy Minimizing Labor/Management Conflict in Berkeley Marina Zone

RECOMMENDATION:

Adopt Ordinance Adding Chapter 2.102 to the Berkeley Municipal Code (BMC) to Establish a Labor Peace Policy minimizing labor/management conflict in Berkeley Marina Zone.

CURRENT SITUATION AND RATIONALE FOR RECOMMENDATION

The City of Berkeley owns a number of recreational, hospitality and food services properties in the Berkeley Marina and Waterfront. In maintaining these properties, the City has multiple interests, including providing superior facilities for residents and visitors, generating steady income from rents and fees supporting operations, supporting a harmonious labor and business environment, and supporting the Marina Fund.

The City is in the process of finalizing an exclusive negotiation agreement for former HS Lordships Restaurant property located at 199 Seawall Dr, Berkeley, CA 94710. It is in the public interest to avoid high profile and disruptive labor disputes that may arise between tenants, businesses, workers, and labor groups associated with this property and other properties in the Marina Zone.

In recent years, throughout the state of California and elsewhere in the United States, there has been an increase in labor disputes in the hospitality industry. In 2018 workers at HS Lordships restaurant walked out in the middle of brunch in protest of the severance offered by HS Lordships owners. Last year, workers at the DoubleTree Hotel joined nationwide protests to draw attention to the fact that they have been working without a contract since 2018 and their desire for better pay and healthcare benefits.

Adopt Ordinance Adding Chapter 2.102 to the Berkeley Municipal Code to Establish a Labor Peace Policy Minimizing Labor/Management Conflict in Berkeley Marina Zone

Through adopting a Labor Peace Agreement requirement for businesses operating in the Marina, Berkeley can protect its proprietary interest by preventing service and revenue disruptions while simultaneously facilitating a policy that has contributed to mutually beneficial relations between management and labor in other jurisdictions.

### BACKGROUND

Berkeley is a world-class tourist destination, welcoming more than a million visitors annually. The Marina, often recognized as the crown jewel of Berkeley, offers multiple parks, recreation facilities, and restaurants and hotel accommodations. The City Berkeley holds in trust pursuant to the Public Trust Tidelands grant from the State of California property along and near the City's waterfront known as the Berkeley Marina Zone, a major tourist hub and destination. The City leases its real property along and near the Marina Zone facilities to Hospitality Operation companies, and in so doing faces the same risks and liabilities as private businesses participating in management of similar facilities. As a result, the City has an ongoing proprietary interest in the management and use of that Marina real property and harbor facilities and must make prudent business decisions, as would any private business, to ensure efficient and cost-effective management of its business concerns, and to maximize public benefit and minimize risk.

The City's Marina Fund operates as an enterprise fund and therefore funds its activities outside of the general fund through fees, grants, and rents. The City has a strong interest in ensuring that operations and amenities continue to run smoothly to the benefit of residents and visitors alike.

This ordinance is intended to maximize the returns and minimize the risk to the City's proprietary interest resulting from possible conflict between employers leasing, and operating hospitality operations on City property, and labor organizations, arising out of union organizing campaigns, labor negotiations, and disruption that may be caused by such conflict. Experience of public entities and private employers demonstrates that union organizing drives and union efforts to secure representation rights and an initial collective bargaining agreement can deteriorate into protracted and acrimonious conflict. Such conflict threatens the City's proprietary interest when private employers enter into leases to use City property, and labor conflict could jeopardize base rent payments or rent payments calculated on a percentage of sales. That threat is most acute during the period when a labor organization (1) seeks to gain recognition as the collective bargaining representative for employees and (2) if recognized, seeks a first contract with the employer.

The sole purpose of this ordinance is to protect the City's proprietary interest in the hospitality operation leases. This ordinance does not favor any particular procedure for determining employee preference, or lack of preference, regarding labor organization representation, or the outcome of any such procedure; skew such procedures to favor or hinder any party; interfere with the negotiation, terms, or scope of a first contract, if applicable; or express or implement any generally applicable policy regarding private sector labor/management relations, or regulate those relations in any way.

Adopt Ordinance Adding Chapter 2.102 to the Berkeley Municipal Code to Establish a Labor Peace Policy Minimizing Labor/Management Conflict in Berkeley Marina Zone

Other jurisdictions, including the Oakland Airport, BART, Port of San Francisco, the San Francisco International Airport (SFO), and Asilomar State Beach have all implemented Labor Peace Agreement policies at their respective properties requiring businesses to execute a Labor Peace Agreements to prevent disruptive management and labor disputes.<sup>1</sup>

Hotel Labor Peace in California State Parks and other Public Properties

**Asilomar Conference Center-** A 313-room hotel and conference center that is part of Asilomar State Beach. Workers there are members of UNITE HERE Local 483 and are covered by a collective bargaining agreement that guarantees labor peace. The [RFP in 2008](#) for a new concessionaire to operate the facility included a requirement to retain these workers, ensuring continued labor peace.



**SFO Grand Hyatt-** SFO has a labor peace policy that applies to food service as well as hotels under airport leases. The Grand Hyatt at SFO was developed in 2019 under this policy and had a labor peace agreement. Workers are members of UNITE HERE Local 2 and covered by a collective bargaining agreement.



**Bay Area Rapid Transit-** BART has a [labor peace policy](#), passed in 2021, which states that “The District shall not execute any lease, Lease Disposition and Development Agreement (LDDA), or other contract or agreement providing for the development of a Hotel Development Project in which the District has a proprietary interest, unless and until the project applicant, developer, or owner, and any operator or manager of the hotel that has been selected, has signed a Labor Peace Agreement covering any Hospitality Operations at the project.”



As illustrated by SFO Airport Commission regulations, labor peace agreements may include “card check” provisions whereby the employer agrees to a neutral procedure for determining whether employees wish to be represented by a labor organization for collective bargaining.<sup>2</sup> Under card check, a neutral third party verifies employee union cards in lieu of holding a formal election. In addition, agreements may include provisions

<sup>1</sup> [Labor Peace Agreement Policy - Port of Oakland](#); [Labor Peace Agreement Policy for Transit Oriented Development Hotel Operations](#) – BART; [Labor Peace Policy - Port of San Francisco](#); [Labor Peace/Card Check Rule](#) – SFO.

<sup>2</sup> Appendix C, Labor Peace/Card Check Rule, SFO Airport Commission, <https://www.flysfo.com/sites/default/files/media/sfo/about-sfo/2014%20R&R%20Appx%20C%20-%20Labor%20Peace-Card%20Check%20Program.pdf>.

Adopt Ordinance Adding Chapter 2.102 to the Berkeley Municipal Code to Establish a Labor Peace Policy Minimizing Labor/Management Conflict in Berkeley Marina Zone

requiring the Employer to be neutral during the organizing campaign and/or to provide access to worksites by employers.<sup>3</sup>

The proposed ordinance specifies that the City will not execute hospitality operations leases or make substantial amendments providing for the use, development, or operation of a hospitality operation within the Marina Zone in which the City has a proprietary interest, unless and until the project applicant, developer, or owner, and any operator or manager of the hospitality operation has provided evidence that it has entered into a Labor Peace Agreement. This requirement also applies to any future subcontractor, tenant, sub-lessee, or manager that operates the Hospitality Operation. The ordinance ensures that these requirements are express components of any request for proposal, request for qualifications, or other similar solicitation for a hospitality operation projects in the Marina Zone.

#### FISCAL IMPACTS OF RECOMMENDATION

City Attorney staff time will be necessary to implement the respective requirements in leases, requests for proposals, and other documents.

#### ENVIRONMENTAL SUSTAINABILITY

Not applicable.

#### CONTACT PERSON

Councilmember Kate Harrison, (510) 981-7140

Attachments:

1. Draft Ordinance Adding BMC 2.102

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<sup>3</sup> *Labor Peace Agreements - U.S. Chamber.*

[https://www.uschamber.com/assets/archived/images/documents/files/labor\\_peace\\_agreements\\_2013\\_09\\_12.pdf](https://www.uschamber.com/assets/archived/images/documents/files/labor_peace_agreements_2013_09_12.pdf).

ORDINANCE NO. –N.S.

ADDING CHAPTER 2.102 TO THE BERKELEY MUNICIPAL CODE  
TO ESTABLISH A LABOR PEACE POLICY MINIMIZING LABOR/MANAGEMENT  
CONFLICT IN BERKELEY MARINA ZONE

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

Section 1. That Chapter 2.102 of the Berkeley Municipal Code is added to read as follows:

**Chapter 2.102**

**LABOR PEACE POLICY - MINIMIZING LABOR-MANAGEMENT CONFLICT IN  
BERKELEY MARINA ZONE**

**Sections:**

**2.102.010 Findings and Purpose.**

**2.102.020 Definitions.**

**2.102.030 City of Berkeley—Labor Peace Policy**

**2.102.040 Procedures to Minimize Disruption Caused by Labor/Management  
Conflict.**

**2.102.050 Applicability and Exemptions.**

**2.102.060 Prospective Effect.**

**2.102.070 Preemption.**

**2.102.080 Severability.**

**2.102.010 Findings and Purpose.**

The Council of the City of Berkeley finds and declares as follows:

- A. Berkeley is a world-class tourist destination, welcoming more than a million visitors annually. The City of Berkeley holds in trust pursuant to the Public Trust Tidelands grant from the State of California property along and near the City's waterfront known as the Berkeley Marina Zone, a major tourist hub and destination. The City leases its real property along and near the Marina Zone facilities to Hospitality Operation companies, and in so doing faces the same risks and liabilities as private businesses participating in management of similar facilities. As a result, the City has an ongoing Proprietary Interest in the management and use of that Marina real property and harbor facilities and must make prudent business decisions, as would any private business, to ensure efficient and cost-effective management of its business concerns, and to maximize benefit and minimize risk.
- B. This Chapter is intended to maximize the returns and minimize the risk to the City's Proprietary Interest resulting from possible conflict between Employers leasing, and operating Hospitality Operations on City property, and Labor Organizations, arising out of union organizing campaigns, labor negotiations, and disruption that may be caused by such conflict. Experience of public entities and private employers demonstrates that union organizing drives and union efforts to secure representation rights and an initial collective bargaining agreement can deteriorate into protracted and acrimonious conflict. Such conflict threatens the City's Proprietary Interest when private employers enter into leases to use City property, and labor conflict could jeopardize base rent payments or rent payments calculated on a percentage of sales. That threat is most acute during the period when a Labor Organization (1) seeks to gain recognition as the collective bargaining representative for Employees and (2) if recognized, seeks a First Contract with the Employer.
- C. The sole purpose of this Chapter is to protect the City's Proprietary Interest in the Hospitality Operation Leases. This Chapter does not favor any particular procedure for determining employee preference, or lack of preference, regarding Labor Organization representation, or the outcome of any such procedure; skew such procedures to favor or hinder any party; interfere with the negotiation, terms, or scope of a First Contract, if applicable; or express or implement any generally applicable policy regarding private sector labor/management relations, or regulate those relations in any way.

**2.102.020 Definitions.**

"Demand for Recognition Period" means the period during which the Labor Organization seeks recognition as the collective bargaining representative of the Employees.

"Economic Action" means concerted action initiated or conducted by a Labor Organization, or Employees acting in concert with a Labor Organization, at the Employees' worksite, to bring economic pressure to bear on an Employer, as part of a campaign to organize Employees or prospective Employees of that Employer, or in attempting to secure a First Contract, if applicable. "Economic Action" includes such activities as striking, picketing, or boycotting. "Economic Action" does not include a lawsuit to enforce this Chapter.

"Employee" means anyone performing work for an Employer for compensation relating to Hospitality Operations on a full-time, part-time, seasonal, or temporary basis,

including those made available to work for the Employer through a temporary service, staffing agency, or similar agency.

“Employer” means any person or entity, including a subcontractor, with Employees engaged in Hospitality Operations.

“Hospitality Operations Lease” means a lease, sublease, license, sublicense, or other means of granting the right to a Hospitality Operation to use Marina Zone property, in which the City receives rent, a flat fee, or a charge. An “Hospitality Operations Lease” must be for a term of at least 12 months.

“Hospitality Operation” shall mean any hotel or motel operation, conference center, restaurant, bar, or other food and beverage service operation meeting the criteria specified in Section 2.102.050.

“Hospitality Operations” means any work done by Employees at or relating to a Hospitality Operation under a Hospitality Operation Lease.

“First Contract” means the first enforceable contract entered into between an Employer and a Labor Organization setting one or more terms or conditions of employment.

“First Contract Period” means, if a Labor Organization is recognized as the collective bargaining representative of Employees, the period between such recognition and execution of a First Contract.

“Labor Organization” means any organization of any kind, or any agency or employee representation committee, in which Employees participate and which exists for the purpose, in whole or part, of dealing with Employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or other terms and conditions of employment.

“Labor Peace Agreement” shall mean a binding and enforceable agreement with any Employer and a Labor Organization that represents or seeks to represent Hospitality Operations workers, as described more fully in Section 2.102.040.

“Marina Zone” shall mean all land held in trust by the City of Berkeley pursuant to the Public Trust Tidelands grant from the State of California to the City of Berkeley, Stats. 1962, Ch. 55; specifically, Aquatic Park and all land, including submerged land, which is west of Marina Boulevard as it is presently constructed and as if it were extended, in both northerly and southerly directions, to the Berkeley city limits and all land north of Spinnaker Way as it is presently constructed and as if it were extended to the shoreline, to the east, and to the Berkeley city limits, to the west.

“Proprietary Interest” means any nonregulatory arrangement or circumstance in which the City has a financial or other nonregulatory interest including any of the following:

- (1) through a lease of real property that is owned by the City and used for the Hospitality Operation, the City receives ongoing revenue, excluding government fees, tax revenue, or assessment revenue, or similar fees and revenues, except for tax revenue under the circumstances specified in paragraphs (2) and (3) of this subsection;
- (2) the City receives ongoing revenue from the Hospitality Operation to repay loans provided by the City to assist in the development or operation of the project;
- (3) the City receives ongoing revenue from the Hospitality Operation to pay debt service on bonds provided by the City to assist in the development of the project;
- (4) the City has assets at risk because it has agreed to underwrite or guarantee the development of the hospitality operation or loans related to the hospitality operation; or
- (5) the City has an ongoing economic and non-regulatory interest at risk in the financial success of a Hospitality Operation which is likely to be adversely affected by labor-management conflict, except that no interest shall be considered economic and non-

regulatory if it arises from the exercise of regulatory or police powers such as taxation (except as set forth in paragraphs (2) and (3) of this subsection), zoning, or the issuance of permits or licenses.

“Parties” means an Employer and Labor Organization that has requested to be, or has been, recognized as the collective bargaining representative of Employees.

“Pre-existing Lease” means any Hospitality Operation Lease entered into before the effective date of this Chapter.

“Subcontract” means any agreement between the authorized tenant, licensee, or other user under a Hospitality Operation Lease and another person or entity that contemplates or permits that other person or entity to operate or manage all or a portion of the Hospitality Operations.

“Subcontractor” means the person or entity that operates or manages all or a portion of Hospitality Operations under a Subcontract.

“Substantial Amendment” means an amendment to, or the City’s discretionary renewal or extension of:

(1) A lease of Marina Zone property entered into before the effective date of this Chapter that did not include Hospitality Operations but is expanded to include Hospitality Operations; or

(2) A Pre-existing Lease that provides for, or permits, any of the following:

(i) A new term that extends the duration of the lease beyond that provided in the Pre-existing Lease;

(ii) The right to construct improvements to support or serve Hospitality Operations, if not previously allowed under the Pre-existing Lease;

(iii) Rent credits or potential rent credits to a Marina Zone Hospitality Operation tenant that may be applied against 25% or more of the fixed rent under the Pre-existing Lease during the period in which the rent credits may be used; or

(iv) Rent credits or potential rent credits to a Marina Zone Hospitality Operation tenant that may be applied against 50% or more of the remaining percentage or participation rent (not including any portion of the rent), if any, under the Pre-existing Lease during the period in which the rent credits may be used.

### **2.102.030 City of Berkeley—Labor Peace Policy**

A. The City shall not execute Hospitality Operations Lease or Substantial Amendment providing for the use, development, or operation of a Hospitality Operation within the Marina Zone in which the City has a proprietary interest, unless and until the project applicant, developer, or owner, and any operator or manager of the Hospitality Operation has provided evidence that it has entered into a Labor Peace Agreement covering the Hospitality Operations as specified pursuant to Section 2.102.040.

B. Each such Hospitality Operations Lease or other contract or agreement shall further require that any future Subcontractor, tenant, sub-lessee, or manager that operates the Hospitality Operation shall be required to enter into a Labor Peace Agreement as specified under Section 2.102.040.

C. The City shall make these requirements express components of any request for proposal, request for qualifications, or other similar solicitation for a Hospitality Operation projects.

### **2.102.040 Procedures to Minimize Disruption Caused by Labor/Management Conflict.**



A. An Employer who receives a written request by a Labor Organization to enter into a Labor Peace Agreement shall:

- (1) Inform the City Manager, within five business days of receiving the request, that a Labor Organization seeking to represent its Employees has requested the Employer to enter into a Labor Peace Agreement required by this Chapter;
- (2) Enter into a Labor Peace Agreement, with the Labor Organization as to the Employees it seeks to represent, containing the following provisions:
  - (i) The Labor Organization, on behalf of itself and its members, in exchange for good and valuable consideration agrees not to engage in Economic Action against the Employer during the Demand for Recognition Period, and should the Labor Organization be recognized, the First Contract Period;
- (3) Upon the City Manager's request, promptly provide to the City Manager a report attesting to the status of the Employer's compliance with the requirements of this Section 2.102.040, including a statement by any Labor Organization that has requested that the Employer enter into a Labor Peace Agreement certifying the accuracy of the Employer's report; and
- (4) Include as a material term in any Subcontract a provision requiring the Subcontractor(s) to comply with this Chapter. This provision shall be a material and mandatory term of such Subcontract, and shall state: "Berkeley Municipal Code Chapter 2, commencing at Section 2.102.040, which applies to [Subcontractor], incorporated herein by reference. To the extent [Subcontractor] employs Employees in Hospitality Operations within the scope of Berkeley Municipal Code 2.102.040, [Subcontractor] hereby agrees as a material condition of this subcontract to enter into and abide by a Labor Peace Agreement with a Labor Organization or Organizations that represents, or seeks to represent, [Subcontractor's] Employees, if and as required by Chapter 2, and to otherwise fully comply with the requirements of that Chapter."

B. In the event that an Employer is unable to agree to terms of a Labor Peace Agreement with a Labor Organization within thirty (30) days of a written request by a labor Organization for a Labor Peace Agreement, the Employer may file a request with the Berkeley City Council to be excused from such obligations with respect to that Labor Organization. A public hearing shall be held by the City Council on the Employer's request for hearing. Notice of the public hearing shall be sent at least ten days before the public hearing date to the requesting Employer and the subject Labor Organization. The hearing shall be conducted in the same manner as public hearings for land use, zoning, landmarks, and public nuisance matters. The Council may approve a request by the Employer to be relieved of and excused from its obligations under this Section 2.102.040(A) with respect to the subject Labor Organization if the Council finds, after holding the noticed hearing, that forcing the Employer to adhere to the requirements of this Section 2.102.040(A) would be detrimental to the City's Proprietary Interests because: a. the Employer has attempted in good faith to reach a Labor Peace Agreement with the subject Labor Organization, and b. the Labor Organization has (i) refused to negotiate in good faith to reach a Labor Peace Agreement or (ii) placed condition(s) on Labor Peace Agreement that are arbitrary and capricious, in light of practices at other, similar venues that are subject to governmental labor peace requirements.

C. The City Manager shall include in every Hospitality Operation Lease a provision requiring the tenant, and any Employers operating under the Hospitality Operation Lease, to comply with the requirements of this Chapter and all other applicable laws.

**2.102.050 Applicability and Exemptions.**

A. This Chapter shall not apply to any Employer that does not employ employees in a Hospitality Operation. The City Manager shall determine the applicability of an exemption under this subsection A. on a case-by-case basis. Any Employer claiming an exemption must submit a written request, including the evidentiary basis for the exemption, to the City Manager within five business days of receiving a request to enter into a Labor Peace Agreement. The Employer shall have the burden of proving that an exemption is applicable.

B. This Chapter shall not apply to an Employer if:

(1) The City has no Proprietary Interest in the Hospitality Operation Lease under which the Employer operates a Hospitality Operation, or a Hospitality Operation Lease in which the City's cumulative investment, or the present value of its expected revenues, is less than \$100,000;

(2) The Employer operates under a Pre-existing Lease. This exemption applies to an Employer for the duration of such Pre-existing Lease unless the Pre-Existing Lease is subject to a Substantial Amendment after the effective date of this Ordinance;

(3) The Employer is a signatory to valid and binding collective bargaining agreement(s) covering all of its Employees at the Marina Zone property;

(4) The Employer is a governmental agency, and the law would prohibit application of this Chapter;

C. Nothing in this Ordinance shall require or compel an employee to be a member of any labor organization, nor shall it require the developer, operator or any tenant, subcontractor, or sub-tenant of a Hospitality Operation to recognize a labor organization as the bargaining representative for its employees or to enter into a collective bargaining agreement with any labor organization.

**2.102.060 Prospective Effect.**

This Chapter is intended to have prospective effect only. This Chapter shall be interpreted to avoid violating any laws that prevent the City from impairing obligations under any Pre-existing Lease.

**2.102.070 Preemption.**

Nothing in this Chapter shall be interpreted or applied so as to create any right, power, or duty in conflict with any Federal or State law.

**2.102.080 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 prescribed 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.

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





Office of the City Manager

ACTION CALENDAR  
April 11, 2023

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: Sharon Friedrichsen, Budget Manager  
 Subject: Unfunded Liability Obligations and Unfunded Infrastructure Needs

### RECOMMENDATION

That the City Council takes the following actions:

1. Accept the Unfunded Liability Obligations and Unfunded Infrastructure Needs report
2. Receive a presentation on Pensions and Other-Post Employment Benefits tonight and provide staff with direction
3. Schedule for either the April 25, 2023 City Council Meeting or at a later date to be determined a presentation and discussion on Unfunded Infrastructure Needs

### INTRODUCTION

On May 29, 2012, the City Council adopted Resolution No. 65,748 N.S. "Requiring that the City Manager Develop and Publish a Biennial Report of Current City Liabilities and Projections of Future Liabilities. The purpose of this report is to provide a thorough overview of the City's long-term expenditure obligations in a format that is easily understandable in a single report. As indicated below, the enacting Resolution stipulates that information pertaining to personnel-related costs, City-issued bonds, capital assets and infrastructure be included within the report as follows:

1. Employee and retiree benefit costs over a 10-year horizon
2. Costs for current active employees including:
  - a. total payroll costs for active employees during the current year;
  - b. projected payroll costs for the same number of employees for the next 10-year period with costs increases based on MOU's with bargaining units.
3. A summary of all current City obligations including:
  - a. general obligation bonds;
  - b. revenue bonds.

4. Summary of all capital assets and infrastructure including:
  - a. Appraisal of Public Buildings valued at \$5 million or more
  - b. Condition of Streets and Roads using the “Street Saver” information projecting costs to bring streets and roads condition to an average Pavement Condition Index (PCI) of 75 within 5 years.
  - c. Sewers: updated asset management plan for public sewers including projected costs for succeeding 5 years and projected revenue from sewer fees for the succeeding 5 years.

This report is required to be published every two years, in the second year of the biennial budget, in advance of the Council’s consideration of the upcoming biennial budget. Instead of preparing a two-year budget for FY 2022 & FY 2023, the City prepared a one-year budget for FY 2022 and subsequently prepared a two-year budget for FY 2023 & FY 2024. Therefore, this report is being presented in the first year of the biennial budget to adhere to the two-year reporting requirement.

The projections in this report were developed by staff in the City Manager’s Budget Office and the Finance Department, with the assistance of several financial advisors including the City’s sales tax consultant and actuaries. Revenues are, of course, sensitive to normal business cycles as well as unanticipated economic volatility. Thus, it is important that the City continue its fiscally prudent planning to balance expenditures against projected revenues while addressing employee compensation as well as historically underfunded infrastructure needs.

### SUMMARY

The following is a summary of key points that will be explained in detail in this report:

- Due to projected increases in personnel expenses, the City currently projects a General Fund structural deficit in FY 2025 through FY 2027.
- The City has a significant pension liability that is anticipated to grow due to recent financial losses experienced by CalPERS. Also, of note, the City’s pension contributions for all City employees are anticipated to increase more than \$32 million over the next ten years putting a strain on resources and services.
- The City’s retiree health plans are significantly underfunded with the funded status of the City’s plans ranging from a low of 6.93% to a high of 51.22%.
- Due to the age of the City’s infrastructure and limited resources allocated to infrastructure, the City’s unfunded infrastructure needs have increased over the years and is anticipated to range around \$2.52 billion from FY 2024 to FY 2028.
- Despite the recent adoption of Measure T1 and Measure O, the City has an aggregate bond tax rate for FY 2023 of 0.0623% (which represents \$62.30 for each \$100,000 in assessed value (“A.V.”), which is below the historical peak of approximately \$95 (per \$100,000 in A.V) in tax year 1999-2000.

CURRENT SITUATION AND ITS EFFECTS**1. Employee and Retiree Benefit costs over a 10-year horizon****a. CalPERS Retirement Benefits**

The City provides retirement benefits for employees through its participation in the California Public Employees' Retirement System (CalPERS). This is a defined benefit pension plan funded by a combination of employee contributions that are set by statute and employer contributions that fluctuate from year to year based on an annual actuarial valuation performed by CalPERS. The actuarially determined rate is the estimated amount necessary to finance the costs of benefits earned by employees during the year, with an additional amount to finance any unfunded accrued liability. Benefits are based on years of credit service, equal to one year of full-time employment. Members with five years of total service are eligible to retire at age 50 with statutorily reduced benefits.

On January 1, 2013, the Public Employee Pension Reform Act (PEPRA) went into effect. The State law applies to employees hired after January 1, 2013, who are new to CalPERS. These employees are termed PEPRA members and employees that were enrolled in CalPERS (without significant separation) prior to January 1, 2013, are now referred to as "classic" members.<sup>1</sup>

The City contributes to three plans in the CalPERS system: (1) Police Safety Plan, (2) Fire Safety Plan, and (3) Miscellaneous Employee Plan. Each plan has a different rate for the City's annual employer contribution that is generally based on the demographics of the plan participants and the value of investment returns of the City's assets in the CalPERS system. In addition, employees' contributions vary by plan based on negotiated Memorandum of Understandings (MOU).

In 2013, the CalPERS Board voted to change the actuarial model for the pension plans and certain actuarial assumptions upon which rates are based. First, the model anticipated that the plans would be 100 percent funded in a fixed 30-year time period. Second, the time period to "smooth out" the impacts of CalPERS' investment losses due to the recession was reduced from 15 years to 5 years. Finally, the rates were structured in such a way that the first five years were considered to be a "ramp up" period to improve the plans funded percentage. That meant that Fiscal Years 2016-2020 were expected to have higher rates, and the years following were projected to plateau for some time before decreasing in the last five years of the 30-year funding period.

In February 2014, the CalPERS Board voted to retain its current long-term assumed rate of return of 7.5 percent, but adopted new mortality assumptions due to the fact that retirees are living longer. As a result of the new assumptions, the cost of employer contributions increased, again.

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<sup>1</sup> PEPRA miscellaneous members are enrolled in a 2% at 62 plan and PEPRA safety members (Fire and Police) are enrolled in a 2.7% at 57 plan. PEPRA members are required to pay half the normal cost of their plans.

In December 2016, the CalPERS Board lowered the discount rate from 7.50 percent to 7.00 percent using a three-year phase in beginning with the June 30, 2016 actuarial valuation. The employer contribution for FY 2020 was calculated using a discount rate of 7.25 percent. CalPERS reduced the return rate to 7.25 percent in July 2018, with a further reduction to 7.0 percent. CalPERS lowered the discount rate because the agency determined that achieving a 7.5 percent rate of return was now far less likely. The result of this lowered discount rate is that liabilities have grown and the City's pension contributions have significantly increased.

Changes to the Unfunded Actuarial Liability (UAL) due to actuarial gains or losses, as well as changes in actuarial assumptions or methods, are amortized using a 5-year ramp up. This method phases in the impact of changes in UAL over a 5-year period and attempts to minimize employer cost volatility from year to year. As a result, however, required contributions can change gradually, but significantly, over the next five years.

Effective with the June 30, 2019, actuarial valuation, the CalPERS Board adopted a new amortization policy that shortens the period over which actuarial gains or losses are amortized from 30 years to 20 years with the payments computed using a level dollar amount. In addition, the new policy removes the 5-year ramp-up and ramp-down on UAL bases attributable to assumption changes and non-investment gains or losses. These changes will apply only to new UAL bases established on or after June 30, 2019.

In July 2021, high investment returns triggered an automatic discount rate reduction from 7 percent to 6.8 percent. This automatic reduction was the result of the Funding Risk Mitigation Policy put in place by the CalPERS Board of Directors in 2015, which was designed to lower the discount rate in years of extraordinary investment returns to reduce future funding risk over time.

For FY 2022, CalPERS announced a -6.1 percent net return on investments. This is obviously below CalPERS assumed 6.8 percent discount rate. As a result, the City's pension contributions will likely increase for miscellaneous employees plan by 2-4 percent and safety members by 4-6 percent for fiscal year 2024-25.

With respect to future liabilities for the costs of these plans, the City has regularly retained an outside actuary to review the CalPERS' estimates and provide independent actuary estimates that the City can use in budget planning. The chart below provides CalPERS payment amounts for FY 2023 and FY 2024 as provided to the city by CalPERS. The outside actuary provided estimated payment amounts for FY 2025 through FY 2034.



| Future Payments to California Public Employees Retirement System All Plans (dollars in millions)                                                                                                           |              |              |              |              |              |              |              |               |               |               |               |               |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|---------------|---------------|---------------|---------------|---------------|
|                                                                                                                                                                                                            | FY 2023      | FY 2024      | FY 2025      | FY 2026      | FY 2027      | FY 2028      | FY 2029      | FY 2030       | FY 2031       | FY 2032       | FY 2033       | FY 2034       |
| Misc.                                                                                                                                                                                                      | 41.64        | 40.57        | 43.51        | 44.21        | 47.10        | 49.53        | 54.80        | 57.35         | 59.69         | 59.15         | 61.00         | 61.18         |
| Police                                                                                                                                                                                                     | 20.04        | 20.32        | 21.47        | 22.43        | 23.59        | 24.71        | 26.74        | 27.94         | 28.96         | 29.52         | 30.19         | 30.32         |
| Fire                                                                                                                                                                                                       | 10.58        | 10.24        | 10.97        | 11.54        | 12.24        | 12.89        | 14.27        | 14.96         | 15.57         | 15.80         | 16.24         | 16.28         |
| <b>Total</b>                                                                                                                                                                                               | <b>72.26</b> | <b>71.13</b> | <b>75.95</b> | <b>78.18</b> | <b>82.93</b> | <b>87.13</b> | <b>95.81</b> | <b>100.25</b> | <b>104.22</b> | <b>104.47</b> | <b>107.43</b> | <b>107.78</b> |
| FY 2023 and FY 2024 are based on amounts provided by CalPERS.                                                                                                                                              |              |              |              |              |              |              |              |               |               |               |               |               |
| FY 2025 through FY 2034 amounts are based on actuary's projections.                                                                                                                                        |              |              |              |              |              |              |              |               |               |               |               |               |
| Rates used reflect current MOU agreements: Miscellaneous includes the 8% employee share paid by the City on behalf of the employee as well as the negotiated employee's contribution to the employer rate. |              |              |              |              |              |              |              |               |               |               |               |               |

There are a couple of important points about the chart. The first is that over the next 10 years there is close to an estimated \$32 million dollar increase in pension costs to the City from FY 2025 to FY 2034. The next point is that regardless of the City's financial position the payments will have to be made to CalPERS. This financial challenge will require us to be fiscally prudent over this period of time.

The changes made by CalPERS in the last few years are planned to achieve 100% funding for all plans within a 30-year time period. This means that there will be sufficient funds held in each plan to pay obligations for all inactive participants (including retirees) and benefits as a result of prior service for actives.

The funded status of a pension plan is defined as the ratio of assets to a plan's accrued liabilities. Based on the CalPERS' actuarial valuations as of June 30, 2021, the City's plans are currently funded as follows: Miscellaneous 80.1%; Police Safety 68.7%; and Fire Safety 80.9%.

| California Public Employees Retirement System Funded Status |                |                  |                     |             |                    |          |
|-------------------------------------------------------------|----------------|------------------|---------------------|-------------|--------------------|----------|
| Fund Name                                                   | Valuation Date | Actuarial Source | Estimated Liability | Plan Assets | Unfunded Liability | % Funded |
| Miscellaneous                                               | 6/30/2021      | CalPERS          | \$ 1,181.2          | \$ 946.3    | \$ 234.90          | 80.1%    |
| Police                                                      | 6/30/2021      | CalPERS          | \$ 483.8            | \$ 332.5    | \$ 151.30          | 68.7%    |
| Fire                                                        | 6/30/2021      | CalPERS          | \$ 306.7            | \$ 248.1    | \$ 58.60           | 80.9%    |

On June 26, 2018, Council authorized the City Manager to establish an IRS Section 115 Pension Trust Fund ("Trust"). The Trust can act as a rate stabilization fund and can be used to ease budgetary pressures resulting from unanticipated spikes in employer contribution rates. On May 14, 2019, Council authorized the City Manager to execute a contract with Keenan Financial Services to establish, maintain, and invest the Trust. The Trust currently has a balance of \$14,762,850.42 as of June 30, 2022 and receives funding through transfers from the General Fund and Capital Improvement Fund and savings from annually prepaying the City's CalPERS payment.

In addition, the City Council adopted a new fiscal policy on June 28, 2022 to allocate 1/3 of additional revenue earned from investments that is over the annual (fiscal year) baseline of \$6 million to the Section 115 Pension Trust.

**b. Retiree Medical Plans**

The City provides post-retirement health insurance benefits in accordance with the Memoranda Agreements between the City and the various collective bargaining units (and to unrepresented employees via Council adopted resolutions). These post-retirement benefits are often referred to as Other Post-Employment Benefits (“OPEB”). The City has individual trusts for each bargaining unit that fund the medical plans as well as the closed plan for Police that provides a cash benefit. In 2012 the City and the Berkeley Police Association agreed to a new Retiree Medical plan that provides health insurance premium payments, rather than the pre-existing cash payments, to retirees. The original plan is now a “closed” plan meaning that employees who retire after September 2012 will receive benefits from the new plan. However, the original plan must still make benefit payments to existing retirees and continue to be funded until those payment obligations cease.

The City obtains actuarial reports for each of these plans at least every two years and the City is responsible for investing the assets in these plans. The results of that investment activity are provided to the City Council in the regular Investment Report.

In some cases, the City’s actual contribution to each plan on an annual basis is based on the actuarially established “Annual Required Contribution” or as a percent of payroll. However, some of the plans are funded on a “pay-as-you-go” basis. Funding on a pay-as-you-go basis is sufficient to cover the annual benefit payments made from the plan assets but impacts the ability to achieve the long-term funding targets.

On April 24, 2017, the City actuary presented various options that would reduce the City’s unfunded liabilities tied to post-employee benefits to meet the long-term funding targets. Recommended for Council’s consideration were fully prefunding annual actuarially determined contributions, investment reallocations to increase returns, and establishing an irrevocable supplemental trust. Council has already acted on some of these recommendations. The City actuary has provided updated recommendations regarding increasing the City’s annual contribution to fully prefund the City’s OPEB liabilities that are described in more detail on page 27 of this report under the section entitled “Options to Address Long Term Retirement and Infrastructure Costs”.

The following retiree medical plans are discussed in detailed below:

- Police Retiree Income Benefit Plan (closed plan)
- Police Retiree Health Premium Assistance Plan
- Fire Employees Retiree Health Plan
- Retiree Health Premium Assistance Plan (Non-safety Members)

**Police Retiree Income Benefit Plan (closed plan)**

The City provides a Retiree Income Benefit Plan for prior Police retirees. To be eligible for benefits, Police employees must retire from the City on or after July 1, 1989 and before September 19, 2012, be vested in a CalPERS pension, have ten years of service with the Berkeley Police department, and retire from the City on or after age 50 or with a disability benefit. Benefits commence 10 years after retirement for retirements before July 6, 1997, 5 years after retirement for retirements before July 1, 2007, and 2 years after retirement for retirements on or after July 1, 2007.

Benefits are payable for the retiree's lifetime and continue for the life of the surviving spouse. For employees retiring before September 19, 2012, the City pays a monthly income benefit equal to the City's Active 2-party Kaiser premium regardless of marital status. In 2022, the City's monthly payment per participant for this benefit ranged from \$457.35 to \$1,829.38, depending on the retirees' years of service at retirement. The monthly benefit is pro-rated based on years of service.

As of June 30, 2022, the most recent actuarial valuation date, the plan was 7.14% funded. The actuarial accrued liability for benefits in this plan was \$64.81 million, and the actuarial value of assets was \$4.63 million, resulting in an unfunded accrued liability of \$60.18 million. Since the implementation of GASB 67 and 68, the Annual Required Contribution (ARC) is no longer provided. In addition, the Police Retiree Income Benefit Plan is a closed plan and therefore no "Actuarially Determined Contribution" is provided due to no new members and no payroll information.

**Police Retiree Health Premium Assistance Plan**

Effective September 19, 2012, the City replaced the "Berkeley Police Retirement Income Benefit Plan" with the "Retiree Health Premium Assistance Coverage Plan" for any police employees hired on or after that date, as well as any current employees who retire on or after such date. Under the newly established retiree health premium assistance plan, benefits will be paid by the City directly to the provider who is providing retiree health coverage to the retiree or his or her surviving spouse. The maximum amount will be equal in value to the City sponsored health plan.

To be eligible for benefits, Police employees must retire from the City on or after September 19, 2012, be vested in a CalPERS pension, have ten years of service with the Berkeley Police department, and retire from the City on or after age 50. Benefits commence immediately upon retirement, but may also be deferred for a period during which the member is covered under another health insurance plan. Benefits are payable for the retiree's lifetime.

In 2022 the City paid for employees retiring on or after September 19, 2012, a maximum of \$823.85/month toward the cost of single-party coverage and up to \$1,647.69/month toward the cost of two-party coverage for retirees under age 65 enrolled in the City's Retiree Health Plan.

For retirees over age 65 the City's share of single/two-party coverage is a maximum of \$436.14/\$872.28 per month and retirees must pay the difference of the actual premium cost. The City's share will increase by either the amount Kaiser increases the retiree medical premium for that year or 6%, whichever is less. The monthly benefit is pro-rated based on years of service. The City pays this benefit plan on a pay-as-you-go basis.

As of July 1, 2021, the most recent actuarial valuation date, the Actuarially Determined Contribution (ADC) was \$4.64 million and the plan was 6.93% funded. The actuarial accrued liability for benefits was \$37.25 million, and the actuarial value of assets was \$2.58 million, resulting in an unfunded accrued liability of \$34.67 million

### **Fire Employees Retiree Health Plan**

The City sponsors a retiree health benefit plan for its Fire employees. To be eligible for benefits, Fire employees must retire from the City on or after July 1, 1997, be vested in a CalPERS pension, and retire from the City on or after age 50. Retirees can select from among any of the health plans offered to active employees. Benefits commence immediately upon retirement, but may also be deferred for a period during which the member is covered under another health insurance plan.

Benefits are payable for the retiree's lifetime and continue for his or her covered spouse's/domestic partner's lifetime. The City contributions toward the medical premium depending on whether the retiree has dependent coverage and date of retirement. The City's contribution increases by 4.5% per year regardless of the amount of increase in the underlying premium rate. The City's contribution is prorated based on years of service. In 2019, the City's monthly premium cost per participant for this benefit was a maximum of \$662.85 for single party and \$1,322.35 for two-party

As of July 1, 2021, the most recent actuarial valuation date, the plan was 38.62% funded. The actuarial accrued liability for benefits was \$32.78 million, and the actuarial value of assets was \$12.66 million, resulting in an unfunded accrued liability of \$20.12 million.

### **Retiree Health Premium Assistance Plan (Non-Safety Members)**

Effective June 28, 1998, the City adopted the City of Berkeley Retiree Health Premium Assistance Plan (for Non-Safety Members). Employees who retire from the City are eligible for retiree health benefits beginning on or after age 55 if they terminate employment with the City on or after age 50 with at least 8 years of service. Retirees can select a non-City sponsored health plan or enroll in any of the health plans offered to active employees. A retiree living outside the coverage area of the City's health plans can select an out-of-area health plan.

Benefits are payable for the retiree's lifetime and continue for his or her covered spouse's/domestic partner's lifetime. The City pays the monthly cost of the monthly premiums up to a Participant's applicable percentage of the Base Dollar Amount and

subject to annual 4.5% increases as specified in the Retiree Health Premium Assistance Plan document. In 2022, the City's monthly premium cost per participant for this benefit was a maximum of \$546.40 for single party and \$940.10 for two-party. A participant's applicable percentage is based on years of service with the City. The City funds the plan based on the MOU. Contribution amounts are negotiated and vary by bargaining unit.

As of July 1, 2021, the most recent actuarial valuation date, the plan was 38.62% funded. The actuarial accrued liability for benefits was \$61.48 million, and the actuarial value of assets was \$31.49 million, resulting in an unfunded accrued liability of \$29.99 million.

### **Safety Members Pension Fund (closed plan)**

The City also maintains the Safety Members Pension Fund (SMPF). This plan is a single-employer defined benefit pension plan for fire and police officers that retired before March 1973. In March 1973 all active fire and police officers were transferred from SMPF to CalPERS. Service and disability retirement benefits from the SMPF are based on a percentage of salary at retirement, multiplied by years of service. Benefits are adjusted annually by either:

- Current active salary increases (based on the same rank at retirement) or
- The income in the California Consumer Price Index (with a 1% minimum and a 3% cap). SMPF also provides surviving spouse benefits.

The City pays SMPF benefits on a pay-as-you-go basis. In February 1989, the Berkeley Civic Improvement Corporation purchased, on behalf of the City, a Guaranteed Income Contract (GIC) from Mass Mutual. This contract provides annual payments through 2018 and an annual guaranteed 9.68% rate of return (net of expenses).

The City was paying the difference between the total SMPF benefits and the amount received from the Massachusetts Mutual Guaranteed Income Contract (GIC). The City will receive declining amounts from the GIC through FY 2019. At June 30, 2022, the unfunded accrued liability was \$1.13 million. There were 6 participants remaining in the plan with the average age at 98.4 years.

| Retiree Medical Plan Actuarial Data                            |                  |                                 |             |                       |                                           |                       |          |                    |
|----------------------------------------------------------------|------------------|---------------------------------|-------------|-----------------------|-------------------------------------------|-----------------------|----------|--------------------|
| <i>(dollars in millions)</i>                                   |                  |                                 |             |                       |                                           |                       |          |                    |
| Plan                                                           | Measurement Date | Actuarial Estimated Liabilities | Plan Assets | Net Pension Liability | Actuarially Determined Contribution (ADC) | Actual Contribution * | % Funded | Total Plan Members |
| Police Employee Retiree Income Benefit Plan (closed)*          | 6/30/2022        | \$ 64.81                        | \$ 4.63     | \$ 60.18              | \$ -                                      | \$ 2.15               | 7.14%    | 148                |
| Police Employees Retiree Health Premium Assistance Plan (new)  | 7/1/2021         | \$ 37.25                        | \$ 2.58     | \$ 34.67              | \$ 4.64                                   | \$ 0.40               | 6.93%    | 199                |
| Fire Employees Retiree Health Plan                             | 7/1/2021         | \$ 32.78                        | \$ 12.66    | \$ 20.12              | \$ 3.07                                   | \$ 0.74               | 38.62%   | 226                |
| Retiree Health Premium Assistance Plans (Non-Safety Members) * | 7/1/2021         | \$ 61.48                        | \$ 31.49    | \$ 29.99              | \$ 5.07                                   | \$ 2.22               | 51.22%   | 1669               |
| Safety Members Pension Fund                                    | 6/30/2022        | \$ 1.55                         | \$ 0.41     | \$ 1.13               | \$ -                                      | \$ 0.50               | 26.71%   | 6                  |
|                                                                |                  | \$ 197.87                       | \$ 51.77    | \$ 146.09             | \$ 12.78                                  | \$ 6.01               | 26.17%   | 2248               |

\*Actual contribution does not include interest income

\*Since the implementation of GASB 67 and 68 the Annual Required Contribution (ARC) is no longer provided. In additional, it is a closed plan and therefore no "Actuarially Determined Contribution" is provided due to no new members and no payroll information.

### Supplemental Retirement Income Plan (SRIP) I (closed plan)

On January 1, 1983, Ordinance No. 5450-N.S., which was codified in the Berkeley Municipal Code under Chapter 4.36.101 et seq., established SRIP I. The SRIP I plan consists of two components: 1) a defined contribution money purchase pension plan adopted in accordance with Sections 401(a) and 501(a) of the internal revenue code and 2) an employer paid disability benefit.

The City administrators of the money purchase pension plan are Hartford Life Insurance and Prudential Retirement Services. The plan is a defined contribution plan whereby the City contributes 5.7% of salary up to a salary of \$32,400 into a tax-deferred and self-directed investment account and 1% of salary up to a salary of \$32,400 into a disability reserve account for each permanent City employee. The total assets of SRIP I available for benefits at June 30, 2022, was \$6,193,509 which was comprised of 98 participant accounts. These assets are the property of the individual account holders and not the property of the City. These assets cannot be used to pay disability benefits.

The disability benefit is for employees hired after January 1, 1983 but prior to July 22, 1988, who became disabled and are entitled to receive a disability income benefit equal to 60% of their highest compensation, reduced by any disability payments they receive from Social Security, State Disability Insurance, or Worker's Compensation. Employees hired after July 21, 1988, are not eligible for benefits under this plan which was closed to new enrollees.

Benefits are payable for the disabled participant's lifetime or until recovery from disability. The third-party administrator is Cigna. Currently, the City pays the cost of the monthly disability benefits on a pay-as-you-go basis. As of July 1, 2022, there were a total of 54 closed group participants, 6 active employees and 48 disabled participants receiving benefits. The unfunded liability for SRIP I at July 1, 2022, the date of the last actuarial study, was \$10,018,000.

### **Workers' Compensation Program**

The City of Berkeley began its self-insured workers' compensation program on March 1, 1975. The City's self-insured retention (SIR) has varied between \$100,000 and \$1,000,000 prior to 2004/05 and is currently unlimited. Every two years, the City has an actuarial review conducted to determine the outstanding liabilities and determine the rates to use for budgeting and payroll purposes to fund the program annually.

The recent actuarial study by Bickmore Actuarial showed the City's estimated outstanding liabilities, as of June 30, 2023, at an 80% confidence level to be at \$46,316,000 for the workers' compensation program. The City's Workers' Compensation Fund ended FY 2022 with a fund balance of \$51,696,189, meaning that the City is able to fund its estimated liabilities in its Workers' Compensation Program.

## **2. Current Costs for Active Employees**

As of July 1, 2022, the City budgeted for 1,791.84 full-time equivalents (FTE). At any given time, the number of employees on the payroll is generally less than the budgeted number of FTE due to retirements and employment separations for other reasons. For purposes of this report, the analysis of the projected payroll costs for the next 10 years is based on the number of authorized budgeted FTE. That number was then projected based on the negotiated cost of living adjustments (COLA) established in collective bargaining agreements. Other increases were also assumed for medical costs, dental costs, cash in lieu, shoes and tools allowance, commuter checks, and other benefits.

***Based on these assumptions, total payroll costs for all funds would grow from \$342.4 million in FY 2024 to \$486.9 million in FY 2034. For modeling purposes, the projected cost assumes no (0%) COLA, which means that the estimated increase of \$144.5 million is due to the rise in the costs of benefits only.***

| Citywide Total Personnel Costs and Fringe Rate Over Time with Zero COLAS |                    |                    |          |          |          |          |          |          |          |          |          |          |
|--------------------------------------------------------------------------|--------------------|--------------------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|
| Zero COLA                                                                | FY 2023<br>Adopted | FY 2024<br>Adopted | FY 2025  | FY 2026  | FY 2027  | FY 2028  | FY 2029  | FY 2030  | FY 2031  | FY 2032  | FY 2033  | FY 2034  |
| Total Payroll                                                            | \$ 205.7           | \$ 208.1           | \$ 208.1 | \$ 208.1 | \$ 208.1 | \$ 208.1 | \$ 208.1 | \$ 208.1 | \$ 208.1 | \$ 208.1 | \$ 208.1 | \$ 208.1 |
| Total Benefits                                                           | \$ 128.5           | \$ 134.3           | \$ 154.9 | \$ 160.4 | \$ 169.4 | \$ 178.1 | \$ 192.0 | \$ 222.0 | \$ 232.7 | \$ 243.6 | \$ 267.1 | \$ 278.8 |
| Fringe Rate                                                              | 62%                | 65%                | 74%      | 77%      | 81%      | 86%      | 92%      | 107%     | 112%     | 117%     | 128%     | 134%     |
| Total Personnel Costs                                                    | \$ 334.3           | \$ 342.4           | \$ 363.1 | \$ 368.5 | \$ 377.5 | \$ 386.3 | \$ 400.1 | \$ 430.1 | \$ 440.8 | \$ 451.7 | \$ 475.2 | \$ 486.9 |

A couple of significant factors driving the increase in benefit costs include:

- Health care premiums for active employees (meaning exclusive of retiree medical contributions). The cost of premiums for medical alone is estimated to grow from \$30.8 million in FY 2024 to almost \$95.8 million in FY 2034 assuming annual increases of 12 percent as has been historically budgeted in the past.
- Employer Paid Portion of PERS Costs is expected to rise from approximately \$78 million in FY 2024 to \$130 million in FY 2034. This does not take include any contributions made by employees towards overall City CalPERS costs that will be paid to PERS annually as shown in a previous chart.

### 3. Summary of all current City Obligations (GO bonds)

The City’s debt includes General Obligation Bonds and Revenue Bonds. Attachment 2 includes the detailed debt service payment schedules for each of these debt issuances.

The City currently has five outstanding general obligation (GO) bond authorizations (each with multiple series of bonds) related to public safety, libraries, senior centers, animal shelter, street and integrated watershed improvements, infrastructure and facilities improvement, and affordable housing. The oldest of the authorizations date back to 1992. The City has an aggregate bond tax rate for FY 2023 of 0.0623 (which represents \$62.30 for each \$100,000 in assessed value (“A.V”). This rate has dropped from a historical peak of approximately \$95 (per \$100,000 in A.V) in the tax year 1999-2000. Based on projected annual increases in A.V and decreasing aggregate annual debt service over time, the tax rate will drop with the final tax collected in FY 2051 based on the current outstanding debt (Measure O is the latest bond authorization).



| <u>Bond Authorization</u>                                                                     | <u>Authorization</u><br><u>Year</u> | <u>Authorization</u><br><u>Amount</u> | <u>Bond issued</u><br><u>Amount</u> | <u>Unissued</u><br><u>Amount</u> | <u>Outstanding Debt Services</u><br><u>as of 6-30-2022</u> | <u>Final</u><br><u>Maturity</u> | <u>FY 2022</u><br><u>Bond Tax</u> | <u>FY 2023</u><br><u>Bond Tax</u> |
|-----------------------------------------------------------------------------------------------|-------------------------------------|---------------------------------------|-------------------------------------|----------------------------------|------------------------------------------------------------|---------------------------------|-----------------------------------|-----------------------------------|
| Measure FF                                                                                    | 2008                                | \$ 26,000,000                         | \$ 26,000,000                       | \$ -                             | \$ 17,925,000                                              | 2040                            | 0.0059%                           | 0.0058%                           |
| 2015 General<br>Obligation Refunding<br>Bonds ( Refunding<br>Measure G, S, I<br>Consolidated) | 2015                                | 88,700,000                            | 88,700,000                          | 0                                | 20,950,000                                                 | 2038                            | 0.0135%                           | 0.0130%                           |
| Measure M                                                                                     | 2015                                | 30,000,000                            | 30,000,000                          | 0                                | 26,345,000                                                 | 2047                            | 0.0077%                           | 0.0075%                           |
| Measure T1                                                                                    | 2016                                | 100,000,000                           | 80,000,000                          | 20,000,000                       | 75,480,000                                                 | 2052                            | 0.0170%                           | 0.0160%                           |
| Measure O                                                                                     | 2018                                | 135,000,000                           | 78,000,000                          | 57,000,000                       | 76,440,000                                                 | 2053                            | 0.0088%                           | 0.0200%                           |
| Total                                                                                         |                                     | \$ 379,700,000                        | \$ 302,700,000                      | \$ 77,000,000                    | \$ 217,140,000                                             |                                 | 0.0529%                           | 0.0623%                           |

It has been the City's debt policy to issue each series of bonds with level amortization and terms of either 25 or 30 years. Many of the series have been refinanced for lower interest rates over time. Given the fixed term for each bond series, the aggregate annual debt service for all outstanding bonds decreases over time as each bond reaches its final maturity.

#### 4. Summary of All Capital Assets and Infrastructure

The City has an extensive portfolio of capital assets and infrastructure, of which some of the assets are highlighted below and include the following:

- 95 public buildings
- 254 miles of public sanitary sewer mains and 130 miles of public sewer laterals
- 54 parks, 2 pools, 3 camps, and
- 42 different facilities served by the City's IT systems.

Maintaining these assets is a costly and time-consuming enterprise that requires significant resources and constant attention. Additionally, Berkeley is an aging city and thus its infrastructure faces challenges that other younger cities do not. The City's **unfunded infrastructure needs** have increased and are anticipated to rise to **\$2.52 billion from FY 2024 to FY 2028**. This dollar amount reflects staff's best estimate of both the deferred maintenance in the City's public infrastructure and the unfunded need to deliver public infrastructure that achieves a service level consistent with City Council's direction, typically set through Council's adoption of a comprehensive plan related to that category of public infrastructure.

Several recent items adopted by voters have provided a much-needed increase in the resources available for the City to address its infrastructure needs:

- **Measure T1:** In November 2016, Berkeley voters passed [Measure T1](#),<sup>2</sup> authorizing the City to sell \$100 million of General Obligation Bonds to repair, renovate, replace, or reconstruct the City's aging infrastructure and facilities, including sidewalks, storm drains, parks, streets, senior and recreation centers, and other important City facilities and buildings. Council approved 45 projects to be completed in Phase 1. The majority of these [projects are now complete](#)<sup>81</sup>, with the balance to be completed in 2023. On December 15, 2020, Council approved 36 additional projects to be completed in Phase 2, between 2021 and 2026.
- **Measure F:** The November 2014 voter approval of Measure F (a City-wide special park parcel tax) provided an additional \$750,000 per year for major maintenance projects, raising annual funding for parks capital and major maintenance projects from the prior \$250,000 to \$1 million.
- **Clean Storm Water Fund:** The Clean Storm Water fund provides the funding for the maintenance and improvement of the City's storm water drainage system to reduce the pollutants in storm water from entering local creeks and the Bay. Revenue to this fund is from the collection of fees charged to every owner of real property in the City and is collected through property taxes.

Prior to FY 2019, Clean Storm Water Fund revenues were fee-supported and are capped at 1996 levels by Proposition 218, set at flat \$34 fee per year. The revenues generated by this fee were no longer sufficient to pay for the Clean Storm Water program. The City conducted a Proposition 218 rate increase process that was approved by the voters and the City Council. The new fees generated by the 2018 Clean Storm Water Fee are shown as separate line item on property tax bills from the 1991 Clean Storm Water Fees. The fee is subject to an annual adjustment based on the Consumer Price Index.

- **Streetlight Assessment District Fund:** The Streetlight Assessment District Fund provides for maintenance of the City's 7,860 streetlights along the public streets, parking lots, pathways, recreation facilities, and marina. Also, it is to be used for installation or construction of public lighting facilities.

Revenue to this fund is collected through annual property taxes and is capped by Proposition 218, allowing for no rate increase to this assessment without voter approval. Property owners and the City Council approved a new 2018 Streetlight Assessment District that is shown as a separate line on the property tax bills. The Proposition 218 revenue increase provides additional revenue to support the program and maintain service levels.

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<sup>2</sup> See <https://www.cityofberkeley.info/MeasureT1/>.

The approved ballot measure allows for an inflation adjustment based on the Consumer Price Index, but no more than 3% per year. The inflation index can be applied to the sum of the 1982 and 2018 assessments. Starting in FY 2022, Public Works will focus on an annual capital improvement projects for the street light program. Fund balance is mostly due to compounding salary savings from freezing and vacant positions. As the work on the streetlight deferred maintenance and capital plan ramps up, frozen positions will be reassessed.

Additionally, as part of the FY23-24 Budget adoption, the Council authorized a significant new infusion of investment in capital infrastructure. For Public Works this included an additional \$5M in FY23 and \$9.1M in FY24 for additional paving funds, as well as an additional \$750,000 for deferred building maintenance and \$750,000 for ADA Transitional Plan funding for the same period. An additional \$1.5M in FY23 and \$2M in FY24 were allocated to Parks, Recreation & Waterfront capital improvements.

Despite these measures, City facilities and infrastructure needs continue to exceed available funds. The current annual allocation to PRW capital of \$3.815M – despite being the highest level of annual commitment in recent history – is still not enough to keep pace with the unfunded needs. The cost for existing and new planned infrastructure in parks, pools, camps, and the Waterfront exceeds \$380 million.

The unfunded needs in for Public Works in terms of City buildings, sidewalks, streets, streetlights, sewer, storm water/ green infrastructure, traffic signals and parking infrastructures, undergrounding, Veterans and Old City Hall buildings, transfer station, bike and pedestrian plan projects, and transit projects, exceed \$1.6 billion. With the recent funding increases, the amount of recurring funding to address these needs is now an estimated \$42.4 million as of FY24.

It is anticipated that infrastructure costs will continue to increase through typical “wear and tear” that impacts City infrastructure in the coming years, plus the pressures of long-deferred maintenance. As needed improvements continue to be deferred, operating and maintenance costs rise and rehabilitation and replacement costs increase substantially.

## UNFUNDED NEEDS

The following describe the various unfunded needs by program category:

- **City Buildings:** Public Works is responsible for the maintenance of 56 of the City’s 95 facilities. The other 39 are maintained by PRW. The total replacement value of the Public Works-maintained buildings in this inventory exceeds \$540 million. Library facilities and facilities leased to other entities are not included in this analysis. A third-party expert has provided facility condition assessments for many of these buildings.

These assessments identify building components replacements (plumbing, electrical, HVAC, wall/door finishes, etc.) that either should have already been completed or schedules them before the useful life of the component is over. Based on these assessments, the City's existing facility needs are estimated at approximately \$314,500,000, while the current budget allocation for building component replacement over the 5-year planning period is \$13 million. An alternative analysis provided by the City's Strategic Asset Management Plan identified an annual funding shortfall of \$5.2 million to \$11.7 million. Some of this annual funding gap is covered by one-time allocations from the General Fund or T1 funds.

- Parks, Recreation & Waterfront:** The Parks, Recreation & Waterfront Department (PRW) operates, maintains and manages 54 parks, 4 community centers, 2 clubhouses, 2 pools, 3 resident camps, 15 athletic fields, 49 sports courts, 63 play areas, 36 picnic areas, 45,000 trees, 11.5 miles of landscaped street medians and triangles, 263 irrigation systems, and 30 restrooms and buildings. In addition, PRW operates and maintains the Berkeley Waterfront and its related facilities, including the docks, pilings, channel, streets, pathways, parking lots, buildings, trails, Shorebird Nature Center, Adventure Playground, and 1,000 boat slips. The recurring funding available for capital and major maintenance is \$3.185 million, as shown in the table below.

| Funding Source                 | Annual Capital & Major Maintenance Funding |
|--------------------------------|--------------------------------------------|
| Parks Tax Fund                 | \$1,065,000                                |
| Capital Improvement Fund       | \$2,400,000                                |
| Marina Fund                    | \$350,000                                  |
| Camps Fund <sup>3</sup>        | \$0                                        |
| <b>Total Funding Available</b> | <b>\$3,815,000</b>                         |

Unfunded needs for existing PRW infrastructure are summarized in the table below.

| Unfunded PRW Capital Needs - Existing infrastructure Improvements |               |
|-------------------------------------------------------------------|---------------|
|                                                                   | Cost Estimate |
| Resident Camps                                                    | \$8,460,855   |
| Waterfront                                                        | \$160,995,276 |
| Pools                                                             | \$7,581,600   |
| Park Buildings/Facilities                                         | \$4,749,030   |
| Parks (General)                                                   | \$15,163,200  |
| Parks (Specific)                                                  | \$39,279,006  |
| Park Restrooms                                                    | \$2,316,600   |

<sup>3</sup> Due to the loss and rebuilding of Berkeley Tuolumne Camp, the Camps Fund does not have sufficient funds at this time to cover any annual investment in capital or major maintenance.

|                   |                      |
|-------------------|----------------------|
| <b>Total Need</b> | <b>\$238,545,567</b> |
|-------------------|----------------------|

In addition, there is \$145M in unfunded needs for planned PRW improvements that are not currently existing infrastructure, shown in the table below.

| Unfunded PRW Capital Needs - New Planned Infrastructure Improvements                                 |                      |
|------------------------------------------------------------------------------------------------------|----------------------|
| Improvements                                                                                         | Cost Estimate        |
| San Pablo Park: New Community Center and Pool                                                        | \$39,000,000         |
| King Park: New 25M Competitive Pool / Locker Room                                                    | \$16,000,000         |
| Tom Bates Sports Complex: New Youth Soccer Field, Pickleball Courts and Restroom                     | \$1,980,000          |
| New Restrooms in Parks over 1 Acre: James Kenney, Aquatic, Civic Center, King, and John Hinkel Parks | \$2,630,000          |
| James Kenney Park: Skate Spot                                                                        | \$369,000            |
| Waterfront: New Bike Park adjacent to University Ave.                                                | \$1,650,000          |
| Waterfront: Pier/Ferry Preferred Concept with landside and waterside improvements                    | \$83,500,000         |
| <b>Total Need</b>                                                                                    | <b>\$145,129,000</b> |

These new infrastructure improvements would add new community amenities, and are included because conceptual planning processes have been completed or Council has provided direction to implement. If this new planned infrastructure is built, there will be approximately \$44M in savings realized in existing infrastructure cost estimates, as they would replace some existing infrastructure. The estimates do not reflect funding arrangements. For example, for the pier/ferry, the City and the Water Emergency Transit Authority (WETA) would share responsibility for identifying funding for the preferred concept developed during a year-long community process.<sup>4</sup>

The majority of PRW unfunded needs are at the Waterfront, where many of the docks, pilings, buildings, parking lots and streets have reached the end of their useful life and are starting to fail. As documented in multiple reports over the last several years<sup>5</sup>, there is a diminishing ability to pay for the

<sup>4</sup> See [https://berkeleyca.gov/sites/default/files/documents/2021-12-07%20Item%2002%20Large%20Scale%20Ferry%20Feasibility%20Study%E2%80%93%20A%20Preferred%20Concept\\_0.pdf](https://berkeleyca.gov/sites/default/files/documents/2021-12-07%20Item%2002%20Large%20Scale%20Ferry%20Feasibility%20Study%E2%80%93%20A%20Preferred%20Concept_0.pdf)

<sup>5</sup> See March 16, 2022 BMASP Community Meeting #2 presentation ([https://www.cityofberkeley.info/uploadedFiles/Parks\\_Rec\\_Waterfront/Level\\_3\\_-\\_General/2022-03-16-FINAL-Mtg\\_deck-CW2-Deck.pdf](https://www.cityofberkeley.info/uploadedFiles/Parks_Rec_Waterfront/Level_3_-_General/2022-03-16-FINAL-Mtg_deck-CW2-Deck.pdf)); April 29, 2021 PRW Budget Presentation to the Council Budget & Finance Policy Committee, (<https://www.cityofberkeley.info/uploadedFiles/Clerk/PRW%20FY22%20Budget%20Presentation%20Rev2.pdf>); February 16, 2021 Council report and presentation for the BMASP and Pier/Ferry Worksession ([Page 17](https://www.cityofberkeley.info/Clerk/City_Council/2021/02_Feb/Documents/2021-</a></p>
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pressing capital needs in the Waterfront. From the Marina Fund, \$350,000 per year is budgeted for capital improvements. This amount is insufficient to address Waterfront needs. The Marina Fund is projected to need \$1.4M in the next budget cycle just to maintain baseline Waterfront operations and does not currently have the ability to support capital projects. Capital needs at the Waterfront are otherwise dependent on General Fund, external funding and grants. Over \$40M has been invested into the Waterfront by the City over the last fifteen years<sup>6</sup>, but it is only a small percentage of the investment needed. The City is working on a Waterfront Specific Plan<sup>7</sup>, which will explore new revenue generating opportunities to help address the structural deficit, exhausted reserves, and declining operating revenue that makes it impossible for the Marina Fund to reinvest in its facilities.

- **Streets & Roads:** There are approximately 215 centerline miles of improved streets in Berkeley and their estimated replacement value is \$816,753,950. Every two to three years, portions of Berkeley's streets are inspected using the Metropolitan Transportation Commission's Pavement Management System (PMS) to identify repair needs and assign a pavement condition index (PCI). The City uses the PMS and PCI to track and prioritize pavement rehabilitation and maintenance needs on individual asphalt streets and the overall condition of the City's street pavement network. The current overall average PCI rating is 56 (out of 100). This puts Berkeley's streets in the 'at-risk' category. The recently updated Street Maintenance and Rehabilitation Policy (2022) identified a goal of

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02-16\_WS\_Item\_02\_Berkeley\_Marina\_Area\_Specific\_Plan\_pdf.aspx); November 10, 2020 Marina Fund presentation to Council Budget & Finance Policy Committee ([https://www.cityofberkeley.info/uploadedFiles/Clerk/2020-11-12\\_Item\\_2c\\_Budget.pdf](https://www.cityofberkeley.info/uploadedFiles/Clerk/2020-11-12_Item_2c_Budget.pdf)); December 13, 2018 Off-Agenda Memo ([https://www.cityofberkeley.info/uploadedFiles/Clerk/Level\\_3\\_-\\_General/Marina%20Fund%20Update%20121318.pdf](https://www.cityofberkeley.info/uploadedFiles/Clerk/Level_3_-_General/Marina%20Fund%20Update%20121318.pdf)); November 15, 2018 Worksession Report ([https://www.cityofberkeley.info/Clerk/City\\_Council/2018/11\\_Nov/Documents/2018-11-15\\_WS\\_Item\\_02\\_Parks\\_Recreation\\_Waterfront\\_pdf.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2018/11_Nov/Documents/2018-11-15_WS_Item_02_Parks_Recreation_Waterfront_pdf.aspx)); July 1, 2018 Off-Agenda Report ([https://www.cityofberkeley.info/uploadedFiles/Clerk/Level\\_3\\_-\\_General/CM%20Update%20-%20Waterfront%20-%20Hs%20%20Lordships%20\(w%20attachments\).pdf](https://www.cityofberkeley.info/uploadedFiles/Clerk/Level_3_-_General/CM%20Update%20-%20Waterfront%20-%20Hs%20%20Lordships%20(w%20attachments).pdf)); May8, 2018 Worksession Report ([https://www.cityofberkeley.info/Clerk/City\\_Council/2018/05\\_May/Documents/2018-05-08\\_WS\\_Item\\_03\\_Parks\\_Recreation\\_Waterfront.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2018/05_May/Documents/2018-05-08_WS_Item_03_Parks_Recreation_Waterfront.aspx)); May 8, 2018 Proposed Budget Update ([https://www.cityofberkeley.info/Clerk/City\\_Council/2018/05\\_May/Documents/2018-05-08\\_WS\\_Item\\_01\\_FY\\_2019\\_Proposed\\_Budget\\_Update.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2018/05_May/Documents/2018-05-08_WS_Item_01_FY_2019_Proposed_Budget_Update.aspx)); April 12, 2018 Off-Agenda Report ([https://www.cityofberkeley.info/uploadedFiles/Clerk/Level\\_3\\_-\\_General/Marina%20Fund%20Update%20041218.pdf](https://www.cityofberkeley.info/uploadedFiles/Clerk/Level_3_-_General/Marina%20Fund%20Update%20041218.pdf)); and November 7, 2017 Worksession Report ([https://www.cityofberkeley.info/Clerk/City\\_Council/2017/11\\_Nov/Documents/2017-11-07\\_WS\\_Item\\_02\\_Parks\\_Recreation\\_and\\_Waterfront\\_CIP.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2017/11_Nov/Documents/2017-11-07_WS_Item_02_Parks_Recreation_and_Waterfront_CIP.aspx)).

<sup>6</sup>See <https://berkeleyca.gov/sites/default/files/2022-04/Waterfront%20CIP%20Projects%20021622.pdf> and <https://berkeleyca.gov/sites/default/files/documents/2022-12-13%20Special%20Item%2002%20Grant%20Contracts%20with%20the%20State%20Coastal.pdf>

<sup>7</sup> See <https://berkeleyca.gov/your-government/our-work/capital-projects/berkeley-marina-area-specific-plan-bmasp-project>

good condition for the City's streets, which is a PCI between 70 to 79. To keep the streets from deteriorating further, City Council has adopted a policy allocated \$8 million annually in General Fund money. That \$8 million contribution, along with existing transportation funds totaling \$7.3 million, would ensure the pavement condition is at least maintained and does not decline. If that committed is continued, the City would have to spend an additional \$247,500,000 to achieve a PCI of 75 within 15 years. This funding only assumes treatment of pavement surface, markings, and curb cuts, not costs related to drainage improvements, green infrastructure, and implementation of the City's bicycle, pedestrian, and Vision Zero plans.

- **Sidewalks & Pathways:** The City has 400 miles of sidewalk. Public Works manages a sidewalk repair program to keep the City's sidewalks safe and provide for safe pedestrian passage, including makesafe repairs, annual proactive repair program, and the City's 50/50 replacement cost-share program in which the City shares the costs for broken sidewalks with property owners. Public Works responds to all reported sidewalk hazards, assesses each situation and installs an asphalt make-safe or grinds the sidewalk hazard if applicable, and on occasion perform limited sidewalk removal and replacement if a sidewalk hazard cannot be made reasonably safe.

These sidewalks have an estimated replacement value of \$400,000,000. Deferred maintenance in this asset is estimated at \$60,000,000, primarily derived from the recently completed ADA Transition Evaluation that proactively assessed all of the City's sidewalks and identified repair locations. However, the City has only \$1 million available in annual funding towards sidewalks maintenance and repair from baseline allocations from the Capital Improvement Fund and 50/50 Program contributions from residents.

- **Sewers:** The City owns and operates 255 miles of sewer mains and 165 miles of lower laterals. Their estimated replacement value is \$820,000,000. The estimated cost of rehabilitating all of the City's sewer pipes per the City's adopted plans is \$183,500,000. This is one of the asset categories with a dedicated fee that has been adjusted every five years. It is adequately funding a maintenance and capital renewal program, resulting in the deferred maintenance declining over time.

The City's Strategic Asset Management Plan also found proper maintenance funding for this asset. In 2014, the City (along with EBMUD and all agencies conveying flows to EBMUD) concluded negotiations with the Environmental Protection Agency and the Department of Justice for violation of the Clean Water Act and agreed to a stipulated settlement known as the final Consent Decree. To comply with the Consent Decree, the City is required to rehabilitate an average of 4.2 miles of sewer pipeline annually based on a three-year rolling average. Effectively, this mandated significant additional maintenance activities and capital improvements, and resulted in increased costs of managing the City's existing sewer system.



- **Storm Water & Green Infrastructure:** The City's engineered storm drains include approximately 78 miles of underground pipes, manholes, catch basins and cross-drains, and 30+ green infrastructure locations. Their estimated replacement value is \$440,253,101. The unfunded infrastructure need is estimated at \$362,000,000. This estimate is derived from the remaining improvements of the adopted 2012 Watershed Management Plan, and staff estimates including staff estimates for green infrastructure.

Much of the stormwater infrastructure is over 80 years old and needs substantial rehabilitation, including rehabilitation of pipeline reaches; replacement of deteriorated drain inlets and piping; major cleaning of the primary storm collectors in the lower watersheds; and replacement of street cross drains. The City's Strategic Asset Management Plan identified that the maintenance funding for this asset was likely too low, given the life of these assets, expanding green infrastructure requirements, and new threats from more intense, climate-fueled storms. Public Works seeks to initiate the Stormwater Comprehensive Plan in 2023. This plan will update the Watershed Management Plan and incorporate the Green Infrastructure Plan (2019), along with rehabilitation or replacement of the aging infrastructure. Adoption of the Plan would then enable the City to consider whether to update its stormwater fee to better address existing and future needs.

- **Traffic Signals & Parking Infrastructure:** The City currently has 142 traffic signals, 20 rectangular rapid flashing beacons, 2,100 parking meters and 240 pay stations. Staff estimated \$23,500,000 in unfunded needs related to the replacement and renewal of these infrastructure components.
- **Undergrounding Project:** The City has approximately 15 miles (as identified in the Phase 3 Report for undergrounding) of key evacuation routes where undergrounding utility wire needs to take place in Berkeley. The estimated cost is approximately \$7,000,000 per mile with a 4% annual escalator factor applied. The estimated cost of these improvements is currently \$109,200,000.
- **Vets & Old City Hall:** Both Old City Hall and Veteran's Buildings are in need or renovation and were built prior to seismic standards and must be retrofitted. Staff estimated a cost of \$110,000,000 to complete these renovations and retrofits.
- **Transfer Station:** The Transfer Station, which was constructed in 1982, requires a redesign and replacement estimated at \$76 million. The Solid Waste & Recycling Transfer Station Replacement Project Feasibility Study was completed in November 2019 after a robust public input process.



Currently, the Transfer Station has two below-grade refuse and organic materials load out tunnels that top-load trailers who transfer the material off the site for recycling and/or disposal. The Transfer Station and its ancillary structures are showing considerable wear and tear after 38 years of operation, and the current facilities are not configured for efficient diversion or customer-friendly recycling of incoming materials.

- **Bike & Pedestrian Projects:** City Council has approved the Bicycle Plan (2017) and Pedestrian Plan (2021). Staff estimate the unfunded need to implement these plans and the projects derived from them to be at least \$129 million. These projects also are important to the Vision Zero Action Plan (2020), which seeks to eliminate severe injuries and fatalities on our City Streets, a high proportion of which are bicyclists and pedestrians.
- **Transit Projects:** The City is committed to encouraging transit use. An AC-Transit Major Corridor Study (2016) recommended a series of improvements throughout the City. Those improvements are currently estimated at \$53 million, including funds sufficient to install new and/or replace bus pads. The City is currently developing a Transit First Implementation Plan to help guide and focus ongoing transit operations improvements on City streets.
- **Fire Projects:** In consultation with Public Works Staff, the Fire Department has conducted a long-term assessment of its facilities that takes in to account the age of the facility, modern workplace exposure protection, and modifications to staffing and equipment driven by development, congestion and changes to population. That assessment shows \$288M in unfunded facility needs.

### Information Technology Infrastructure

Technology infrastructure presents unique challenges with respect to forecasting long term requirements because technology evolves quickly compared to other types of infrastructure. The City's needs in terms of network bandwidth, data storage, and wireless devices may be dramatically different in the future than they are today. Additionally, unlike traditional infrastructure replacement projects which can be done incrementally, some technology tools require a large upfront investment to implement but cost significantly less to upgrade as the technology becomes more common. City staff currently use and maintain a vast technology infrastructure to provide services to the community each day. Current information technology infrastructure will expand as the City uses more technology tools to gain efficiencies.

The Department of Information Technology provides the City's computing infrastructure, supporting desktops, laptops, mobile devices, back-end server infrastructure, network accessibility and digital data security. Examples of such infrastructure include:

- Computer asset inventory comprising approximately 1,412 desktops, 796 laptops, 240 tablets, and 118 Public Safety Mobile Data Computers (MDCs), which continues to increase due to remote work expansion.

- Replacement of aging, end-of-life enterprise systems such as the FUND\$ financial system.
- A major update of the City's phone system (Voice over IP or VOIP) via unfunded upgrades to address eFax, Automation of line move/add/change, softphones, VOIP security, etc.
- Increased capacity for City's digital data storage needs and cybersecurity initiatives.

Many of the above prior projects were unfunded and were the result of a need to respond to an immediate or impending threat (such as a breach, or aging, unsupported, end-of-life equipment), as the timing of the needs often outpaced the ability to anticipate and plan for long term sustainability due to a number of factors, including loss of institutional knowledge through personnel departures and retirements or lack of "pipeline" funding (i.e., what would be needed for the next *n*-years to replace an end-of-life system).

For FY 2023 through FY 2025, which is about the limit of future foresight as it applies to IT systems, at least six critical projects need to be addressed through unfunded liabilities to preserve the City's digital assets:

**1. Continued implementation of Cybersecurity Resiliency Plan:**

In late 2018, the City began development of its Cyber Resilience Plan (CRP) to help ensure the City is sufficiently and prudently equipped to handle cyberattacks and to help the City mitigate the effects of a successful cyberattack, should one occur. Information Technology continues to implement the solutions identified in the CRP.

**2. Customer Relationship Management (CRM):**

In FY 2019, the City upgraded its existing CRM software application, used by 311, Public Works and Parks, Recreation and Waterfront (PRW). Beginning November 2021, Public Works and PRW implemented a separate work order system called NextGen, which is not well integrated with the existing Lagan system still in use by 311 (the Lagan system is still being used by 311 to field over 100,000 requests for service per year). A new 311 CRM system replacement and implementation was targeted for FY2021 but delayed due to COVID and a related proposed budget reduction. 311 paused the release of the RFP until the Public Works NextGen work order system was implemented and the Zero Waste billing system vendor was selected.

An RFP for a new CRM system will be published in late FY 2023 with an estimated implementation completion date of FY 2025. During this period, 311 will remain on Verint-Lagan (\$33,000 per year) until the new CRM is fully implemented.

The new CRM will give 311 the ability to capture, route, and manage all forms of requests through multiple communication channels with integration to the Public Works and PRW NexGen work order system, and Zero Waste billing system.

A new CRM cloud-based system will allow community members to make service requests online via a City of Berkeley CRM portal on the City's website. Community members, City Staff and Council will be able to view status of service requests and view integrated knowledge documents online through the 311 CRM portal.

**3. Geographical Information Systems (GIS)– Master Address Database (MAD) to address the Non-Compliance with NENA GRID and e911 Technology:**

As the City deploys new systems such as work order, zero waste billing, digital permitting CRM and others, it is critical to have a modern, centralized address/parcel database that can easily feed accurate and consistent GIS information. Having one source of truth for address data will allow for ease of maintenance, timely updates, and consistency. This will bring greater efficiencies for city departments through various workflows including permitting, building inspections, work orders, billing, assessments and more. It will result in service that is more effective to our community by providing real time and accurate address data across departments. This project will be in conjunction the Property Tax Replacement Project, which is scheduled to begin in FY 2024.

**4. IT Department Move to 1947:**

The Department of Information Technology was in the planning stages to relocate to 1947 Center Street to accommodate all of its staff, as well as several City Manager's Office (CMO) personnel, totaling over 55 total employees. The move to 1947 Center Street was delayed in FY20 due to COVID related proposed budget deductions, and again delayed in FY 2022 due to unexpected asbestos abatement construction delays. The move is now targeted to begin before the end of FY 2023 and complete in FY 2024.

**5. Improvement to City-wide Facilities Wi-Fi:**

Currently all City of Berkeley facilities are not setup to provide seamless Wi-Fi connectivity. Furthermore, those locations providing current Wi-Fi are serviced with aging, deprecated and/or non-enterprise quality equipment which has proven to be troublesome and failure-prone. In anticipation of a more disbursed work culture, it is imperative that the City provide enterprise quality, secure and high-speed Wi-Fi access at all its facilities serving both employees and the public, including outdoor areas of the Marina and other PRW facilities. The availability of such service will enhance productivity and safety for all, and is consistent with needs of all City departments as well as an outside audit finding. IT will engage a managed service provider to install, upgrade and/or replace all Wi-Fi access points and accompanying technology at all City managed facilities and areas. This managed service will alleviate the heavy service demands placed on staff to provide field support for maintaining equipment, as the managed service will provide full, turnkey support of all equipment with designated response windows.

## **6. Implementation of City-wide collaboration tools (MS TEAMS and SharePoint):**

The City lacks an enterprise solution for collaboration and productivity. Microsoft Teams and SharePoint are licensed products that the City subscribes to and provides for unified messaging for all organizations. It is a platform solution and workspace for real-time collaboration and communication, meetings, file and app sharing. Implementation of MS TEAMS and SharePoint will allow City to collaborate on a broader scale, and increase security and accessibility of electronic media and documents. It also will allow the City to better manage any file retention policies. Implementation of MS TEAMS and SharePoint will require the services of both internal staff as well as a qualified professional consultant and implementer.

### **Options to Address Long Term Retirement and Infrastructure Costs**

The City continues to consider how to prioritize expenditures to address some of its long-term obligations in order to maintain a healthy future. As mentioned earlier in this report, Council has already taken the following actions to address the City's unfunded liabilities.

- On June 26, 2018, Council authorized the City Manager to establish an IRS Section 115 Pension Trust Fund (Trust) to be used to help pre-fund pension obligations. On May 14, 2019, Council authorized the City Manager to execute a contract with Keenan Financial Services to establish, maintain, and invest the pension Section 115 Trust.
- The Section 115 Trust currently has a balance of \$14,762,850.42 and is being funded annually through transfers from the General Fund and Capital Improvement Fund and the savings from prepayment of the annual PERS payment, and, beginning in FY 2023, through any additional earned investment revenue over the baseline projection.

At the March 9, 2023 Budget & Finance Policy Committee Meeting, the Committee received a presentation from the City's actuary, Foster & Foster, regarding the status of the City's pension plans and retiree health plans (Other-Post Employment Benefits) (Attachment 5). The presentation included specific funding recommendations including:

- Fully pre-fund the City's OPEB liabilities by increasing the annual contribution to the City's four retiree health plans by \$8.8 million, for a total of \$15 million, over the next 20 years.
- Continue the City's current target of allocating \$5.5 million annually to the Section 115 Pension Trust to reach a recommended Trust balance of \$25-\$50 million.

Berkeley voters have approved several bond measures to improve the City's infrastructure, including Measure F for parks, Measure M for streets, and most recently Measure T1, which authorized the City to sell \$100 million of General Obligation Bonds to repair, renovate, replace or reconstruct the City's aging infrastructure and facilities. The Adopted Biennial Budget includes funding of \$18.3 million for street rehabilitation in FY 2023, which includes \$7.1 million from the CIP Fund (\$2.1 million baseline and \$5.0 million additional

funding), State gas tax, Measure BB and other sources. In FY 2024, the General Fund (through the CIP Fund) contributes nearly \$11.0 million and funding from all sources total \$19.4 million. In addition to funding for streets, the Adopted Budget allocates funding for other critical public safety projects such as the Jail Control Panel Replacement project, the Waterfront piling project, the Telegraph/Channing Garage Elevator Repairs, and various traffic calming and improvement projects. In total, the General Fund contributes approximately \$14.0 million for capital projects in both fiscal years 2023 and 2024, including streets, funded by a portion of projected excess property transfer tax revenues.

A separate presentation and discussion on Unfunded Infrastructure Needs will be held either at the April 25, 2023 City Council Meeting or a later date to be determined.

**General Fund Revenue Projections**

As noted in the introduction, when this report was originally presented in 2013, members of the City Council requested that staff include long-term revenue projections in the next biennial report, in addition to the expenditure projections identified in Council Resolution No. 65,748-N.S. The intent was to present a complete and informative forecast, and provide a better long-term perspective on Berkeley’s ability to achieve financial stability through future economic cycles. The projections presented in this report are limited to the General Fund as those funds are the most discretionary in terms of allocation, and also highly subject to economic conditions. The General Fund typically comprises about one-half of the City’s total budget; the remainder of the budget consists of various Special Funds which are restricted in purpose (e.g. Zero Waste, Permit Services Center, Sewer, Public Health, and Mental Health).

The chart below provides a summary of total General Fund Revenues projected through FY 2027. The revenue projections have been updated to reflect results from the first six months of Fiscal Year 2023. Fifty percent (50%) of the City’s FY 2023 Projected General Fund revenue is derived from Secured Property, Sales Tax, Business License Taxes, and Property Transfer Taxes. Each major contributing revenue stream is described in more detail below. Additional detail on General Fund Revenue Projections can be found in Attachment 4.

| General Fund Revenues Projections (dollar in millions) |                    |                      |          |          |          |          |
|--------------------------------------------------------|--------------------|----------------------|----------|----------|----------|----------|
|                                                        | FY 2023<br>Adopted | FY 2023<br>Projected | FY 2024  | FY 2025  | FY 2026  | FY 2027  |
| <b>GF Revenues</b>                                     |                    |                      |          |          |          |          |
| <b>Baseline</b>                                        | \$ 258.7           | \$ 272.9             | \$ 274.6 | \$ 262.2 | \$ 267.6 | \$ 272.5 |

**Property Tax**

Given the continued high collection rate, and the resilience of property values in the City, as well as a large volume of recent property sales (which bring assessed values to market value), we are projecting that annual growth will be approximately 5.5% over the next several years. The persistence of strong growth of property valuations in recent years, as well as the spike in current year sales (which bring properties assessed valuations to market value), have caused staff to increase the projected growth rate from the 3.5% that we have used in prior long-term projections.

**Sales Tax**

The immense effects of COVID-19 on sales tax revenue in FY 2021 were largely reversed in FY 2022, with revenue levels almost back to FY 2019 levels, and staff now project growth to level off to approximately 4% in FY 2024. There is still some potential risk that an overall slowdown in underlying economic recovery will be reflected in reduced growth in consumer spending and sales tax collections

**Business License Taxes**

We are projecting a 5% growth in Business License Tax revenue from heavily impacted FY 2021 levels, as economic activity recovers from the recession caused by the pandemic. Long-term projections will be adjusted as the post-pandemic economic environment becomes clearer. 2023 business license returns (for 2022 gross receipts) are just now being received, so we will know more about how revenues are trending once they are processed over the next month or so.

**Transfer Tax**

Given the continued strength in property values and in sales activity, we expect Transfer Tax revenues to remain basically flat from FY 2024 – FY 2027. The spike in revenue being seen in FY 2022, and to a lesser extent in FY 2023, is likely due to sales triggered by looming interest rate increases that have been signaled by the Federal Reserve, as well as some pent-up demand from mildly depressed sales during the pandemic. Over the 5 years prior to the pandemic, transfer tax revenues grew 6% per year on average, but interest rate increases will probably negatively impact sales prices and volumes somewhat in the next few years. We also expect revenues from Measure P supplemental tax on high value property transfers to remain basically flat.

**General Fund Revenues versus General Fund Expenditures**

One value of producing long term General Fund revenue projections is to compare them against General Fund expenditure projections. Since about 57% of the General Fund expenditures are personnel costs, any change in those costs has an impact on the balance between revenues and expenditures.

The chart below is offered as a demonstration only and is not a proposal or budget plan.

| <b>General Fund Revenues v.s. Expenditures - Demonstrative Comparison (dollars in millions)</b> |                            |                              |                            |                              |                              |                              |
|-------------------------------------------------------------------------------------------------|----------------------------|------------------------------|----------------------------|------------------------------|------------------------------|------------------------------|
|                                                                                                 | <b>FY 2023<br/>Adopted</b> | <b>FY 2023<br/>Projected</b> | <b>FY 2024<br/>Adopted</b> | <b>FY 2025<br/>Projected</b> | <b>FY 2026<br/>Projected</b> | <b>FY 2027<br/>Projected</b> |
| <b>GF Revenues<br/>Baseline</b>                                                                 | \$ 258.70                  | \$ 272.90                    | \$ 261.70                  | \$ 262.20                    | \$ 267.60                    | \$ 272.50                    |
| <b>GF Expenditures -<br/>Zero COLA</b>                                                          | \$ 280.70                  | \$ 275.70                    | \$ 274.00                  | \$ 293.70                    | \$ 295.00                    | \$ 299.60                    |
| <b>Surplus/(Deficit)</b>                                                                        | \$ (22.00)                 | \$ (2.80)                    | \$ (12.30)                 | \$ (31.50)                   | \$ (27.40)                   | \$ (27.10)                   |
| <i>*FY 2023 Adopted &amp; FY 2024 Adopted balanced through the use of fund balance</i>          |                            |                              |                            |                              |                              |                              |

The expenditure projections assume the following:

- Staffing level held constant using the FY 2023 Adopted Budget
- No cost of living adjustments (COLA) beyond what is currently negotiated
- PERS rates based on rates provided by the City's actuarial agency
- Other Fringe Benefits increase annually by 8 percent starting in FY 2025
- Salary Savings budgeted at 8 percent annually starting in FY 2025
- Non-Personnel costs increase annually by 3 percent starting in FY 2025
- General Fund Transfer to the CIP Fund is \$19M annually and includes
  - Baseline Amount of \$5M
  - Property transfer tax of \$14M
  - FY 2025 and outward years shows the new policy of funding an additional \$18M towards Streets

Staff is in the process of developing the FY 2024 Mid-Biennial Budget Update, however, the preliminary forecast above indicates that the City has a structural deficit that needs to be addressed in FY 2025 through FY 2027, due, in part, to the impact of CalPERS financial losses in FY 2022.

### CONCLUSION

One of the terms that is often used with respect to the long-term obligations that are described above is "unfunded liabilities." Unfunded liabilities are defined as identifiable obligations of an organization for which the organization does not have 100% of the funding (cash or other assets) set aside to cover the cost should all obligations become immediately due. Generally, an organization manages a balance between funding a portion of the entire obligation and the associated risk that the obligation will be due at the same time. This balance is considered the practical and responsible approach since payment demands of these obligations rarely, if ever, occur simultaneously. The alternative would be to 100% fund the obligations causing a great portion of cash to be reserved and not available for providing services or meeting other immediate obligations, needs, or desires of the community. Maintaining a careful balance between cash on hand to fund daily operations and liquidity to cover unfunded liabilities is a key challenge for all governments.

POSSIBLE FUTURE ACTION

The information contained in this report will be referenced throughout the budget planning meetings in advance of the FY 2024 Mid-Biennial Budget Update and during the FY 2025 & FY 2026 Biennial Budget process. The City’s Budget and Finance Policy Committee will continue to discuss funding options and provide recommendations to the City Council to address the City’s unfunded liabilities and infrastructure needs.

FISCAL IMPACTS OF POSSIBLE FUTURE ACTION

There is no fiscal impact associated with receiving the report. However, the report describes the immediate and long-term projected costs associated with pension and other post-employment benefits. In order to help mitigate these specific liabilities, the City’s actuarial recommends the City continue to allocate \$5.5 million each fiscal year to the Section 115 Pension Trust for the next 2 years (to reach a balance of \$25 million) to six years (to reach a balance of \$50 million) and increase the contribution to retiree health insurance plans by \$8.8 million over the next 20 years in order to fully pre-fund its OPEB liabilities. In addition, significant resources will be necessary to address the City’s infrastructure needs.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

Actions included in the budget will be developed and implemented in a manner that is consistent with the City’s environmental sustainability goals and requirements.

CONTACT PERSON

Sharon Friedrichsen, Budget Manager, City Manager’s Office, 981-7000  
Rama Murty, Senior Management Analyst, City Manager’s Office, 981-7000  
Henry Oyekanmi, Finance Director, Department of Finance, 981-7300

Attachments:

1. Employee and Retiree Benefits Funded Status
2. City’s Debt Obligations
  - Exhibit A: General Obligation bonds
  - Exhibit B: Revenue Bonds
3. Capital Assets
  - Exhibit A: Infrastructure
  - Exhibit B: Appraisal of Buildings Valued at \$5 million or more
4. General Fund Revenues
5. Foster & Foster, Incorporated City of Berkeley Pension and OPEB Funding Study



| Employee and Retiree Benefits Funded Status (dollars in millions) |                |                     |                   |                |                 | Attachment 1 |
|-------------------------------------------------------------------|----------------|---------------------|-------------------|----------------|-----------------|--------------|
| Fund Name                                                         | Valuation Date | Estimated Liability | Plan Assets       | Funding Target | Net Liability   | % Funded     |
| Police Retiree Income Plan (closed)*                              | 6/30/2020      | \$ 79.95            | \$ 5.83           | 2              | \$ 74.1         | 7.29%        |
| Police Employee Retiree Health Plan (new)*                        | 7/1/2019       | \$ 40.43            | \$ 2.49           | 2              | \$ 37.9         | 6.16%        |
| Fire Employees Retiree Health Plan*                               | 7/1/2019       | \$ 25.83            | \$ 11.31          | 1              | \$ 14.5         | 43.8%        |
| Retiree Health Premium Assistance Plan (Non-Safety Members)*      | 7/1/2019       | \$ 68.46            | \$ 27.81          | 1              | \$ 40.7         | 40.62%       |
| Safety Members Pension Fund*                                      | 6/30/2020      | \$ 1.86             | \$ 0.10           | 2              | \$ 1.76         | 5.4%         |
| Miscellaneous CalPERS Plan*                                       | 6/30/2021      | \$ 1,181.2          | \$ 946.3          | 1              | \$ 234.9        | 80.1%        |
| Police CalPERS Plan*                                              | 6/30/2021      | \$ 483.8            | \$ 332.5          | 1              | \$ 151.3        | 68.7%        |
| Fire CalPERS Plan*                                                | 6/30/2021      | \$ 306.7            | \$ 248.1          | 1              | \$ 58.60        | 80.9%        |
| <b>TOTAL</b>                                                      |                | <b>\$ 2,188.2</b>   | <b>\$ 1,574.4</b> | <b>-</b>       | <b>\$ 613.8</b> | <b>72.0%</b> |

Since the implementation of GASB67 and 68 the Annual Required Contribution (ARC) is no longer provided.

Funding Target:

1 - percentage of payroll

2 - pay as you go

*\*Retiree Medical Plan & CalPERS Plans data from actuarial reports from Foster & Foster, Inc.*

General Obligation Bonds

| FY    | 2014 Measure M (2014 Street and Integrated Watershed) |              | 2015 GO Refunding Bonds (Refunding Measure G, S, I) |              | 2016 Measure M (2016 Street and Integrated Watershed) |              | 2017 Measure T1 Infrastructure and Facilities Improvements |               | 2020 Measure O Affordable Housing |               | 2020 G.O Bonds ( Series A) |              | 2020 G.O Bonds ( Series B) |              | 2021 G.O Bonds ( Measure T1) |               | 2022 Measure O Affordable Housing |               | Total          |                | Annual Total   | End of FY GO  |  |
|-------|-------------------------------------------------------|--------------|-----------------------------------------------------|--------------|-------------------------------------------------------|--------------|------------------------------------------------------------|---------------|-----------------------------------|---------------|----------------------------|--------------|----------------------------|--------------|------------------------------|---------------|-----------------------------------|---------------|----------------|----------------|----------------|---------------|--|
|       | Principal                                             | Interest     | Principal                                           | Interest     | Principal                                             | Interest     | Principal                                                  | Interest      | Principal                         | Interest      | Principal                  | Interest     | Principal                  | Interest     | Principal                    | Interest      | Principal                         | Interest      | Principal      | Interest       | P & I          | Bonds Balance |  |
| 2023  | 370,000                                               | 526,000.00   | 2,270,000                                           | 779,837.50   | 320,000                                               | 420,112.50   | 730,000.00                                                 | 1,000,556.26  | 740,000.00                        | 1,265,540.00  | 265,000.00                 | 272,075.00   | 395,000.00                 | 409,312.50   | 1,500,000.00                 | 1,258,325.00  | -                                 | 560,733       | 6,590,000      | 6,492,492      | 13,082,491.51  | 210,550,000   |  |
| 2024  | 385,000                                               | 507,125.00   | 2,380,000                                           | 663,587.50   | 335,000                                               | 403,737.50   | 765,000.00                                                 | 963,181.26    | 770,000.00                        | 1,237,265.00  | 275,000.00                 | 258,575.00   | 415,000.00                 | 389,062.50   | 1,750,000.00                 | 1,177,075.00  | 805,000                           | 2,081,070     | 7,880,000      | 7,680,679      | 15,560,678.76  | 202,670,000   |  |
| 2025  | 405,000                                               | 491,425.00   | 2,495,000                                           | 541,712.50   | 350,000                                               | 386,612.50   | 805,000.00                                                 | 923,931.26    | 800,000.00                        | 1,209,790.00  | 285,000.00                 | 244,575.00   | 435,000.00                 | 367,812.50   | 920,000.00                   | 1,110,325.00  | 580,000                           | 2,032,770     | 7,075,000      | 7,308,954      | 14,383,953.76  | 195,595,000   |  |
| 2026  | 420,000                                               | 478,787.50   | 2,625,000                                           | 413,712.50   | 370,000                                               | 370,462.50   | 845,000.00                                                 | 882,681.26    | 825,000.00                        | 1,181,352.50  | 300,000.00                 | 229,950.00   | 455,000.00                 | 345,562.50   | 965,000.00                   | 1,063,200.00  | 615,000                           | 1,997,970     | 7,420,000      | 6,963,679      | 14,383,678.76  | 188,175,000   |  |
| 2027  | 430,000                                               | 465,237.50   | 2,760,000                                           | 306,687.50   | 385,000                                               | 355,362.50   | 885,000.00                                                 | 843,856.26    | 855,000.00                        | 1,151,952.50  | 315,000.00                 | 214,575.00   | 485,000.00                 | 322,062.50   | 1,010,000.00                 | 1,013,825.00  | 650,000                           | 1,961,070     | 7,775,000      | 6,634,629      | 14,409,628.76  | 180,400,000   |  |
| 2028  | 445,000                                               | 449,350.00   | 2,840,000                                           | 222,687.50   | 405,000                                               | 339,562.50   | 920,000.00                                                 | 807,756.26    | 885,000.00                        | 1,121,502.50  | 335,000.00                 | 198,325.00   | 505,000.00                 | 297,312.50   | 1,065,000.00                 | 961,950.00    | 690,000                           | 1,922,070     | 8,090,000      | 6,320,516      | 14,410,516.26  | 172,310,000   |  |
| 2029  | 465,000                                               | 431,150.00   | 1,960,000                                           | 150,687.50   | 425,000                                               | 322,962.50   | 960,000.00                                                 | 779,156.26    | 915,000.00                        | 1,090,002.50  | 355,000.00                 | 181,075.00   | 530,000.00                 | 271,437.50   | 1,115,000.00                 | 907,450.00    | 730,000                           | 1,880,670     | 7,455,000      | 6,014,591      | 13,469,591.26  | 164,855,000   |  |
| 2030  | 480,000                                               | 412,250.00   | 880,000                                             | 108,087.50   | 450,000                                               | 307,712.50   | 980,000.00                                                 | 757,931.26    | 950,000.00                        | 1,057,365.00  | 370,000.00                 | 162,950.00   | 555,000.00                 | 244,312.50   | 1,170,000.00                 | 850,325.00    | 775,000                           | 1,836,870     | 6,610,000      | 5,737,804      | 12,347,803.76  | 158,245,000   |  |
| 2031  | 500,000                                               | 392,650.00   | 305,000                                             | 89,931.25    | 470,000                                               | 293,912.50   | 1,000,000.00                                               | 731,906.26    | 980,000.00                        | 1,023,590.00  | 395,000.00                 | 143,825.00   | 585,000.00                 | 215,812.50   | 1,230,000.00                 | 796,475.00    | 820,000                           | 1,790,370     | 6,285,000      | 5,478,473      | 11,763,472.51  | 151,960,000   |  |
| 2032  | 520,000                                               | 372,250.00   | 315,000                                             | 79,856.25    | 485,000                                               | 279,587.50   | 1,030,000.00                                               | 701,456.26    | 1,015,000.00                      | 989,946.25    | 410,000.00                 | 125,750.00   | 615,000.00                 | 188,887.50   | 1,280,000.00                 | 752,675.00    | 860,000                           | 1,749,370     | 6,530,000      | 5,239,779      | 11,769,778.76  | 145,430,000   |  |
| 2033  | 540,000                                               | 350,712.50   | 325,000                                             | 69,253.13    | 500,000                                               | 264,812.50   | 1,060,000.00                                               | 670,106.26    | 1,050,000.00                      | 956,390.00    | 430,000.00                 | 108,950.00   | 640,000.00                 | 163,787.50   | 1,320,000.00                 | 713,675.00    | 915,000                           | 1,697,770     | 6,780,000      | 4,995,457      | 11,775,456.89  | 138,650,000   |  |
| 2034  | 565,000                                               | 327,921.88   | 335,000                                             | 57,906.26    | 515,000                                               | 250,875.00   | 1,095,000.00                                               | 637,781.26    | 1,085,000.00                      | 921,696.25    | 450,000.00                 | 94,725.00    | 665,000.00                 | 137,687.50   | 1,355,000.00                 | 673,550.00    | 965,000                           | 1,642,870     | 7,030,000      | 4,745,013      | 11,775,013.15  | 131,620,000   |  |
| 2035  | 590,000                                               | 304,100.01   | 345,000                                             | 46,006.26    | 530,000                                               | 237,812.50   | 1,125,000.00                                               | 604,481.26    | 1,120,000.00                      | 885,865.00    | 460,000.00                 | 82,200.00    | 690,000.00                 | 114,037.50   | 1,400,000.00                 | 632,225.00    | 1,025,000                         | 1,584,970     | 7,285,000      | 4,491,698      | 11,776,697.53  | 124,335,000   |  |
| 2036  | 610,000                                               | 278,587.51   | 360,000                                             | 33,668.76    | 550,000                                               | 223,968.75   | 1,160,000.00                                               | 570,206.26    | 1,155,000.00                      | 848,896.25    | 480,000.00                 | 68,700.00    | 715,000.00                 | 95,643.75    | 1,440,000.00                 | 596,825.00    | 1,085,000                         | 1,523,470     | 7,555,000      | 4,239,966      | 11,794,966.28  | 116,780,000   |  |
| 2037  | 640,000                                               | 251,243.76   | 370,000                                             | 20,662.51    | 570,000                                               | 209,268.75   | 1,195,000.00                                               | 534,881.26    | 1,190,000.00                      | 807,815.00    | 495,000.00                 | 54,675.00    | 730,000.00                 | 76,650.00    | 1,470,000.00                 | 567,725.00    | 1,145,000                         | 1,463,795     | 7,805,000      | 3,986,716      | 11,791,716.28  | 108,975,000   |  |
| 2038  | 665,000                                               | 222,696.88   | 385,000                                             | 6,978.13     | 590,000                                               | 193,675.00   | 1,230,000.00                                               | 497,737.51    | 1,235,000.00                      | 762,346.25    | 510,000.00                 | 39,600.00    | 750,000.00                 | 56,325.00    | 1,500,000.00                 | 538,025.00    | 1,205,000                         | 1,406,545     | 8,070,000      | 3,723,929      | 11,793,928.77  | 100,905,000   |  |
| 2039  | 695,000                                               | 192,946.88   |                                                     |              | 610,000                                               | 177,175.00   | 1,270,000.00                                               | 458,675.01    | 1,285,000.00                      | 715,096.25    | 525,000.00                 | 24,075.00    | 770,000.00                 | 35,400.00    | 1,530,000.00                 | 507,725.00    | 1,265,000                         | 1,346,295     | 7,950,000      | 3,457,388      | 11,407,388.14  | 92,955,000    |  |
| 2040  | 725,000                                               | 161,884.38   |                                                     |              | 630,000                                               | 160,125.00   | 1,310,000.00                                               | 418,362.51    | 1,330,000.00                      | 666,065.00    | 540,000.00                 | 8,100.00     | 795,000.00                 | 11,925.00    | 1,560,000.00                 | 476,825.00    | 1,325,000                         | 1,284,943     | 8,215,000      | 3,188,229      | 11,403,229.39  | 84,740,000    |  |
| 2041  | 760,000                                               | 128,925.00   |                                                     |              | 655,000                                               | 142,456.25   | 1,350,000.00                                               | 375,956.26    | 1,380,000.00                      | 615,252.50    |                            |              |                            |              | 1,590,000.00                 | 445,325.00    | 1,390,000                         | 1,220,680     | 7,125,000      | 2,928,595      | 10,053,595.01  | 77,615,000    |  |
| 2042  | 790,000                                               | 94,050.00    |                                                     |              | 680,000                                               | 124,100.00   | 1,395,000.00                                               | 331,350.01    | 1,435,000.00                      | 562,471.25    |                            |              |                            |              | 1,620,000.00                 | 413,225.00    | 1,460,000                         | 1,153,265     | 7,380,000      | 2,678,461      | 10,058,461.26  | 70,235,000    |  |
| 2043  | 830,000                                               | 57,600.00    |                                                     |              | 705,000                                               | 104,175.00   | 1,440,000.00                                               | 285,281.26    | 1,485,000.00                      | 507,721.25    |                            |              |                            |              | 1,655,000.00                 | 380,475.00    | 1,530,000                         | 1,082,455     | 7,645,000      | 2,417,708      | 10,062,707.51  | 62,590,000    |  |
| 2044  | 865,000                                               | 19,462.50    |                                                     |              | 735,000                                               | 82,575.00    | 1,485,000.00                                               | 237,750.01    | 1,545,000.00                      | 450,908.75    |                            |              |                            |              | 1,685,000.00                 | 347,075.00    | 1,605,000                         | 1,008,250     | 7,920,000      | 2,146,021      | 10,066,021.26  | 54,670,000    |  |
| 2045  |                                                       |              |                                                     |              | 765,000                                               | 60,075.00    | 1,535,000.00                                               | 188,675.01    | 1,600,000.00                      | 394,740.00    |                            |              |                            |              | 1,720,000.00                 | 311,950.00    | 1,685,000                         | 928,000       | 7,305,000      | 1,883,440      | 9,188,440.01   | 47,365,000    |  |
| 2046  |                                                       |              |                                                     |              | 795,000                                               | 36,675.00    | 1,585,000.00                                               | 137,975.01    | 1,655,000.00                      | 339,405.00    |                            |              |                            |              | 1,760,000.00                 | 274,975.00    | 1,765,000                         | 843,750       | 7,560,000      | 1,632,780      | 9,192,780.01   | 39,805,000    |  |
| 2047  |                                                       |              |                                                     |              | 825,000                                               | 12,375.00    | 1,635,000.00                                               | 84,628.13     | 1,710,000.00                      | 282,200.00    |                            |              |                            |              | 1,795,000.00                 | 236,081.25    | 1,855,000                         | 755,500       | 7,820,000      | 1,370,784      | 9,190,784.38   | 31,985,000    |  |
| 2048  |                                                       |              |                                                     |              |                                                       |              | 1,690,000.00                                               | 28,518.75     | 1,770,000.00                      | 223,040.00    |                            |              |                            |              | 1,835,000.00                 | 107,943.75    | 1,950,000                         | 662,750       | 7,245,000      | 1,022,253      | 8,267,252.50   | 24,740,000    |  |
| 2049  |                                                       |              |                                                     |              |                                                       |              |                                                            |               | 1,830,000.00                      | 161,840.00    |                            |              |                            |              | 1,875,000.00                 | 174,600.00    | 2,045,000                         | 565,250       | 5,750,000      | 901,690        | 6,651,690.00   | 18,990,000    |  |
| 2050  |                                                       |              |                                                     |              |                                                       |              |                                                            |               | 1,890,000.00                      | 98,600.00     |                            |              |                            |              | 1,920,000.00                 | 132,412.50    | 2,150,000                         | 463,000       | 5,960,000      | 694,013        | 6,654,012.50   | 13,030,000    |  |
| 2051  |                                                       |              |                                                     |              |                                                       |              |                                                            |               | 1,955,000.00                      | 33,235.00     |                            |              |                            |              | 1,960,000.00                 | 89,212.50     | 2,255,000                         | 355,500       | 6,170,000      | 477,948        | 6,647,947.50   | 6,860,000     |  |
| 2052  |                                                       |              |                                                     |              |                                                       |              |                                                            |               |                                   |               |                            |              |                            |              | 2,005,000.00                 | 45,112.50     | 2,370,000                         | 242,750       | 4,375,000      | 287,863        | 4,662,862.50   | 2,485,000     |  |
| 2053  |                                                       |              |                                                     |              |                                                       |              |                                                            |               |                                   |               |                            |              |                            |              |                              |               | 2,485,000                         | 124,250       | 2,485,000      | 124,250        | 2,609,250.00   | -             |  |
| Grant |                                                       |              |                                                     |              |                                                       |              |                                                            |               |                                   |               |                            |              |                            |              |                              |               |                                   |               |                |                |                |               |  |
| Total | \$ 12,695,000                                         | \$ 6,916,356 | \$ 20,950,000                                       | \$ 3,591,263 | \$ 13,650,000                                         | \$ 5,760,169 | \$ 30,480,000                                              | \$ 14,454,778 | \$ 36,440,000                     | \$ 21,561,890 | \$ 7,195,000               | \$ 2,512,700 | \$ 10,730,000              | \$ 3,743,031 | \$ 45,000,000                | \$ 17,556,588 | \$ 40,000,000                     | \$ 39,169,020 | \$ 217,140,000 | \$ 115,265,795 | \$ 332,405,795 |               |  |

Revenue Bonds

| FY                 | Berkeley Rep. 2012 Refunding |                   | 1947 Center 2012 Refunding |                     | 2010 Animal Shelter COP<br>2021 Refunding Revenue |                     | 2016 Parking Revenue Bond |                      | Total                |                      | Annual Total<br>P & I | End of FY Rev<br>Bonds<br>Balance |
|--------------------|------------------------------|-------------------|----------------------------|---------------------|---------------------------------------------------|---------------------|---------------------------|----------------------|----------------------|----------------------|-----------------------|-----------------------------------|
|                    | Principal                    | Interest          | Principal                  | Interest            | Principal                                         | Interest            | Principal                 | Interest             | Principal            | Interest             |                       |                                   |
| 2022               |                              |                   |                            |                     |                                                   |                     |                           |                      |                      |                      |                       | 52,045,000                        |
| 2023               | 352,498.83                   | 146,881.34        | 1,152,501                  | 480,231.16          | 0.00                                              | 138,200.00          | 840,000                   | 1,074,650.00         | 2,345,000            | 1,839,963            | 4,184,962.50          | 49,700,000                        |
| 2024               | 366,551.94                   | 130,667.56        | 1,198,448                  | 427,219.93          | 0.00                                              | 138,200.00          | 870,000                   | 1,041,050.00         | 2,435,000            | 1,737,137            | 4,172,137.49          | 47,265,000                        |
| 2025               | 386,460.51                   | 111,842.25        | 1,263,539                  | 365,670.25          | 0.00                                              | 138,200.00          | 905,000                   | 1,006,250.00         | 2,555,000            | 1,621,963            | 4,176,962.50          | 44,710,000                        |
| 2026               | 405,197.99                   | 92,050.79         | 1,324,802                  | 300,961.71          | 0.00                                              | 138,200.00          | 945,000                   | 970,050.00           | 2,675,000            | 1,501,263            | 4,176,262.50          | 42,035,000                        |
| 2027               | 427,448.74                   | 71,234.62         | 1,397,551                  | 232,902.88          | 0.00                                              | 138,200.00          | 980,000                   | 932,250.00           | 2,805,000            | 1,374,588            | 4,179,587.50          | 39,230,000                        |
| 2028               | 442,672.95                   | 53,908.31         | 1,447,327                  | 176,254.19          | 0.00                                              | 138,200.00          | 1,020,000                 | 893,050.00           | 2,910,000            | 1,261,413            | 4,171,412.50          | 36,320,000                        |
| 2029               | 459,068.24                   | 40,095.28         | 1,500,932                  | 131,092.22          | 190,000.00                                        | 133,450.00          | 1,060,000                 | 852,250.00           | 3,210,000            | 1,156,888            | 4,366,887.50          | 33,110,000                        |
| 2030               | 320,879.33                   | 16,461.17         | 1,049,121                  | 102,695.08          | 280,000.00                                        | 121,700.00          | 1,105,000                 | 809,850.00           | 2,755,000            | 1,050,706            | 3,805,706.25          | 30,355,000                        |
| 2031               |                              |                   | 1,450,000                  | 74,187.50           | 290,000.00                                        | 107,450.00          | 1,145,000                 | 765,650.00           | 2,885,000            | 947,288              | 3,832,287.50          | 27,470,000                        |
| 2032               |                              |                   | 1,500,000                  | 25,312.50           | 305,000.00                                        | 92,575.00           | 1,190,000                 | 719,850.00           | 2,995,000            | 837,738              | 3,832,737.50          | 24,475,000                        |
| 2033               |                              |                   |                            |                     | 320,000.00                                        | 76,950.00           | 1,240,000                 | 672,250.00           | 1,560,000            | 749,200              | 2,309,200.00          | 22,915,000                        |
| 2034               |                              |                   |                            |                     | 335,000.00                                        | 60,575.00           | 1,290,000                 | 622,650.00           | 1,625,000            | 683,225              | 2,308,225.00          | 21,290,000                        |
| 2035               |                              |                   |                            |                     | 350,000.00                                        | 46,950.00           | 1,340,000                 | 571,050.00           | 1,690,000            | 618,000              | 2,308,000.00          | 19,600,000                        |
| 2036               |                              |                   |                            |                     | 360,000.00                                        | 36,300.00           | 1,380,000                 | 530,850.00           | 1,740,000            | 567,150              | 2,307,150.00          | 17,860,000                        |
| 2037               |                              |                   |                            |                     | 375,000.00                                        | 27,150.00           | 1,425,000                 | 489,450.00           | 1,800,000            | 516,600              | 2,316,600.00          | 16,060,000                        |
| 2038               |                              |                   |                            |                     | 380,000.00                                        | 19,600.00           | 1,465,000                 | 446,700.00           | 1,845,000            | 466,300              | 2,311,300.00          | 14,215,000                        |
| 2039               |                              |                   |                            |                     | 390,000.00                                        | 11,900.00           | 1,510,000                 | 402,750.00           | 1,900,000            | 414,650              | 2,314,650.00          | 12,315,000                        |
| 2040               |                              |                   |                            |                     | 400,000.00                                        | 4,000.00            | 1,555,000                 | 357,450.00           | 1,955,000            | 361,450              | 2,316,450.00          | 10,360,000                        |
| 2041               |                              |                   |                            |                     |                                                   |                     | 1,600,000                 | 310,800.00           | 1,600,000            | 310,800              | 1,910,800.00          | 8,760,000                         |
| 2042               |                              |                   |                            |                     |                                                   |                     | 1,650,000                 | 262,800.00           | 1,650,000            | 262,800              | 1,912,800.00          | 7,110,000                         |
| 2043               |                              |                   |                            |                     |                                                   |                     | 1,700,000                 | 213,300.00           | 1,700,000            | 213,300              | 1,913,300.00          | 5,410,000                         |
| 2044               |                              |                   |                            |                     |                                                   |                     | 1,750,000                 | 162,300.00           | 1,750,000            | 162,300              | 1,912,300.00          | 3,660,000                         |
| 2045               |                              |                   |                            |                     |                                                   |                     | 1,805,000.00              | 109,800.00           | 1,805,000            | 109,800              | 1,914,800.00          | 1,855,000                         |
| 2046               |                              |                   |                            |                     |                                                   |                     | 1,855,000.00              | 55,650.00            | 1,855,000            | 55,650               | 1,910,650.00          | -                                 |
| <b>Grand Total</b> | <b>\$ 3,160,779</b>          | <b>\$ 663,141</b> | <b>\$ 13,284,221</b>       | <b>\$ 2,316,527</b> | <b>\$ 3,975,000</b>                               | <b>\$ 1,567,800</b> | <b>\$ 31,625,000</b>      | <b>\$ 14,272,700</b> | <b>\$ 52,045,000</b> | <b>\$ 18,820,169</b> | <b>\$ 70,865,169</b>  |                                   |

|                                                                                                                                                                                                                                                                                                                                                                                                          | FY 2024<br>Year 1      | FY 2025<br>Year 2      | FY 2026<br>Year 3      | FY 2027<br>Year 4      | FY 2028<br>Year 5      | Total<br>Year 1- 5     |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------|------------------------|------------------------|------------------------|------------------------|------------------------|
| <b>Parks, Park Buildings, Pools, Waterfront, and Camps - Existing Infrastructure</b>                                                                                                                                                                                                                                                                                                                     |                        |                        |                        |                        |                        |                        |
| Available Funding <sup>(1)</sup>                                                                                                                                                                                                                                                                                                                                                                         | \$3,815,000            | \$3,815,000            | \$3,815,000            | \$3,815,000            | \$3,815,000            | \$19,075,000           |
| Expenditures                                                                                                                                                                                                                                                                                                                                                                                             | \$3,815,000            | \$3,815,000            | \$3,815,000            | \$3,815,000            | \$3,815,000            | \$19,075,000           |
| Capital & Maint. Need <sup>(2)</sup>                                                                                                                                                                                                                                                                                                                                                                     | \$238,550,000          |                        |                        |                        |                        |                        |
| <b>Unfunded Liability</b>                                                                                                                                                                                                                                                                                                                                                                                | <b>(\$243,889,665)</b> | <b>(\$249,437,577)</b> | <b>(\$255,201,857)</b> | <b>(\$261,190,945)</b> | <b>(\$267,413,607)</b> | <b>(\$267,413,607)</b> |
| <b>Parks, Park Buildings, Pools, Waterfront - New Planned Infrastructure<sup>(3)</sup></b>                                                                                                                                                                                                                                                                                                               |                        |                        |                        |                        |                        |                        |
| San Pablo Park: Community Center and Pool; King Park: 25M Competitive Pool / Locker Room; Tom Bates Sports Complex: Youth Soccer Field, Pickleball Courts and Restroom; New Restrooms in Parks over 1 Acre: James Kenney, Aquatic, Civic Center, King, and John Hinkel Parks; James Kenney Park: Skate Spot; Waterfront Bike Park; Pier/Ferry Preferred Concept with landside and waterside improvements |                        |                        |                        |                        |                        |                        |
| Available Funding                                                                                                                                                                                                                                                                                                                                                                                        | \$0                    | \$0                    | \$0                    | \$0                    | \$0                    | \$0                    |
| Expenditures                                                                                                                                                                                                                                                                                                                                                                                             | \$0                    | \$0                    | \$0                    | \$0                    | \$0                    | \$0                    |
| Capital & Maint. Need                                                                                                                                                                                                                                                                                                                                                                                    | \$145,130,000          |                        |                        |                        |                        |                        |
| <b>Unfunded Liability</b>                                                                                                                                                                                                                                                                                                                                                                                | <b>(\$150,790,070)</b> | <b>(\$156,670,883)</b> | <b>(\$162,781,047)</b> | <b>(\$169,129,508)</b> | <b>(\$175,725,559)</b> | <b>(\$175,725,559)</b> |
| <b>City Buildings</b>                                                                                                                                                                                                                                                                                                                                                                                    |                        |                        |                        |                        |                        |                        |
| Available Funding                                                                                                                                                                                                                                                                                                                                                                                        | \$1,800,000            | \$2,800,000            | \$2,800,000            | \$2,800,000            | \$2,800,000            | \$13,000,000           |
| Expenditures                                                                                                                                                                                                                                                                                                                                                                                             | \$1,800,000            | \$2,800,000            | \$2,800,000            | \$2,800,000            | \$2,800,000            | \$13,000,000           |
| Capital & Maint. Need                                                                                                                                                                                                                                                                                                                                                                                    | \$314,500,000          |                        |                        |                        |                        |                        |
| <b>Unfunded Liability</b>                                                                                                                                                                                                                                                                                                                                                                                | <b>(\$324,895,300)</b> | <b>(\$334,657,017)</b> | <b>(\$344,799,440)</b> | <b>(\$355,337,419)</b> | <b>(\$366,286,378)</b> | <b>(\$366,286,378)</b> |
| <b>Sidewalks &amp; Pathways</b>                                                                                                                                                                                                                                                                                                                                                                          |                        |                        |                        |                        |                        |                        |
| Available Funding                                                                                                                                                                                                                                                                                                                                                                                        | \$1,035,000            | \$1,035,000            | \$1,035,000            | \$1,035,000            | \$1,035,000            | \$5,175,000            |
| Expenditures                                                                                                                                                                                                                                                                                                                                                                                             | \$1,035,000            | \$1,035,000            | \$1,035,000            | \$1,035,000            | \$1,035,000            | \$5,175,000            |
| Capital & Maint. Need                                                                                                                                                                                                                                                                                                                                                                                    | \$60,000,000           |                        |                        |                        |                        |                        |
| <b>Unfunded Liability</b>                                                                                                                                                                                                                                                                                                                                                                                | <b>(\$61,264,635)</b>  | <b>(\$62,578,591)</b>  | <b>(\$63,943,791)</b>  | <b>(\$65,362,234)</b>  | <b>(\$66,835,996)</b>  | <b>(\$66,835,996)</b>  |
| <b>Streets &amp; Roads</b>                                                                                                                                                                                                                                                                                                                                                                               |                        |                        |                        |                        |                        |                        |
| Available Funding                                                                                                                                                                                                                                                                                                                                                                                        | \$15,920,000           | \$14,820,000           | \$14,820,000           | \$14,820,000           | \$14,820,000           | \$75,200,000           |
| Expenditures                                                                                                                                                                                                                                                                                                                                                                                             | \$15,920,000           | \$14,820,000           | \$14,820,000           | \$14,820,000           | \$14,820,000           | \$75,200,000           |
| Capital & Maint. Need                                                                                                                                                                                                                                                                                                                                                                                    | \$248,750,000          |                        |                        |                        |                        |                        |
| <b>Unfunded Liability</b>                                                                                                                                                                                                                                                                                                                                                                                | <b>(\$241,910,370)</b> | <b>(\$235,946,894)</b> | <b>(\$229,750,843)</b> | <b>(\$223,313,146)</b> | <b>(\$216,624,379)</b> | <b>(\$216,624,379)</b> |
| <b>Street Lights</b>                                                                                                                                                                                                                                                                                                                                                                                     |                        |                        |                        |                        |                        |                        |
| Available Funding                                                                                                                                                                                                                                                                                                                                                                                        | \$400,000              | \$400,000              | \$400,000              | \$400,000              | \$400,000              | \$2,000,000            |
| Expenditures                                                                                                                                                                                                                                                                                                                                                                                             | \$400,000              | \$400,000              | \$400,000              | \$400,000              | \$400,000              | \$2,000,000            |
| Capital & Maint. Need                                                                                                                                                                                                                                                                                                                                                                                    | \$5,250,000            |                        |                        |                        |                        |                        |
| <b>Unfunded Liability</b>                                                                                                                                                                                                                                                                                                                                                                                | <b>(\$6,741,500)</b>   | <b>(\$6,588,819)</b>   | <b>(\$6,430,182)</b>   | <b>(\$6,265,360)</b>   | <b>(\$6,094,109)</b>   | <b>(\$6,094,109)</b>   |
| <b>Sewers</b>                                                                                                                                                                                                                                                                                                                                                                                            |                        |                        |                        |                        |                        |                        |
| Available Funding                                                                                                                                                                                                                                                                                                                                                                                        | \$20,813,315           | \$24,489,500           | \$21,967,500           | \$20,885,000           | \$20,885,000           | \$109,040,315          |
| Expenditures                                                                                                                                                                                                                                                                                                                                                                                             | \$20,813,315           | \$24,489,500           | \$21,967,500           | \$20,885,000           | \$20,885,000           | \$109,040,315          |
| Capital & Maint. Need                                                                                                                                                                                                                                                                                                                                                                                    | \$183,500,000          |                        |                        |                        |                        |                        |
| <b>Unfunded Liability</b>                                                                                                                                                                                                                                                                                                                                                                                | <b>(\$169,031,466)</b> | <b>(\$150,179,102)</b> | <b>(\$133,211,855)</b> | <b>(\$116,707,602)</b> | <b>(\$99,559,684)</b>  | <b>(\$99,559,684)</b>  |
| <b>Storm Water &amp; Green Infrastructure</b>                                                                                                                                                                                                                                                                                                                                                            |                        |                        |                        |                        |                        |                        |
| Available Funding                                                                                                                                                                                                                                                                                                                                                                                        | \$3,005,000            | \$2,050,000            | \$2,000,000            | \$2,000,000            | \$2,000,000            | \$11,055,000           |
| Expenditures                                                                                                                                                                                                                                                                                                                                                                                             | \$3,005,000            | \$2,050,000            | \$2,000,000            | \$2,000,000            | \$2,000,000            | \$11,055,000           |
| Capital & Maint. Need                                                                                                                                                                                                                                                                                                                                                                                    | \$362,000,000          |                        |                        |                        |                        |                        |
| <b>Unfunded Liability</b>                                                                                                                                                                                                                                                                                                                                                                                | <b>(\$372,995,805)</b> | <b>(\$385,412,691)</b> | <b>(\$398,365,786)</b> | <b>(\$411,824,052)</b> | <b>(\$425,807,190)</b> | <b>(\$425,807,190)</b> |
| <b>Traffic Signals &amp; Parking Infrastructure</b>                                                                                                                                                                                                                                                                                                                                                      |                        |                        |                        |                        |                        |                        |
| Available Funding                                                                                                                                                                                                                                                                                                                                                                                        | \$400,000              | \$400,000              | \$400,000              | \$400,000              | \$400,000              | \$2,000,000            |
| Expenditures                                                                                                                                                                                                                                                                                                                                                                                             | \$400,000              | \$400,000              | \$400,000              | \$400,000              | \$400,000              | \$2,000,000            |
| Capital & Maint. Need                                                                                                                                                                                                                                                                                                                                                                                    | \$23,500,000           |                        |                        |                        |                        |                        |
| <b>Unfunded Liability</b>                                                                                                                                                                                                                                                                                                                                                                                | <b>(\$24,000,900)</b>  | <b>(\$24,521,335)</b>  | <b>(\$25,062,067)</b>  | <b>(\$25,623,888)</b>  | <b>(\$26,207,619)</b>  | <b>(\$26,207,619)</b>  |
| <b>Undergrounding Project</b>                                                                                                                                                                                                                                                                                                                                                                            |                        |                        |                        |                        |                        |                        |
| Available Funding                                                                                                                                                                                                                                                                                                                                                                                        | \$0                    | \$0                    | \$0                    | \$0                    | \$0                    | \$0                    |
| Expenditures                                                                                                                                                                                                                                                                                                                                                                                             | \$0                    | \$0                    | \$0                    | \$0                    | \$0                    | \$0                    |
| Capital & Maint. Need                                                                                                                                                                                                                                                                                                                                                                                    | \$110,750,000          |                        |                        |                        |                        |                        |
| <b>Unfunded Liability</b>                                                                                                                                                                                                                                                                                                                                                                                | <b>(\$115,069,250)</b> | <b>(\$119,556,951)</b> | <b>(\$124,219,672)</b> | <b>(\$129,064,239)</b> | <b>(\$134,097,744)</b> | <b>(\$134,097,744)</b> |
| <b>Vets &amp; Old City Hall</b>                                                                                                                                                                                                                                                                                                                                                                          |                        |                        |                        |                        |                        |                        |
| Available Funding                                                                                                                                                                                                                                                                                                                                                                                        | \$0                    | \$0                    | \$0                    | \$0                    | \$0                    | \$0                    |
| Expenditures                                                                                                                                                                                                                                                                                                                                                                                             | \$0                    | \$0                    | \$0                    | \$0                    | \$0                    | \$0                    |

|                                                       |                 |                   |                   |                   |                   |                   |                   |
|-------------------------------------------------------|-----------------|-------------------|-------------------|-------------------|-------------------|-------------------|-------------------|
| Capital & Maint. Need                                 | \$130,000,000   |                   |                   |                   |                   |                   |                   |
| <b>Unfunded Liability</b>                             |                 | (\$135,070,000)   | (\$140,337,730)   | (\$145,810,901)   | (\$151,497,527)   | (\$157,405,930)   | (\$157,405,930)   |
| <b>Transfer Station</b>                               |                 |                   |                   |                   |                   |                   |                   |
| Available Funding                                     |                 | \$0               | \$0               | \$0               | \$0               | \$0               | \$0               |
| Expenditures                                          |                 | \$0               | \$0               | \$0               | \$0               | \$0               | \$0               |
| Capital & Maint. Need                                 | \$76,000,000    |                   |                   |                   |                   |                   |                   |
| <b>Unfunded Liability</b>                             |                 |                   | \$78,964,000      | \$82,043,596      | \$85,243,296      | \$85,243,296      | \$85,243,296      |
| <b>Bike &amp; Ped Projects</b>                        |                 |                   |                   |                   |                   |                   |                   |
| Available Funding                                     |                 | \$0               | \$0               | \$0               | \$0               | \$0               | \$0               |
| Expenditures                                          |                 | \$0               | \$0               | \$0               | \$0               | \$0               | \$0               |
| Capital & Maint. Need                                 | \$129,000,000   |                   |                   |                   |                   |                   |                   |
| <b>Unfunded Liability</b>                             |                 | (\$134,031,000)   | (\$139,258,209)   | (\$144,689,279)   | (\$150,332,161)   | (\$156,195,115)   | (\$156,195,115)   |
| <b>Transit Projects</b>                               |                 |                   |                   |                   |                   |                   |                   |
| Available Funding                                     |                 | \$0               | \$0               | \$0               | \$0               | \$0               | \$0               |
| Expenditures                                          |                 | \$0               | \$0               | \$0               | \$0               | \$0               | \$0               |
| Capital & Maint. Need                                 | \$53,000,000    |                   |                   |                   |                   |                   |                   |
| <b>Unfunded Liability</b>                             |                 | (\$55,067,000)    | (\$57,214,613)    | (\$59,445,983)    | (\$61,764,376)    | (\$64,173,187)    | (\$64,173,187)    |
| <b>Fire Projects</b>                                  |                 |                   |                   |                   |                   |                   |                   |
| Available Funding                                     |                 | \$0               | \$0               | \$0               | \$0               | \$0               | \$0               |
| Expenditures                                          |                 | \$0               | \$0               | \$0               | \$0               | \$0               | \$0               |
| Capital & Maint. Need                                 | \$288,000,000   |                   |                   |                   |                   |                   |                   |
| <b>Unfunded Liability</b>                             |                 | (\$299,232,000)   | (\$310,902,048)   | (\$323,027,228)   | (\$335,625,290)   | (\$348,714,676)   | (\$348,714,676)   |
| <b>TOTAL</b>                                          |                 |                   |                   |                   |                   |                   |                   |
| Available Funding                                     |                 | \$46,788,315      | \$49,409,500      | \$46,837,500      | \$45,755,000      | \$45,755,000      | \$234,545,315     |
| Expenditures                                          |                 | \$46,788,315      | \$49,409,500      | \$46,837,500      | \$45,755,000      | \$45,755,000      | \$234,545,315     |
| T1 Funding: \$100M Infrastructure Bond <sup>(4)</sup> |                 | \$16,978,333      | \$8,093,333       | \$4,105,000       | \$0               | \$0               | \$29,176,666      |
| Capital & Maint. Need                                 | \$2,079,930,000 |                   |                   |                   |                   |                   |                   |
| <b>Unfunded Liability</b>                             |                 | (\$2,094,793,723) | (\$2,118,987,845) | (\$2,150,685,871) | (\$2,188,807,620) | (\$2,228,416,117) | (\$2,228,416,117) |

<sup>(1)</sup> Unless otherwise noted, available funding includes recurring sources of capital and major maintenance funding.

<sup>(2)</sup> Capital & Maint. Needs are current estimates of unfunded needs. Needs are estimated to increase at a rate of 3.9% per year.

<sup>(3)</sup> If new planned infrastructure is built, there will be approx. \$44M in savings realized in existing infrastructure cost estimates.

<sup>(4)</sup> The \$100M T1 bond funding allocations started in 2017 and are planned to be exhausted in 2026.

| Other ID.                                         | Address                             | Sq Feet | Year Built | Last Appr. | Occupied As                                 | Leased Owned | Total Values  |
|---------------------------------------------------|-------------------------------------|---------|------------|------------|---------------------------------------------|--------------|---------------|
| MAIN LIBRARY                                      | 2090 KITTREDGE STREET (FRONT)       | 102,000 | 1931       | 2021       | LIBRARY - HIGH END                          | OWNED        | \$ 83,882,271 |
| CIVIC CENTER BUILDING ANNEX                       | 1947 CENTER STREET                  | 112,798 | 1947       | 2021       | PUBLIC WORKS ENGINEERING AND TRANSPORTATION | OWNED        | \$ 80,731,494 |
| CENTER STREET GARAGE AND COMMERCIAL SPACE         | 2025 CENTER STREET                  | 248,000 | 2018       | 2021       | CITY AND PUBLIC PARKING AND OFFICE          | OWNED        | \$ 44,950,008 |
| MARTIN LUTHER KING JR. CIVIC CENTER               | 2180 MILVIA STREET                  | 89,075  | 1940       | 2021       | OFFICE BUILDING                             | OWNED        | \$ 76,798,274 |
| PUBLIC SAFETY BUILDING (INCLUDES PRIIMARY EOC)    | 2100 MARTIN LUTHER KING JR WAY      | 60,108  | 2000       | 2021       | POLICE STATION/FIRE STATION OFFICES         | OWNED        | \$ 40,144,015 |
| OLD CITY HALL                                     | 2134 MARTIN LUTHER KING JR. WAY     | 38,400  | 1908       | 2021       | OFFICE                                      | OWNED        | \$ 29,831,879 |
| TELEGRRAPH/CHANNING (SATHER GATE) MALL AND GARAGE | 2438 DURANT AVENUE/CHAN NING AVENUE | 186,890 | 1990       | 2021       | PARKING GARAGE W/RETAIL                     | OWNED        | \$ 22,081,096 |
| FIRE DEPARTMENT WAREHOUSE                         | 1011 FOLGER AVENUE                  | 8,021   | 2011       | 2019       | WAREHOUSE                                   | OWNED        | \$ 13,373,058 |
| DONA SPRING ANIMAL SHELTER                        | 1 BOLIVAR DRIVE                     | 11,700  | 2013       | 2021       | ANIMAL SHELTER                              | OWNED        | \$ 9,875,519  |
| LIBRARY-WEST BRANCH                               | 1125 UNIVERSITY AVENUE              | 9,300   | 2013       | 2021       | LIBRARY                                     | OWNED        | \$ 8,446,998  |
| TAREA HALL PITTMAN SOUTH BRANCH                   | 1901 RUSSELL STREET                 | 8,700   | 2013       | 2021       | LIBRARY                                     | OWNED        | \$ 7,789,776  |
| OXFORD STREET GARAGE                              | 2165 KITTREDGE STREET               | 42,128  | 2009       | 2021       | PARKING/RETAIL                              | OWNED        | \$ 6,241,391  |
| BERKELEY REP THEATER                              | 2025 ADDISON STREET                 | 24,893  | 2000       | 2016       | THEATRE                                     | OWNED        | \$ 6,678,445  |
| VETERANS MEMORIAL HALL                            | 1931 CENTER STREET                  | 33,254  | 1923       | 2021       | ASSEMBLY AND HOMELESS SHELTER               | OWNED        | \$ 20,390,535 |

| Other ID.                             | Address                             | Sq Feet | Year Built | Last Appr. | Occupied As                        | Leased Owned | Total Values          |
|---------------------------------------|-------------------------------------|---------|------------|------------|------------------------------------|--------------|-----------------------|
| NORTH BERKELEY SENIOR CITIZENS CENTER | 1901 HEARST AVENUE                  | 20,880  | 1977       | 2021       | SENIOR CENTER                      | OWNED        | \$ 6,661,453          |
| JAMES KENNEY RECREATION CENTER        | 1718 & 1720 8TH STREET              | 17,724  | 1973       | 2019       | RECREATION CENTER/ASSEMBLY         | OWNED        | \$ 6,740,269          |
| LIBRARY-NORTH BRANCH                  | 1170 THE ALAMEDA                    | 9,555   | 1936       | 2019       | LIBRARY                            | OWNED        | \$ 6,571,658          |
| LIBRARY - CLAREMONT BRANCH            | 2940 BENVENUE AVENUE                | 8,110   | 1924       | 2019       | LIBRARY                            | OWNED        | \$ 5,403,431          |
| SOUTH BERKELEY SENIOR CENTER          | 2939 ELLIS STREET                   | 17,156  | 1977       | 2019       | SENIOR CENTER                      | OWNED        | \$ 6,441,480          |
| BERKELEY MARINA                       | 201 UNIVERSITY AVENUE               | 152,571 | 1974       | 2019       | BOAT DOCKS                         | OWNED        | \$ 6,171,038          |
| BERKELEY TUOLUMNE CAMP                | 31585 HARDIN FLAT RD, GROVELAND, CA | 34,365  | 2022       |            | DINING HALL/TENT CABINS/DESK       | OWNED        | \$ 13,470,651         |
| HS LORDSHIPS                          | 199 SEAWALL                         | 25,000  | 1967       | 2021       | RESTAURANT AND SPECIAL EVENT VENUE | OWNED        | \$ 10,246,736         |
| <b>TOTAL</b>                          |                                     |         |            |            |                                    |              | <b>\$ 512,921,475</b> |

## 5 YEARS PROJECTED GENERAL FUND REVENUES

|                                     | Projected General Fund<br>Revenue<br>FY 2023 through FY 2027 |                    |                    |                    |                    |                    |
|-------------------------------------|--------------------------------------------------------------|--------------------|--------------------|--------------------|--------------------|--------------------|
|                                     | FY 2023<br>Adopted                                           | FY 2023            | FY 2024            | FY 2025            | FY 2026            | FY 2027            |
| <b>Undesignated Revenues</b>        |                                                              |                    |                    |                    |                    |                    |
| Secured Property Taxes              | 75,664,920                                                   | 79,091,256         | 81,859,450         | 84,724,531         | 87,689,889         | 90,759,035         |
| Supplemental Taxes                  | 2,000,000                                                    | 2,300,000          | 2,300,000          | 2,300,000          | 2,300,000          | 2,300,000          |
| Unsecured Property Taxes            | 3,516,000                                                    | 3,516,000          | 3,516,000          | 3,516,000          | 3,516,000          | 3,516,000          |
| Property Transfer Taxes             | 18,000,000                                                   | 18,000,000         | 16,000,000         | 16,000,000         | 16,000,000         | 16,000,000         |
| Property Transfer Tax - Measure P   | 14,073,750                                                   | 14,073,750         | 14,073,750         | 14,073,750         | 14,073,750         | 14,073,750         |
| Sales Taxes                         | 19,016,546                                                   | 19,634,807         | 19,391,714         | 20,231,914         | 21,146,495         | 22,043,410         |
| Soda Tax                            | 990,210                                                      | 1,025,800          | 1,025,800          | 1,025,800          | 1,025,800          | 512,900            |
| Utility Users Taxes                 | 13,800,000                                                   | 15,000,000         | 15,000,000         | 15,000,000         | 15,000,000         | 15,000,000         |
| Transient Occupancy Taxes(TOT)      | 5,000,000                                                    | 7,500,000          | 7,725,000          | 7,956,750          | 8,195,453          | 8,441,316          |
| Short-term Rentals                  | 1,000,000                                                    | 1,400,000          | 1,400,000          | 1,400,000          | 1,400,000          | 1,400,000          |
| Business License Taxes              | 19,000,000                                                   | 19,000,000         | 19,000,000         | 19,380,000         | 19,767,600         | 19,767,600         |
| Recreational Cannabis               | 1,400,000                                                    | 1,400,000          | 1,400,000          | 1,428,000          | 1,456,560          | 1,456,560          |
| Measure U1                          | 4,900,000                                                    | 4,900,000          | 4,900,000          | 4,998,000          | 5,097,960          | 5,097,960          |
| Other Taxes                         | 2,631,441                                                    | 3,331,441          | 3,331,441          | 3,331,441          | 3,331,441          | 3,331,441          |
| Vehicle In Lieu Taxes               | 15,926,168                                                   | 16,626,651         | 17,208,584         | 17,810,884         | 18,434,265         | 19,079,464         |
| Parking Fines - Regular Collections | 4,326,450                                                    | 4,800,000          | 4,800,000          | 4,800,000          | 4,800,000          | 4,800,000          |
| Parking Fines - Booting Collections | -                                                            | -                  | -                  | -                  | -                  | -                  |
| Moving Violations                   | 132,600                                                      | 132,600            | 132,600            | 135,252            | 137,957            | 137,957            |
| Ambulance Fees                      | 3,880,779                                                    | 5,330,779          | 5,350,779          | 3,880,779          | 3,880,779          | 3,880,779          |
| Interest Income                     | 6,000,000                                                    | 7,000,000          | 7,000,000          | 7,000,000          | 7,000,000          | 7,000,000          |
| Franchise Fees                      | 1,613,283                                                    | 1,720,056          | 1,720,056          | 1,720,056          | 1,720,056          | 1,720,056          |
| Other Revenues                      | 6,729,977                                                    | 7,529,977          | 7,529,977          | 7,529,977          | 7,529,977          | 7,529,977          |
| Indirect cost reimbursements        | 5,490,000                                                    | 5,990,000          | 5,990,000          | 5,990,000          | 5,990,000          | 5,990,000          |
| Transfers                           | 17,096,148                                                   | 17,096,148         | 21,023,924         | 4,472,621          | 4,562,074          | 4,562,074          |
|                                     |                                                              |                    |                    |                    |                    |                    |
| <b>Total Undesignated Revenues</b>  | <b>242,188,272</b>                                           | <b>256,399,265</b> | <b>261,679,074</b> | <b>248,705,755</b> | <b>254,056,056</b> | <b>258,400,279</b> |
|                                     |                                                              |                    |                    |                    |                    |                    |
|                                     |                                                              |                    |                    |                    |                    |                    |



|                                               |                   |                   |                   |                   |                   |                   |
|-----------------------------------------------|-------------------|-------------------|-------------------|-------------------|-------------------|-------------------|
| <b>Designated Revenues</b>                    |                   |                   |                   |                   |                   |                   |
| Prop. Transfer Taxes for capital improvements | 16,462,172        | 16,462,172        | 12,962,172        | 13,541,415        | 13,541,415        | 14,132,244        |
| <b>Total Designated Revenues</b>              | <b>16,462,172</b> | <b>16,462,172</b> | <b>12,962,172</b> | <b>13,541,415</b> | <b>13,541,415</b> | <b>14,132,244</b> |
| <b>TOTAL REVENUES AND TRANSFERS</b>           |                   |                   |                   |                   |                   |                   |
|                                               | 258,650,444       | 272,861,437       | 274,641,246       | 262,247,170       | 267,597,471       | 272,532,523       |

### Property Taxes

Given the continued high collection rate, and the resilience of property values in the City, as well as a large volume of recent property sales (which bring assessed values to market value), we are projecting that annual growth will be approximately 5.5% over the next several years. The persistence of strong growth of property valuations in recent years, as well as the spike in current year sales (which bring properties assessed valuations to market value), have caused staff to increase the projected growth rate from the 3.5% that we have used in prior long-term projections.

### Sales Taxes

The immense effects of COVID-19 on sales tax revenue in FY 2021 were largely reversed in FY 2022, with revenue levels almost back to FY 2019 levels, and staff now project growth to level off to approximately 4% in FY 2024. There is still some potential risk that an overall slowdown in underlying economic recovery will be reflected in reduced growth in consumer spending and sales tax collections.

### Business License Taxes

We are projecting a 5% growth in Business License Tax revenue from heavily impacted FY 2021 levels, as economic activity recovers from the recession caused by the pandemic. Long-term projections will be adjusted as the post-pandemic economic environment becomes clearer. 2023 business license returns (for 2022 gross receipts) are just now being received, so we will know more about how revenues are trending once they are processed over the next month or so.

### Transient Occupancy Tax

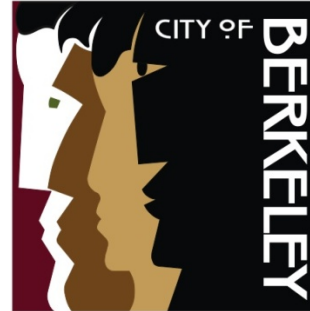
With recovery of business at the City's hotels expected to lag behind general economic recovery, and relying on industry guidance regarding predicted occupancy levels, we are currently projecting only 3% annual growth from current revenue levels. Even after taking into consideration the new downtown hotel, we will continue to monitor the major hotels' projections of future occupancies and will adjust long-term projections as necessary.

### Utility Users Tax

We expect UUT revenue to rise marginally from FY 2022 through FY 2024, after increasing slightly in the current year due to rate increases approved by the Public Utilities Commission. Revenues are expected to remain flat after FY 2024 and beyond after all the rate increases have been actualized.

**Transfer Tax**

Given the continued strength in property values and in sales activity, we expect Transfer Tax revenues to remain basically flat from FY 2024 – FY 2027. The spike in revenue being seen in FY 2022, and to a lesser extent in FY 2023, is likely due to sales triggered by looming interest rate increases that have been signaled by the Federal Reserve, as well as some pent-up demand from mildly depressed sales during the pandemic. Over the 5 years prior to the pandemic, transfer tax revenues grew 6% per year on average, but interest rate increases will probably negatively impact sales prices and volumes somewhat in the next few years. We also expect revenues from Measure P supplemental tax on high value property transfers to remain basically flat.



# CITY OF BERKELEY



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## Pension and OPEB Funding Study

**Mary Elizabeth Redding, FSA, EA, MAAA**

Bianca Lin, FSA, EA, MAAA

Katherine Moore, ASA, MAAA

Wai Man Yam

**Foster & Foster, Inc.**

February 23, 2023

# Agenda

- OPEB
- OPEB Funding Recommendation
- CalPERS
- CalPERS Funding Recommendation
- Summary



# OPEB



# Definitions

- OPEB: Other (than pension) Post Employment Benefits: Medical benefits paid to retirees
  - No legal requirement to provide OPEB
  - Depends on bargaining agreements
    - Unlike pensions, could be eliminated for future hires
    - Depending on bargaining agreements, could be changed for current employees/retirees



# Definitions

- Normal Cost (NC): value of benefits earned by employees in the coming year
- Actuarial Accrued Liability (AAL): value of benefits earned to date
- Unfunded Actuarial Accrued Liability (UAL):  
AAL minus Assets
- Discount Rate (DR): Rate used to calculate present value of future benefits.
  - Based on expected rate of return on invested assets.
  - Higher rate => lower present value



# Definitions

- Actuarially Determined Contribution (ADC): Full Prefunding:
  - Normal Cost plus
  - Amortization (payment over time) of UAAL
  
- Why is there a UAAL?
  - OPEB was not fully funded in the past
    - Cost of benefits being earned every year should have been paid since plan inception
    - Cost of benefits being earned is currently \$8 million/year
  - Things did not always happen as expected





# OPEB Funding Study Assumptions

- Projection assumptions for study
  - Current investment policy: 3%/year future returns
  - Full prefunding = normal cost + 20 year amortization of unfunded actuarial accrued liability
  - No change in number of active employees
  
- Note: Investing funds for the long term should provide higher returns, on average, and reduce needed City contributions.



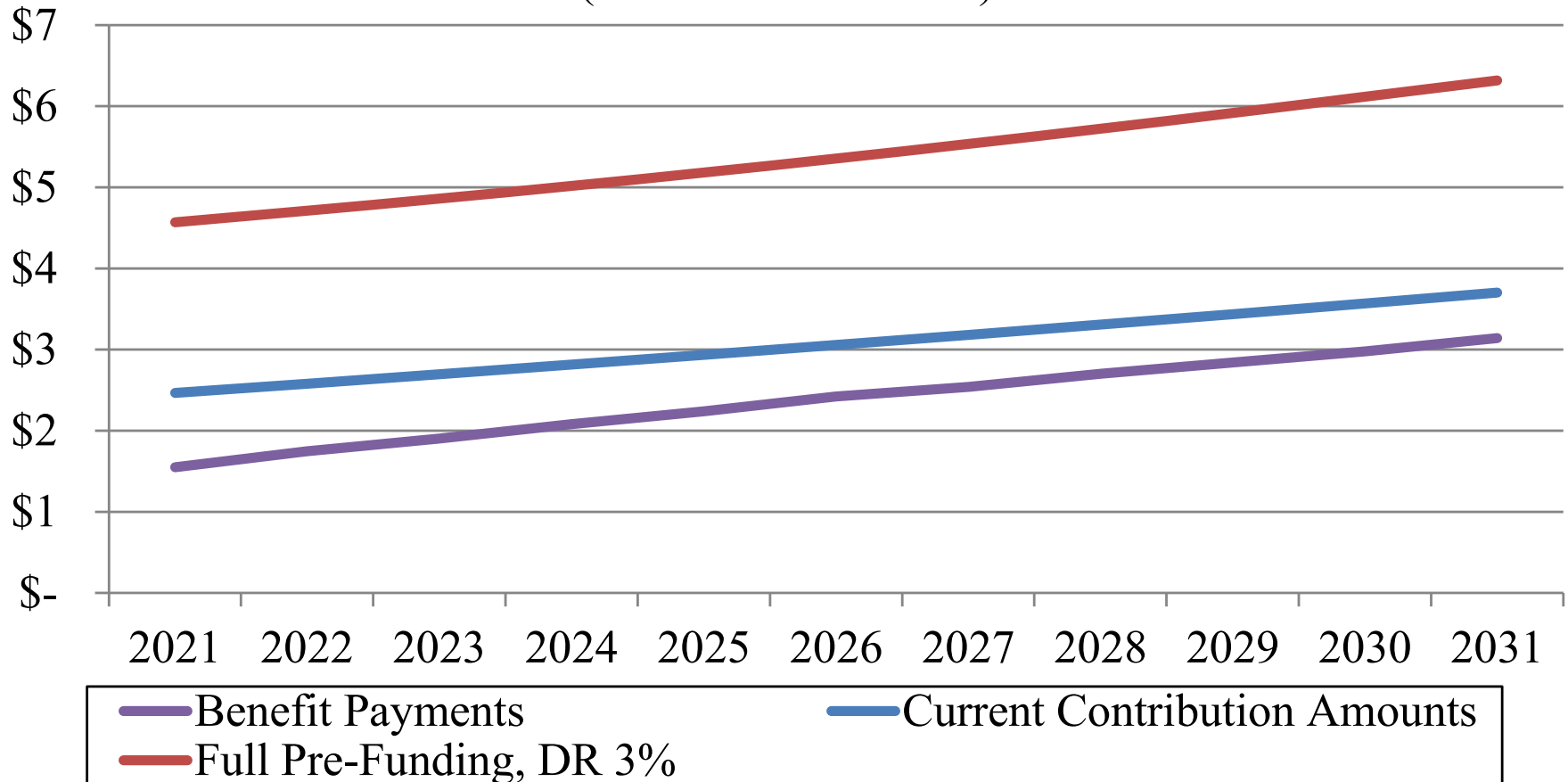
# OPEB Benefit Summary

|                                    | Miscellaneous                              | Fire                                  | PERIP                            | Police                                  |
|------------------------------------|--------------------------------------------|---------------------------------------|----------------------------------|-----------------------------------------|
| <b>Benefit</b>                     | Up to cap                                  | Up to cap                             | Kaiser 2-party premium amount    | Up to cap                               |
| <b>Cap depends on</b>              | Retirement date, Bargaining Unit, Coverage | Retirees after 1997 only              | Retirement before September 2012 | Retirement after September 2012         |
| <b>100% of Cap</b>                 | 20 years                                   | 25 years                              | N/A                              | 20 years                                |
| <b>Cap Increases</b>               | Kaiser premium increases, up to 4.5%/Year  | 4.5% per year                         | No limit                         | Kaiser premium increases, up to 6%/Year |
| <b>Current Trust Contributions</b> | % of payroll; in MOUs                      | About 1/3 of recommended contribution | Retiree premium amount           | About 8% of recommended contribution    |



# OPEB - Miscellaneous

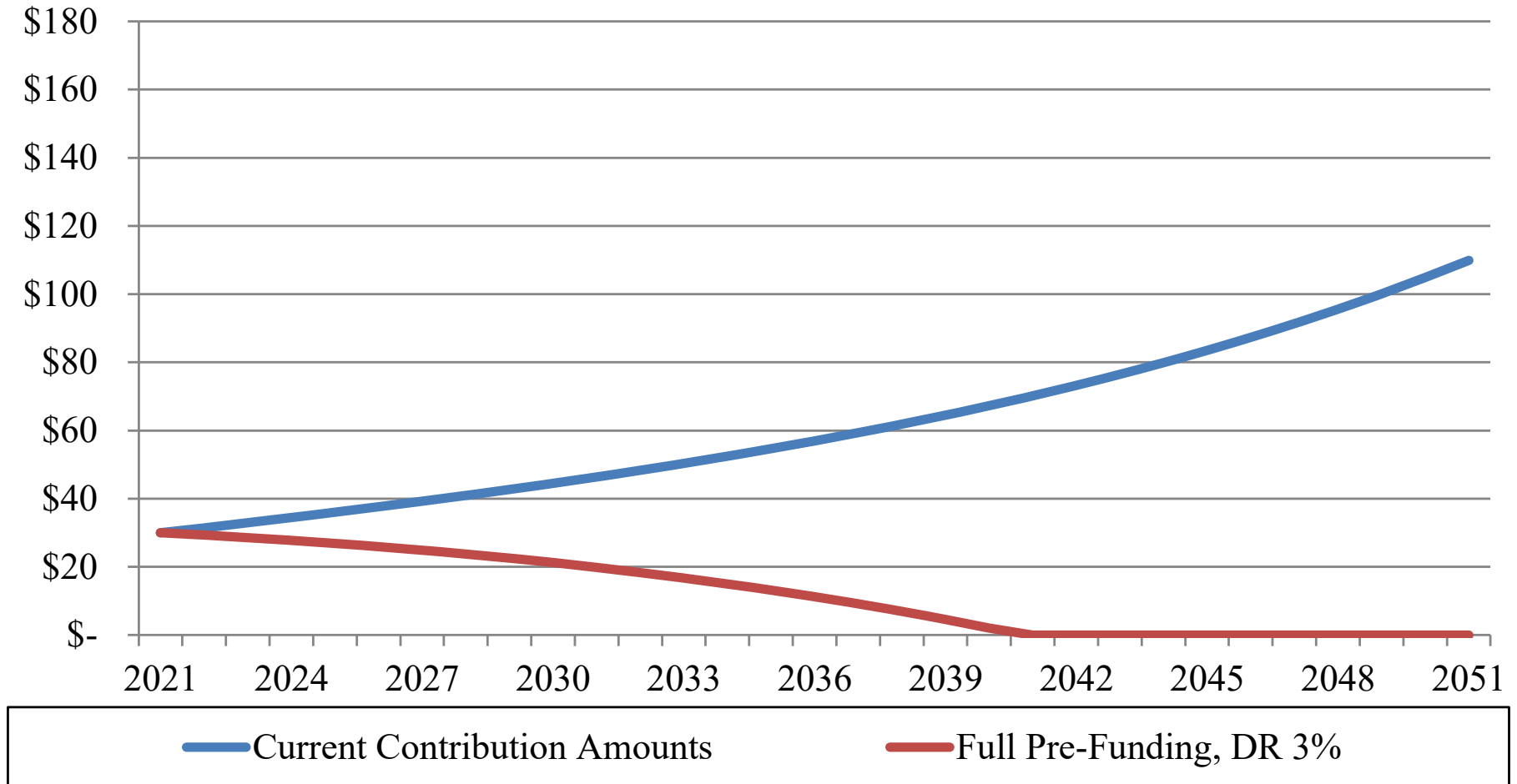
## Contribution (Amounts in millions)



# OPEB - Miscellaneous

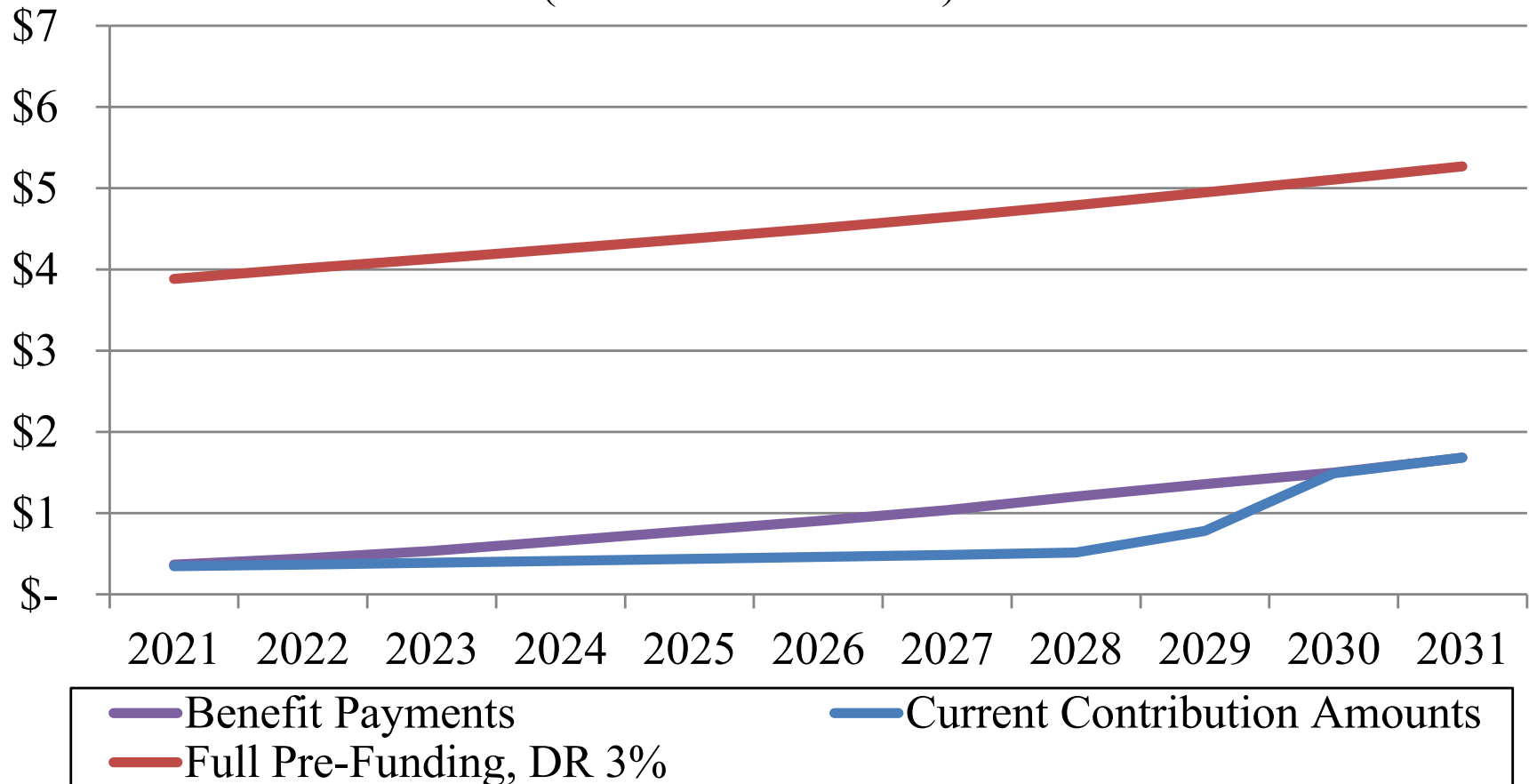
## Unfunded Actuarial Accrued Liability

(Amounts in millions)



# OPEB – Police

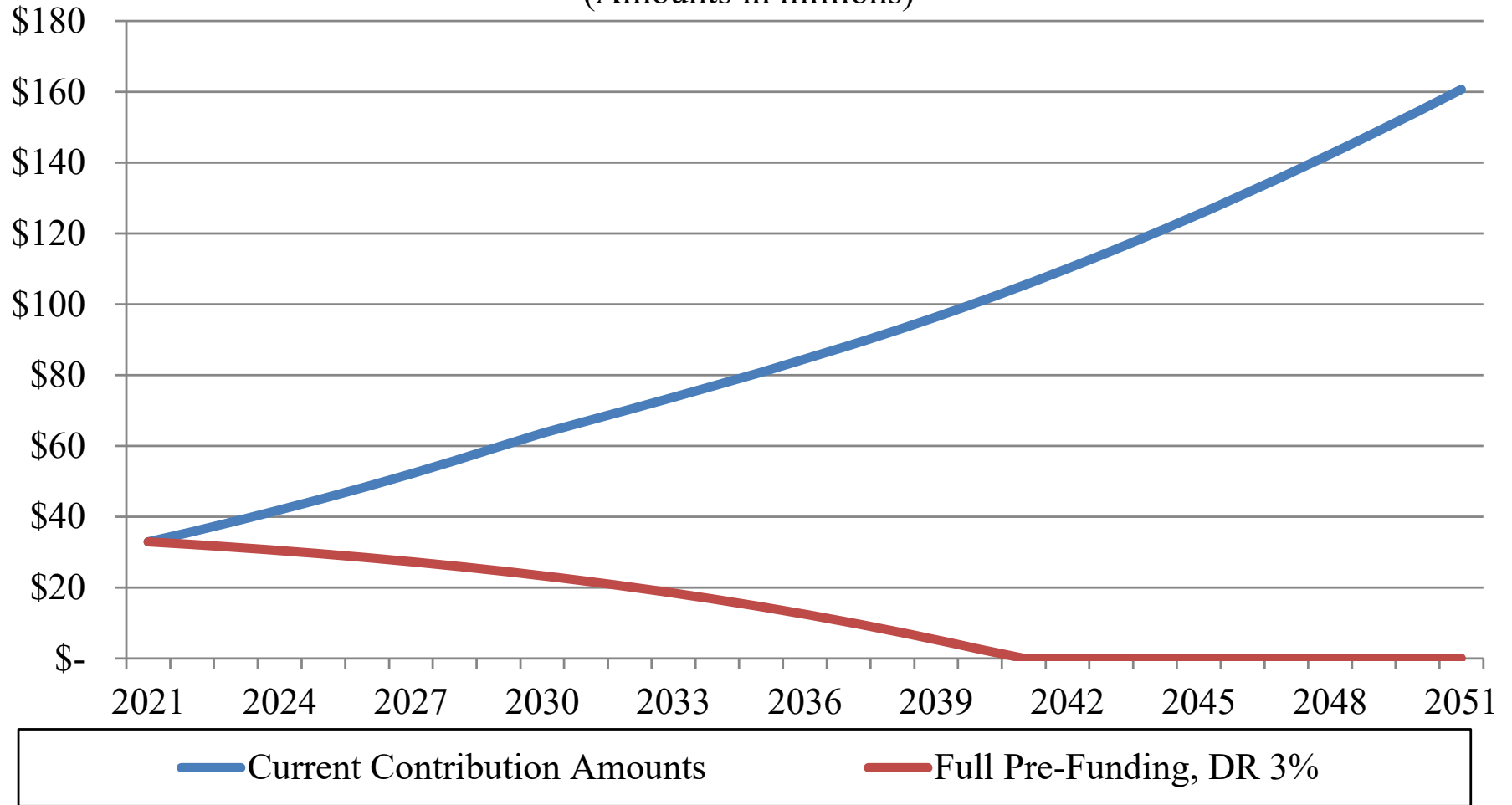
## Contribution (Amounts in millions)



# OPEB – Police

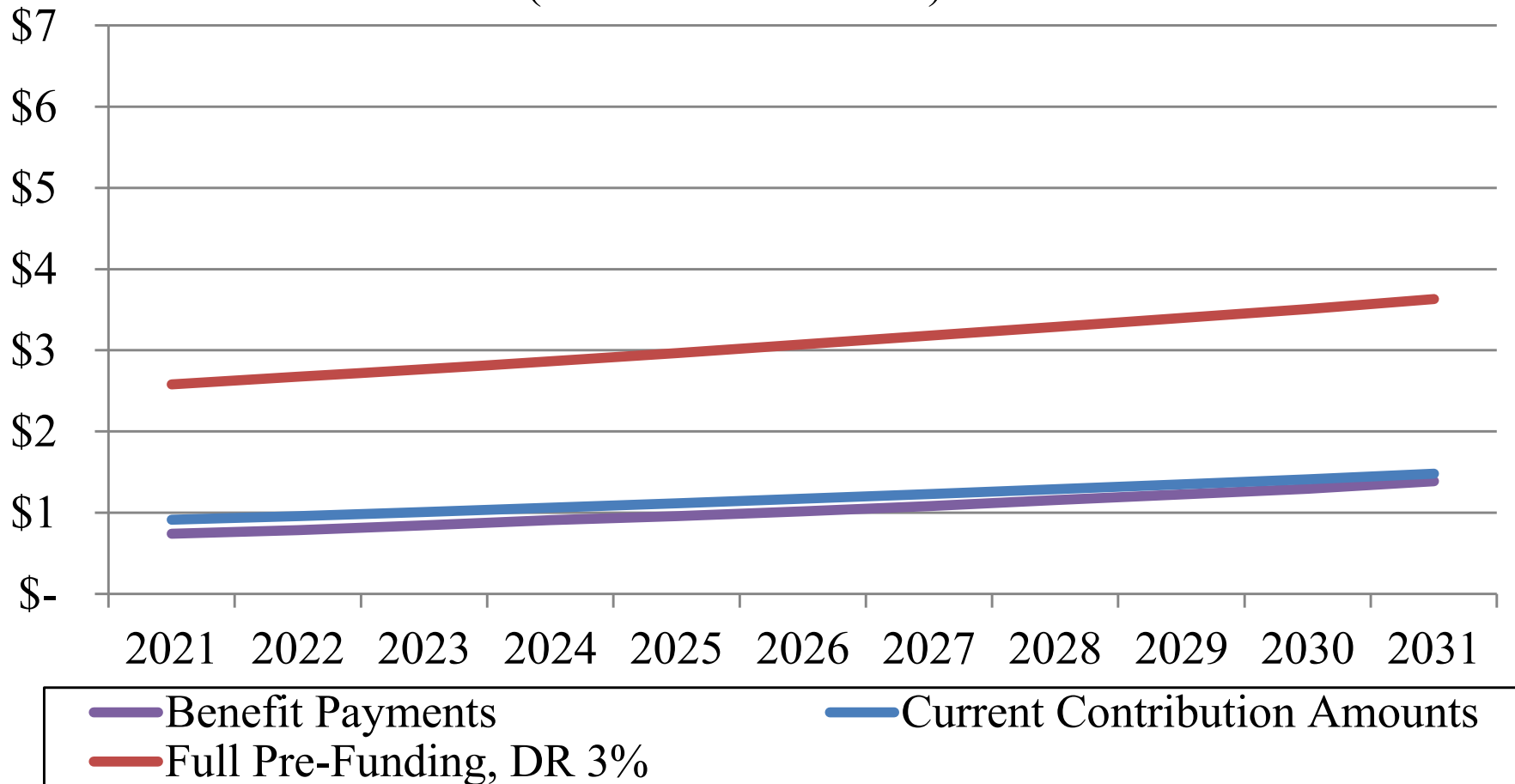
## Unfunded Actuarial Accrued Liability

(Amounts in millions)



# OPEB – Fire

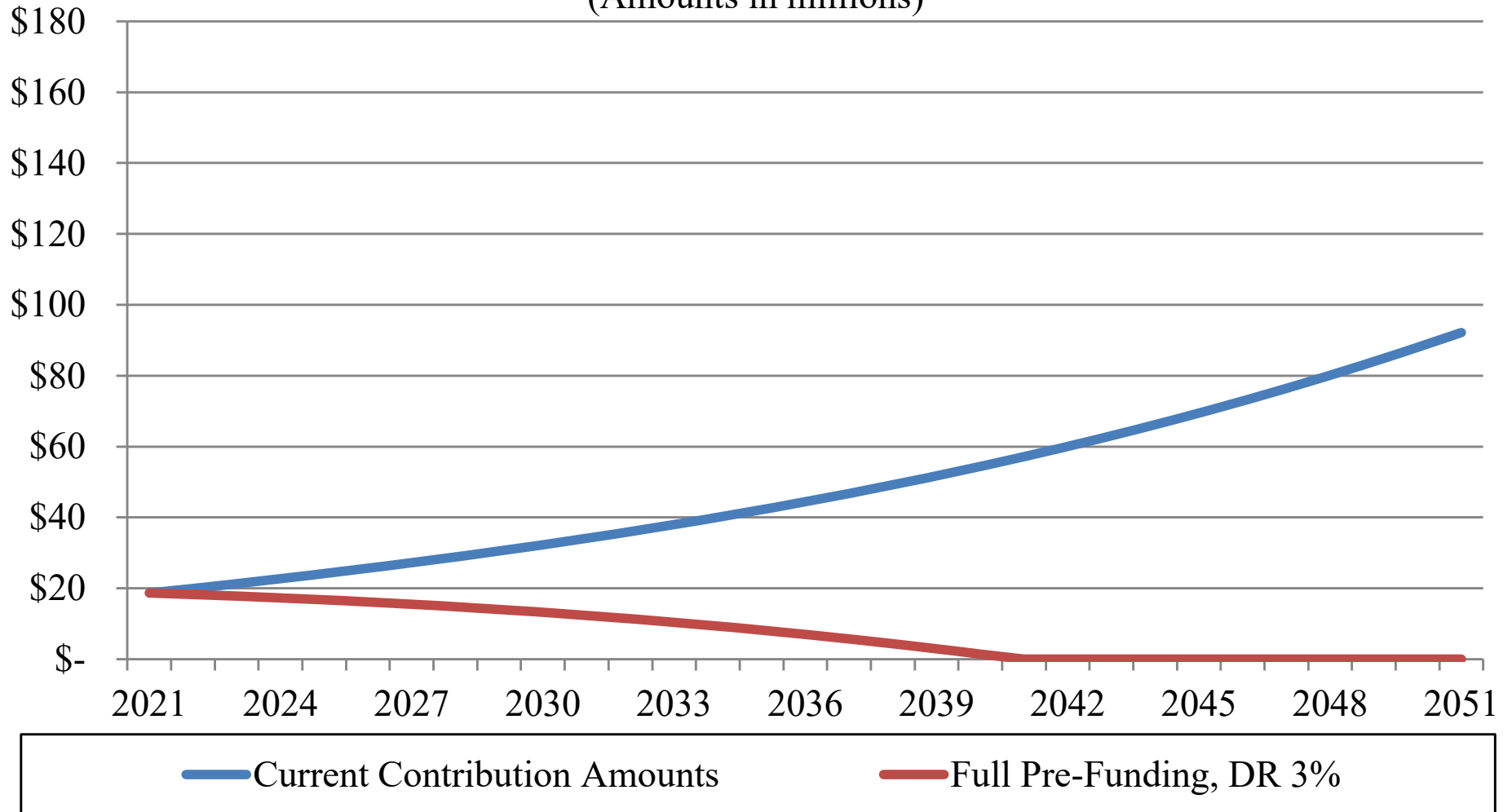
## Contribution (Amounts in millions)



# OPEB - Fire

## Unfunded Actuarial Accrued Liability

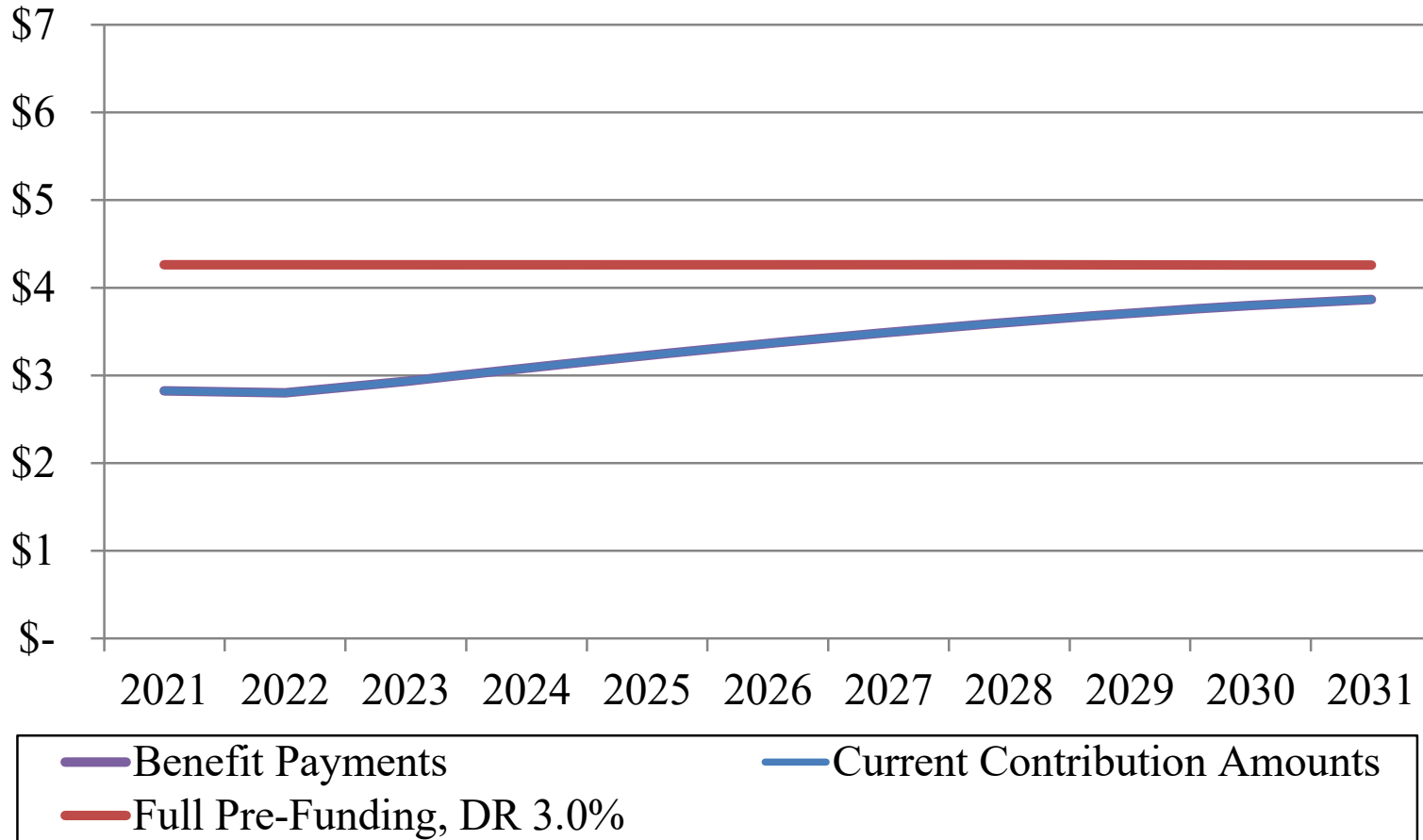
(Amounts in millions)





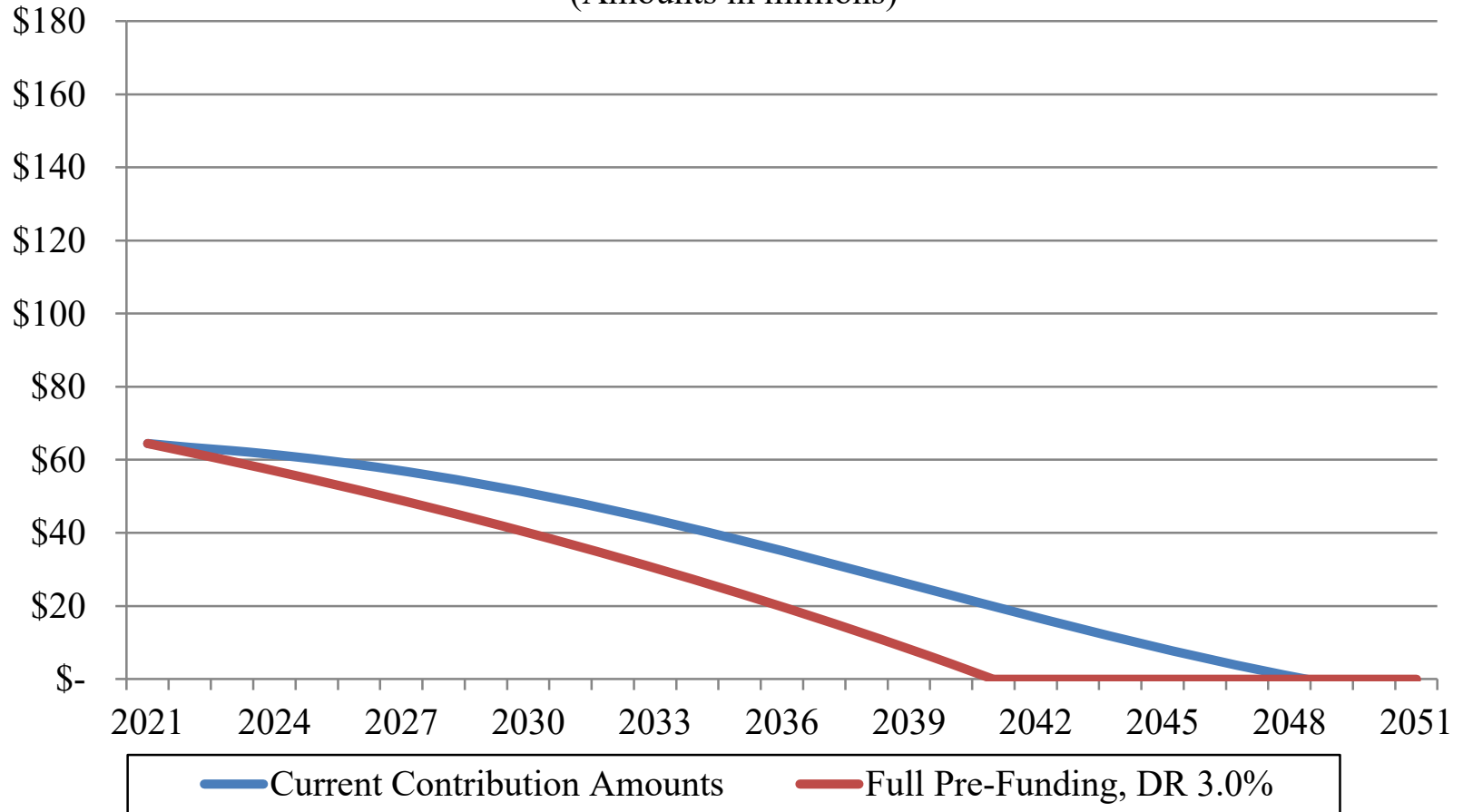
# Police Retirement Income Plan (PERIP)

## Contribution (Amounts in millions)



# Police Retirement Income Plan (PERIP)

## Unfunded Actuarial Accrued Liability (Amounts in millions)



# Total of All OPEB Plans

## Summary of Recommendation

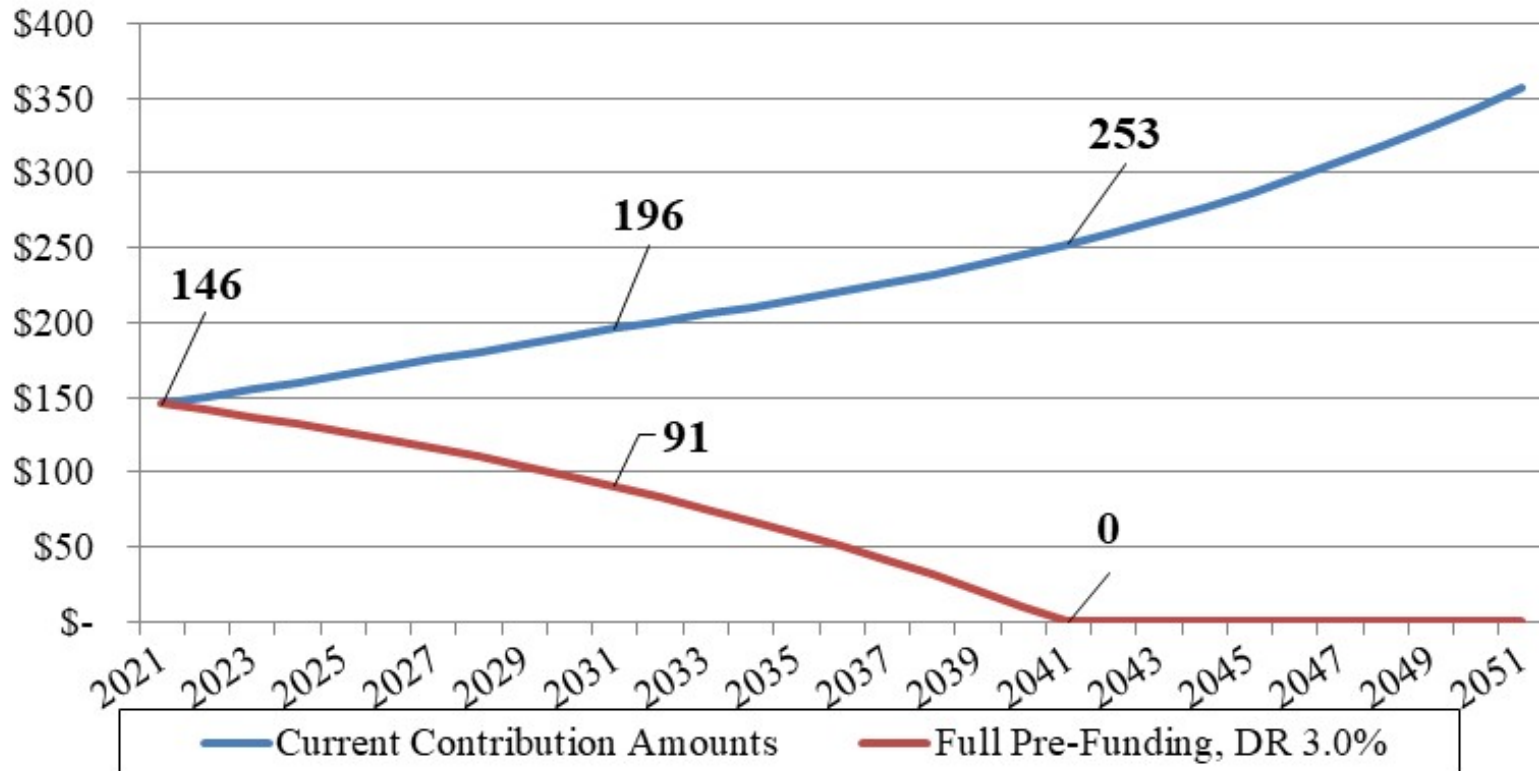
(\$ Millions)

| Plan          | Current Contribution Amounts | Increase     | Full Pre-Funding ADC (DR 3%) |
|---------------|------------------------------|--------------|------------------------------|
| Miscellaneous | \$2.5                        | \$2.1        | \$4.6                        |
| Fire          | 0.9                          | 1.7          | 2.6                          |
| PERIP         | <u>2.8</u>                   | <u>1.4</u>   | <u>4.3</u>                   |
| Police        | 0.3                          | 3.5          | 3.9                          |
| <b>Total</b>  | <b>\$6.5</b>                 | <b>\$8.8</b> | <b>\$15.3</b>                |

Recommended contributions are based on 3% expected annual return on trust funds. Higher expected returns would lower needed funding.

# Total of All OPEB Plans

## Unfunded Actuarial Accrued Liability Combined Plans (Amounts in \$ millions)



# CalPERS Pensions

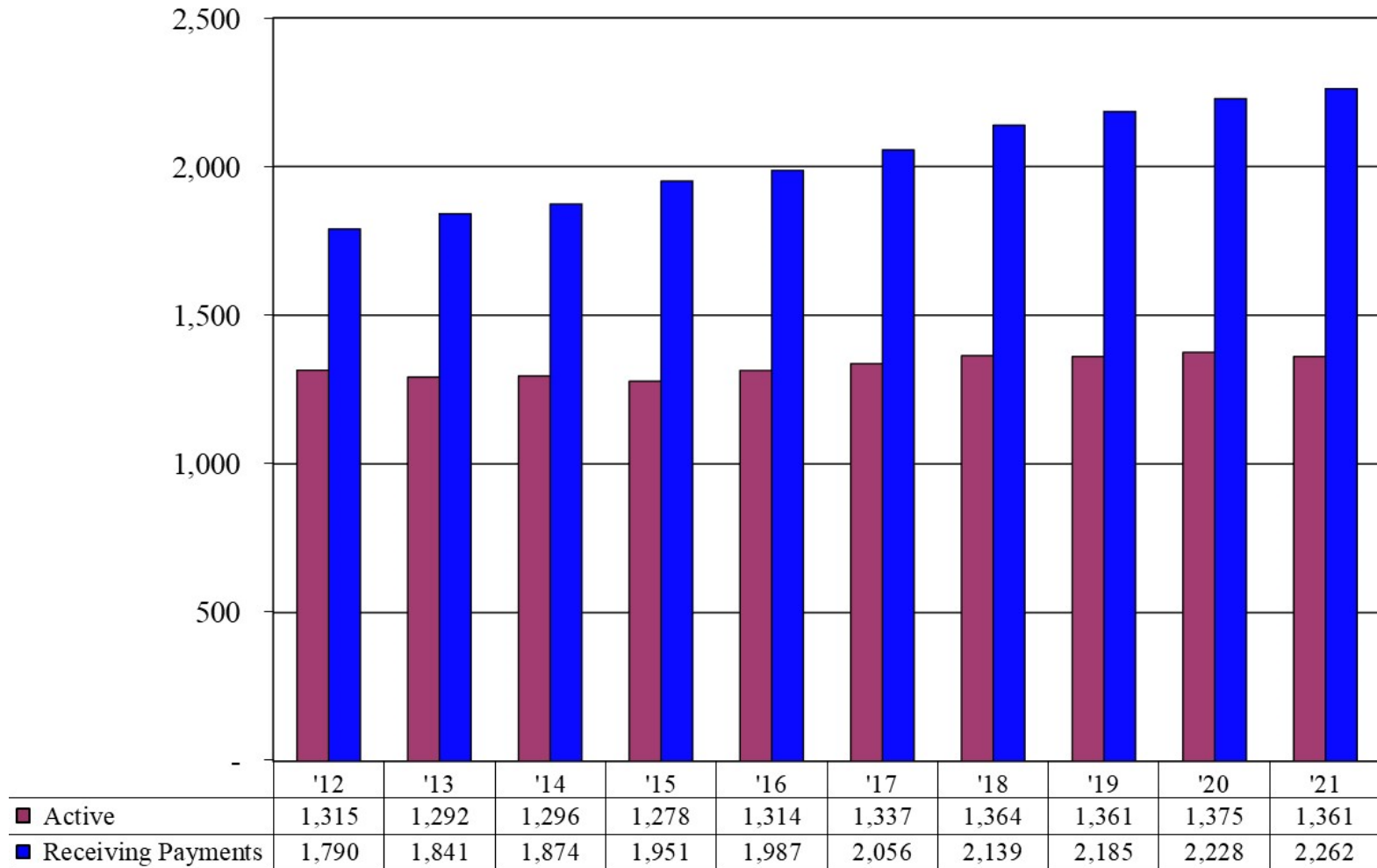


# How Did We Get A Large CalPERS Unfunded Liability?

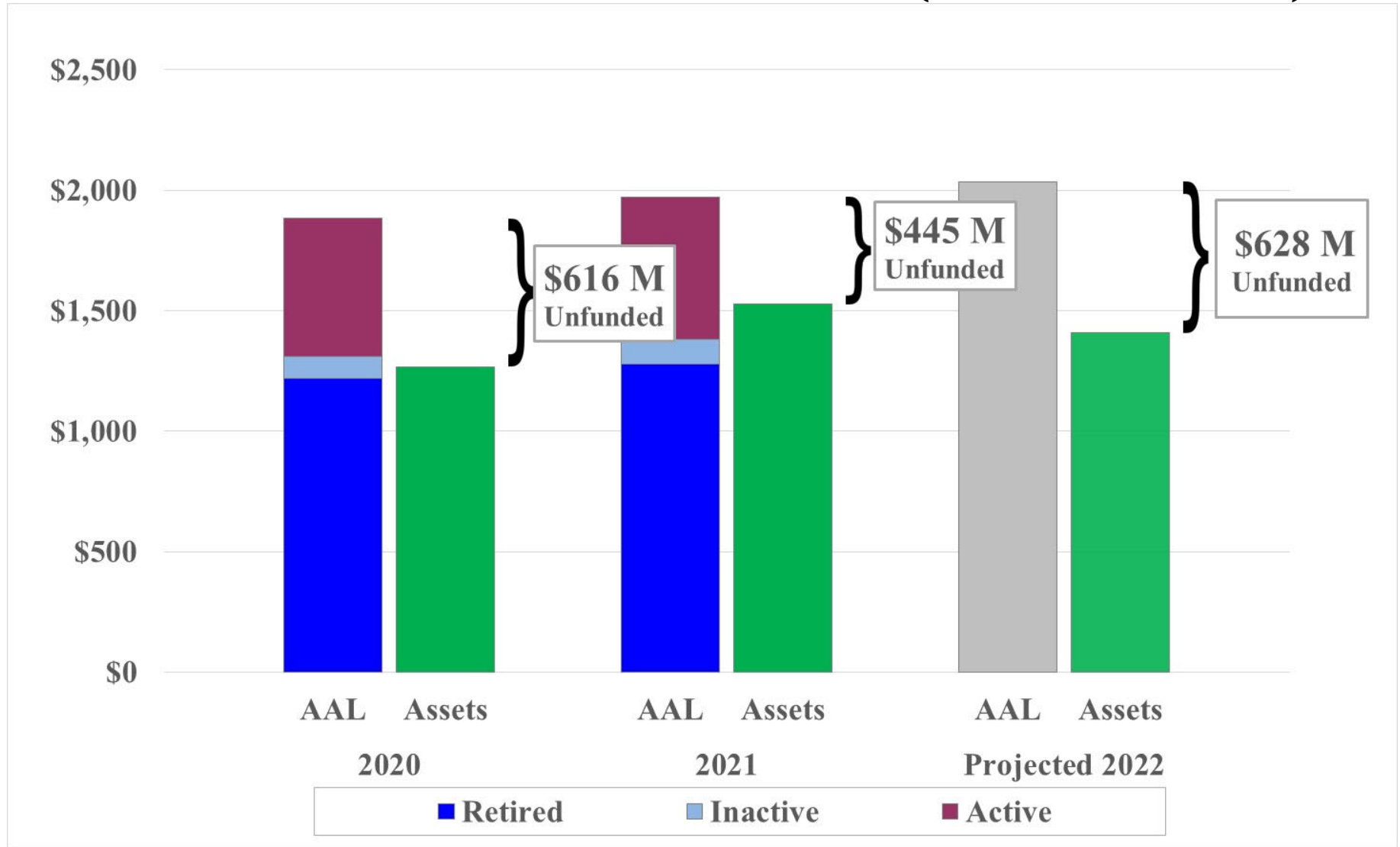
- Combination of many factors
  - Large investment losses in some years combined with “smoothing” policy delayed funding improvement.
- Enhanced benefits
- Demographics - growing number of retirees
- Updated & strengthened actuarial assumptions
- PEPRRA (hires after 1/1/2013) beginning to help contributions
- The City has always paid the required CalPERS contributions



# Number of Pension Members

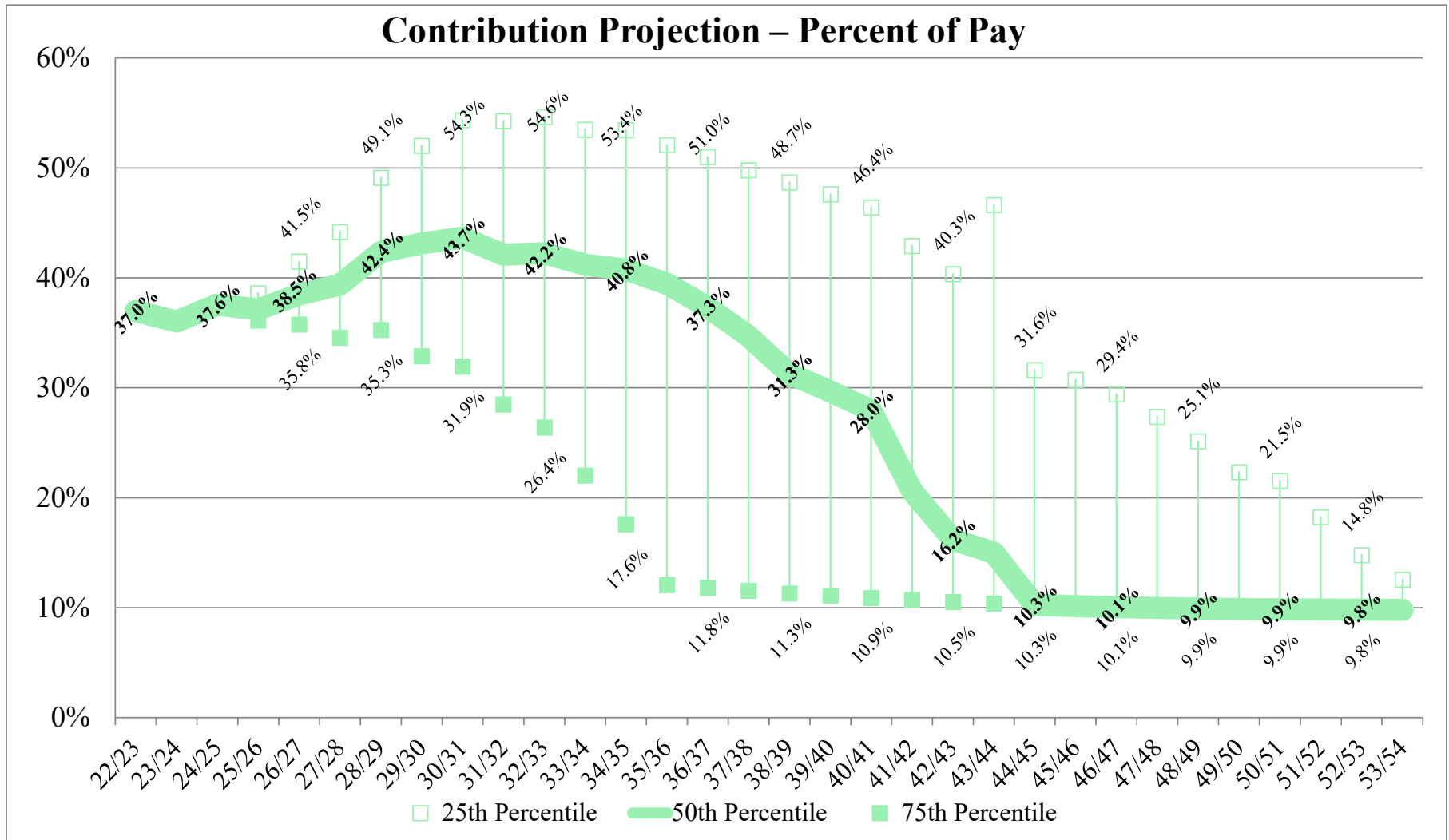


# Pension Funded Status (Combined)

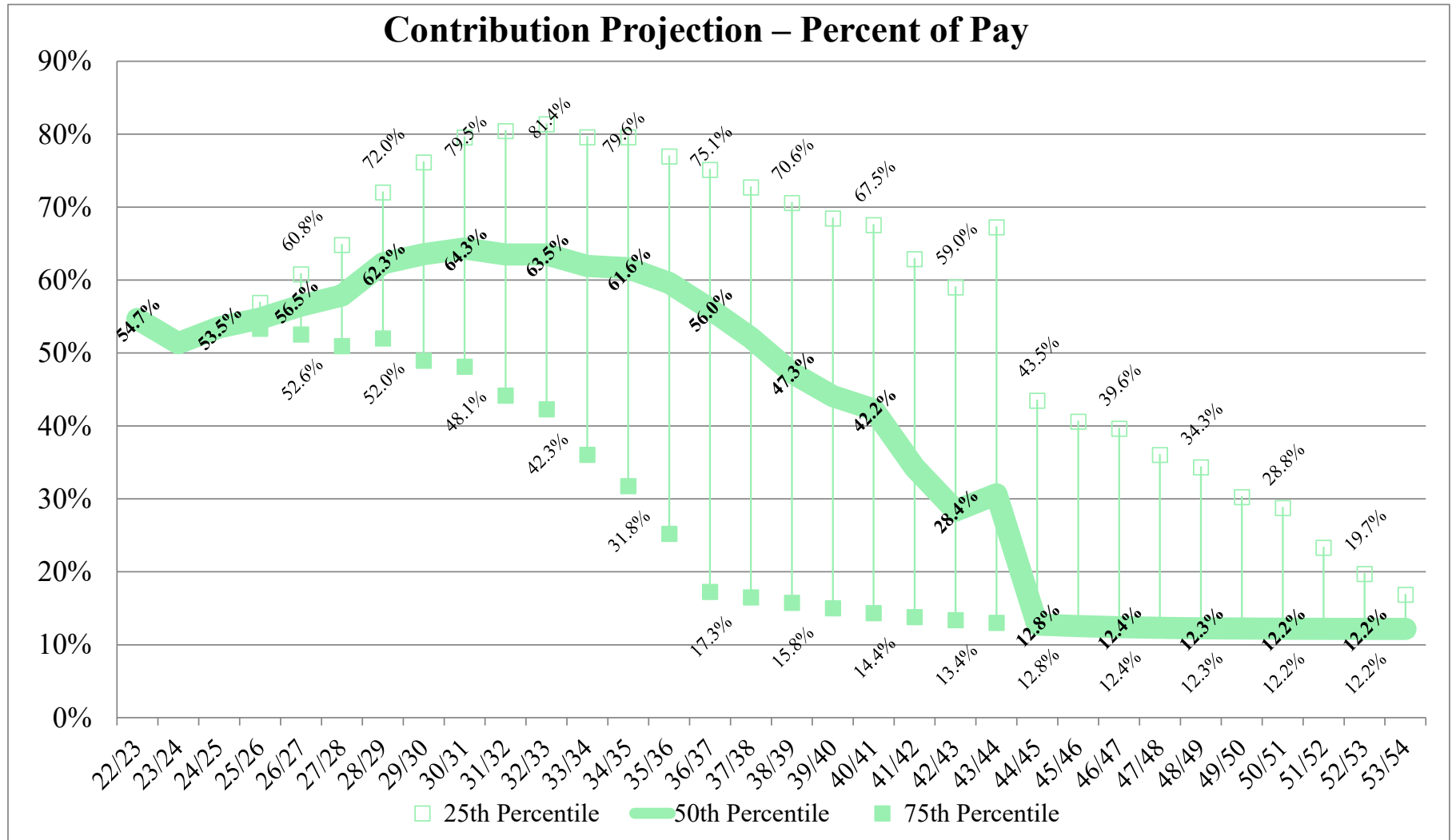




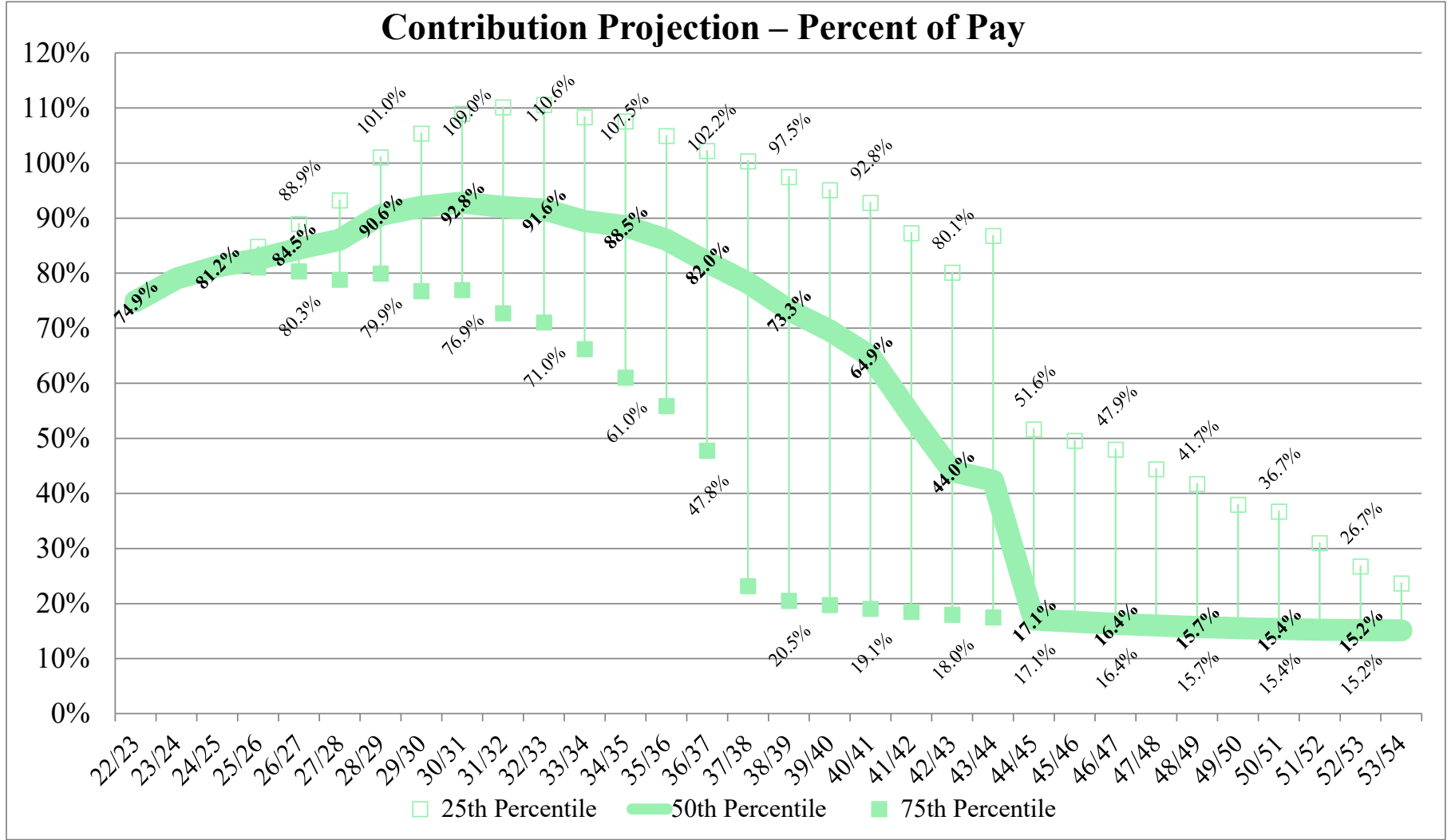
# Miscellaneous–CalPERS Rates (% Payroll)



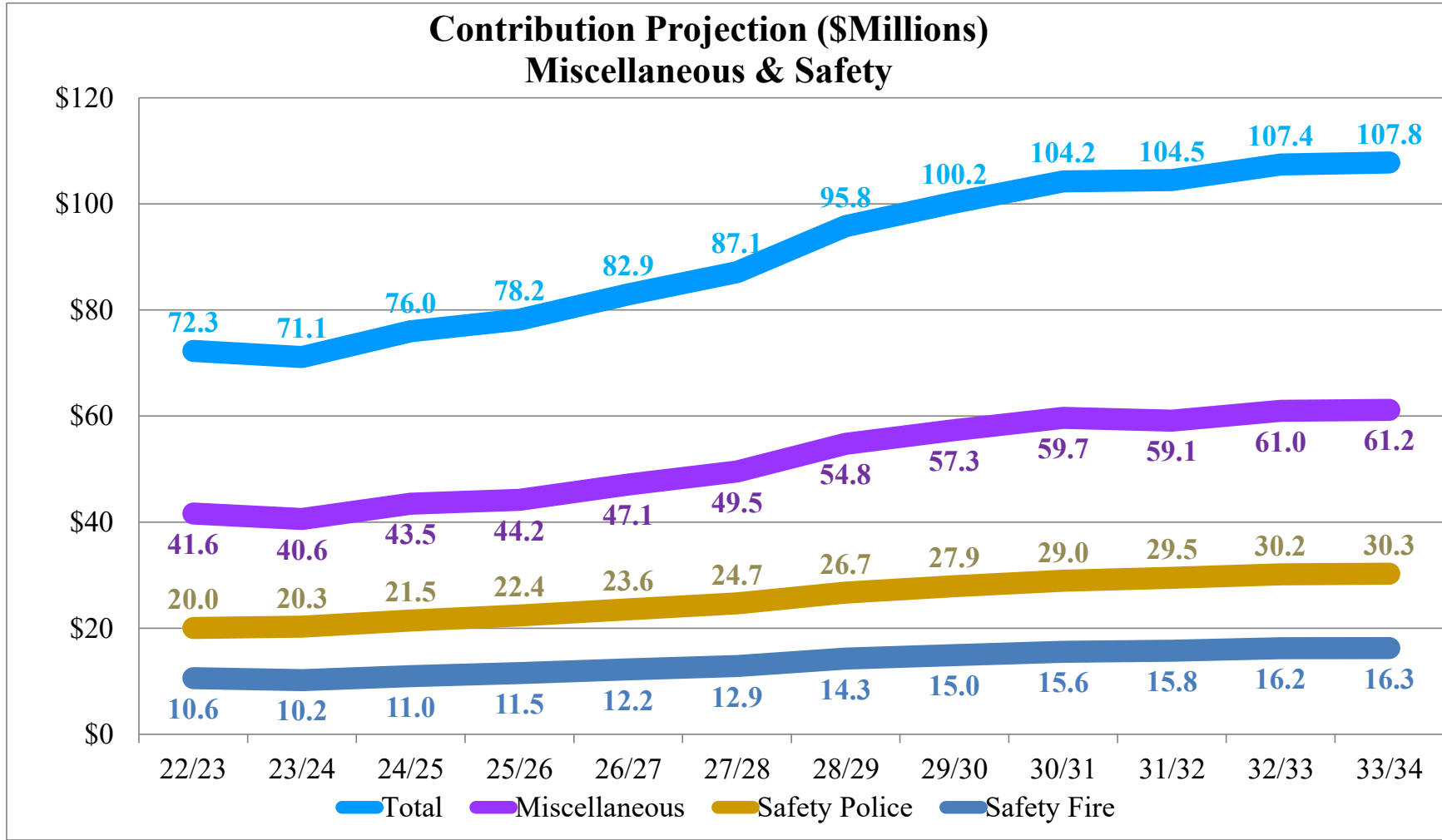
# Fire-CalPERS Rates (\$millions)



# Police–CalPERS Rates (% Payroll)



# Total Projected CalPERS Contributions (\$Millions)



# CalPERS Funding

# Reduce/Eliminate Unfunded Liability

- The City is already paying the full actuarially determined contribution for its CalPERS plans
- The City's funded status is similar to other CalPERS public agencies
- Most ideas to pay down the unfunded liability ahead of schedule are not recommended
  - Pension Obligation Bond (POB) is interest arbitrage
  - Success not guaranteed
- Unlike OPEB, City cannot leave CalPERS
  - New hires must be in CalPERS
  - Current employees must retain current benefits
  - \$2.1 Billion payment needed to leave CalPERS



# Irrevocable Supplemental (§115) Trust

- Can only be used to:
  - Reimburse City for CalPERS contributions
  - Make payments directly to CalPERS
- Investments significantly less restricted than City investment funds
- City's §115 Trust
  - Established in FY2018
  - Contributions up to \$5.2 Million per year
  - Current target contribution \$5.5 Million per year
  - Balance 6/30/2022 \$14.8 Million



# Irrevocable Supplemental (§115) Trust

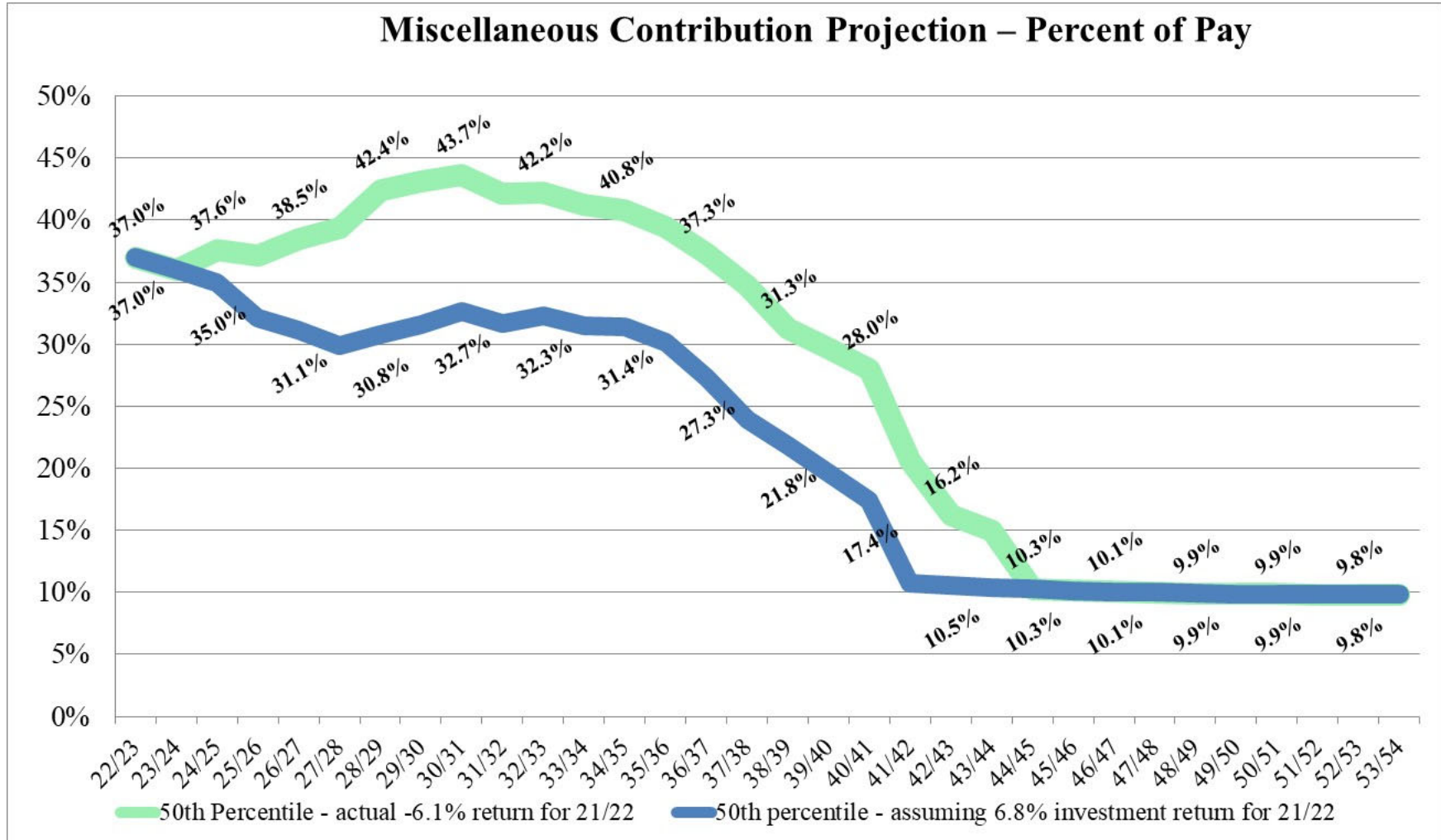
- Best use: Rate Stabilization
  - Add to Trust when possible
  - Use Trust funds to help pay CalPERS contributions in highest years or if unexpected increases
- Accumulate funds to eventually pay down UAL
- Target:
  - Consider City's reserve policy?
  - Consider potential variability of projected contributions?
    - In 10 years, 50% chance of contributions \$25M larger or smaller than projected
  - Consider potential contribution impact of large investment loss?





# Example: Impact of 1 Year Poor Returns

## Difference in Contributions Due to Poor 2022 Investment Return



# Example: Impact of 1 Year Poor Returns

**Difference in Contributions Due to Poor 2022 Investment Return  
(Total City Plans)  
(\$Millions)**

| <b>Payment Year</b> | <b>Increase<br/>Each Year</b> | <b>Cumulative<br/>Increase</b> |
|---------------------|-------------------------------|--------------------------------|
| ● <b>2024/25</b>    | \$4.9                         | \$4.9                          |
| ● <b>2025/26</b>    | 9.7                           | <b>14.6</b>                    |
| ● <b>2026/27</b>    | 14.5                          | 29.2                           |
| ● <b>2027/28</b>    | 19.3                          | 48.5                           |
| ● <b>2028/29</b>    | 24.1                          | 72.6                           |



# CalPERS Funding Recommendation

- Prioritize OPEB
- Continue funding CalPERS §115 Trust as possible
  - Current \$5.5M/year target is ideal
  - Recommend trust balance of \$25M to \$50M
    - Higher balance could be used to pay down UAL



# Summary



# Summary of Recommendations

- OPEB Funding (Misc, Police, Fire, “PERIP”)
  - Full pre-funding; will increase annual contribution
  - Total \$8.8 million additional per year
- CalPERS
  - Continue targeting \$5.5 million per year



# Thank You





Homeless Services  
Panel of Experts

ACTION CALENDAR  
April 11, 2023

To: Honorable Mayor and Members of the City Council  
 From: Homeless Services Panel of Experts  
 Submitted by: Carole Marasovic, Chair, Homeless Services Panel of Experts  
 Subject: Recommendation for RV Lot and Waste Management on Streets for RVs

RECOMMENDATION

The Homeless Services Panel of Experts recommends to Council that they refer to staff to expedite all efforts to identify a location for another RV lot(s) to take the place of the now closed SPARK lot at 742 Grayson and that the new lot identified require mandatory safety inspections and fire extinguishers to be provided. The Homeless Services Panel of Experts further recommends that Council refer to staff to develop a waste management plan to be implemented for RVs currently on the streets.

FISCAL IMPACTS OF RECOMMENDATION

This two-part recommendation needs to be evaluated by City staff and the Council Budget and Finance Committee to assess the costs of implementation.

CURRENT SITUATION AND ITS EFFECTS

The SPARK RV lot at 742 Grayson closed at the same time that Horizon at 742 Grayson closed at the end of December, 2022. While arrangements were made for the residents of Horizon to move into the Berkeley Inn, no lot could be identified to hold the residents of the SPARK lot.

The SPARK lot was a successful endeavor with a capacity of 40 RVs. Safety inspections were not required which may have led to a fire of a vehicle.

RVs formerly in the lot have been left to roam the streets with health and safety risks to the dwellers who formerly resided there and with complaints from the larger community.

RV dwellers have the legal right to shelter in their vehicles. They require a lot to do so. Despite the land limitations, the City needs to amp up efforts to identify another lot to be overseen by a social services provider. Fire extinguishers must be provided and there should be safety inspections.

For health and sanitation purposes, remaining RVS on the street should have waste management services provided. Waste management services were provided at SPARK,

should be provided at the new RV lot and for the health and sanitation of the RV dwellers and the larger community should be provided to RV dwellers living on the streets given the limited capacity of the RV lot provided.

#### BACKGROUND

On February 1, 2023, the Homeless Services Panel of Experts recommended as follows:

**Action:** M/S/C Marasovic/Johnson recommends to Council that they refer to staff to expedite all efforts to identify a location for another RV lot(s) to take the place of the now closed SPARK lot at 742 Grayson and that the new lot identified require mandatory safety inspections and fire extinguishers to be provided. The Homeless Services Panel of Experts further recommends that Council refer to staff to develop a waste management plan to be implemented for RVs currently on the streets.

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

#### ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

The benefits to the environment in terms of health and safety for the RV dwellers and the larger community, as to both recommendations, are indisputable.

#### RATIONALE FOR RECOMMENDATION

The need for the RV lot for the health and safety of the RV dwellers and larger community is stated above.

#### ALTERNATIVE ACTIONS CONSIDERED

Overnight lots, City or faith-based, could be explored but they are difficult to manage particularly by a single provider. In addition, they leave RV dwellers to wander the Berkeley streets during the day.

#### CITY MANAGER

See Companion Report.

#### CONTACT PERSON

Josh Jacobs, Homeless Services Coordinator, Neighborhood Services, (510) 981-5435





Office of the City Manager

ACTION CALENDAR

April 11, 2023

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Peter Radu, Assistant to the City Manager

Subject: Companion Report to Recommendation for RV Lot and Waste Management on Streets for RVs

RECOMMENDATION

Refer the Homeless Services Panel of Experts' recommendation to identify and expedite a new safe RV parking location/program and develop a waste management plan for RVs on the streets to the Budget and Finance Policy Committee for consideration alongside all other homeless services priorities in the budget process.

FISCAL IMPACTS OF RECOMMENDATION

As the Homeless Services Panel of Experts mention in their report, this recommendation needs to be evaluated by City staff and the Council Budget and Finance Committee to assess the costs of implementation. Costs will vary depending on locations, number of vehicles served, and breadth of social services offered to participants.

CURRENT SITUATION AND ITS EFFECTS

Staff do not disagree with the spirit of the Homeless Services Panel of Experts recommendation to quickly identify a location for another RV lot(s) to take the place of the now closed SPARK lot at 742 Grayson, that the new lot identified require mandatory safety inspections and fire extinguishers, and to develop a management plan to be implemented for RVs currently on the streets. However, this plan would require funding that is not currently identified. Moreover, as staff presented to the Budget and Finance Policy Committee on February 9, 2023, Measure P (the most likely source for implementing this recommendation) is projecting serious structural deficiencies over the remaining 5 years of its lifespan, and staff have recommended new shelter programs (such as the proposed master lease of the Super 8 at 1619 University Ave, which has the opportunity to leverage State funding on a 1:1 match basis) be prioritized first.

For these reasons, and given the limited staff capacity to identify, design, lease up and contract multiple new programs at once, we recommend sending this request to the Budget and Finance Committee for consideration in the budget process.

BACKGROUND

On February 1, 2023, the Homeless Services Panel of Experts recommended as follows:

**Action:** M/S/C Marasovic/Johnson recommends to Council that they refer to staff to expedite all efforts to identify a location for another RV lot(s) to take the place of the now closed SPARK lot at 742 Grayson and that the new lot identified require mandatory safety inspections and fire extinguishers to be provided. The Homeless Services Panel of Experts further recommends that Council refer to staff to develop a waste management plan to be implemented for RVs currently on the streets.

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

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

There are no environmental concerns with the recommendation to refer this item to the Budget and Finance Policy Committee. This recommendation is consistent with emergency preparedness needs for the unhoused community.

RATIONALE FOR RECOMMENDATION

The resources available to the unhoused community are extremely limited and spending funding on a recreational vehicle lot needs to be weighed against the other funding priorities for our homeless services.

ALTERNATIVE ACTIONS CONSIDERED

Alternative sites could also be identified to expand current shelter capacity which may alleviate the need for additional lot space.

CONTACT PERSON

Josh Jacobs, Homeless Services Coordinator, Neighborhood Services, (510) 225-8035



Peace and Justice Commission

39a

ACTION CALENDAR  
APRIL 11, 2023

To: Honorable Mayor and Members of the City Council

From: Peace and Justice Commission

Submitted by: George Lippman, Chairperson, Peace and Justice Commission

Subject: Referral of two health educator positions to the COB FY 2024 budget process

RECOMMENDATION:

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

FISCAL IMPACTS OF RECOMMENDATION

Estimated annual cost: \$150,000. This estimate was given by Dr. Lisa Warhuus, HHCS Director, for staffing, materials, and supplies to be able to more broadly and flexibly conduct health education, prevention, and outreach to reduce health disparities.

CURRENT SITUATION AND ITS EFFECTS:

According to HHCS Director Dr. Lisa Warhuus, “the overriding health challenge in Berkeley are health disparities....For many years, we have seen significant disparities between the health status of our white community members (generally well above national averages), and our BIPOC community members. Geographically, this shows up with generally excellent health outcomes for people living in the hills, with less ideal outcomes in zip codes in South and West Berkeley (although this is shifting somewhat with gentrification). In recent years, other high-risk populations would include people experiencing homelessness and, to some extent, the LGBTQ+ community (though we need more research on the latter as it can very dependent upon circumstances).

“One of the biggest challenges we have in addressing health disparities is in the communications and outreach (prevention) component of the work. We need to do more culturally responsive outreach to those most negatively impacted by disparities, **engage and listen to what people feel is most needed**, and work with them to fill that gap. In doing so over the years, our Public Health division has often found that what is most missing is trust in the system, information and education done in a culturally responsive way, and clear access points for medical insurance, coverage, and a medical home.

“For instance, in a health assessment conducted by the Public Health Division in 2018, the highest priority identified by Berkeley participants to achieve a healthy community was communities that had access to basic needs and services (i.e. healthcare, housing, healthy food, transportation, etc.), felt connected and was treated with openness, tolerance, and inclusion, and had resources and up to date information on services. “The greatest threats to optimal health that community members identified were high costs of living, food security, and stress/mental wellness with recurring barriers being lack of or limited information and resources available to community members.”

At its regular meeting January 9, 2023, the Peace and Justice Commission adopted the following recommendation proposing the hiring of two health educator positions for the next fiscal year.

M/S/C: Bohn, Jaquin.

Ayes: Lippman, Jacquelin, Bohn, Lee, Morizawa, Gussmann.

Noes: None.

Abstain: Maran.

Absent: Leon-Maldonado.

ENVIRONMENTAL SUSTAINABILITY

N/A

BACKGROUND

Peace and Justice commissioners, along with members of the Commission on the Status of Women and the Community Health Commission, recently met with HHCS Director Dr. Lisa Warhuus and Public Health Manager Janice Chin, at Council’s request, to discuss resources for and obstacles to reproductive health services and education. Dr. Warhuus clarified that “from the lens of HHCS, the work in Berkeley needs to be centered on health disparities in the larger context first,” and to “ensure that our Public Health Division continuously includes Reproductive and Sexual Health (RSH) work as a part of their broader health education, prevention, and outreach strategy.”

HHCS is bringing on a consultant who will organize and engage community members and other stakeholders to create a Community Health Assessment and a Community Health Improvement Plan, including a pilot program to create a health innovation zone to work toward remedying severe health inequities. Performance measures will be tracked through a new web-based population data health platform that will be rolled out as part of this process.

RATIONALE FOR RECOMMENDATION

HHCS would benefit from hiring staff and paying for materials and supplies out of general fund to be able to more broadly and flexibly conduct health education, prevention, and outreach to reduce health disparities.

The department is facing the lack of sufficient resources to do culturally responsive outreach, engagement, and prevention on an unconstrained basis. Engagement of these educators would assist with Reproductive and Sexual Health (RSH) outreach as part of the larger health outreach program.

ALTERNATIVE ACTIONS CONSIDERED

None

CITY MANAGER

See companion report.

CONTACT PERSON

George Lippman, Chairperson, Peace and Justice Commission  
Okeya Vance-Dozier, Commission Secretary, (510) 684-0503





Office of the City Manager

ACTION CALENDAR

April 11, 2023

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Peter Radu, Assistant to the City Manager

Subject: Companion Report: Referral of two health educator positions to the COB FY 2024 budget process

RECOMMENDATION:

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

FISCAL IMPACTS OF RECOMMENDATION

There are no fiscal impacts associated with this recommendation.

CURRENT SITUATION AND ITS EFFECTS:

The Peace and Justice Commission has requested \$150,000 annually to fund two health educator positions. The City Manager does not disagree with the potential merit of this request, but rather recommends that Council clearly identify concrete impacts and outcomes for the positions, as well as a budget source, before referring them for funding. Moreover, further deliberation allows Council to work with staff to identify any existing baseline services that could be supplemented, which may provide a more cost-efficient means of meeting outstanding needs than hiring new staff.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

There are no environmental benefits nor challenges associated with this recommendation.

BACKGROUND

At its regular meeting January 9, 2023, the Peace and Justice Commission adopted the following recommendation proposing the hiring of two health educator positions for the next fiscal year.

M/S/C: Bohn, Jaquin.

Ayes: Lippman, Jacquelin, Bohn, Lee, Morizawa, Gussmann.

Noes: None.

Abstain: Maran.

Absent: Leon-Maldonado.

RATIONALE FOR RECOMMENDATION

A clearer picture of desired impacts and outcomes associated with this request compared to baseline services, as well as financial implications, should be identified at the Committee level before recommending them to the full Council for funding.

ALTERNATIVE ACTIONS CONSIDERED

Council could refer this request directly to the budget process.

CONTACT PERSON

Peter Radu, Assistant to the City Manager, (510) 981-7045.





Environment and Climate Commission

INFORMATION CALENDAR

April 11, 2023

To: Honorable Mayor and Members of the City Council  
 From: Environment and Climate Commission (ECC)  
 Submitted by: Ben Gould, Chairperson, ECC  
 Subject: Environment and Climate Commission 2023 Work Plan

INTRODUCTION

The Environment and Climate Commission is responsible for advising the City Council on matters related to environmental sustainability and climate change. The commission’s scope includes work to advance the goals of: advancing green buildings and resource efficiency; decarbonizing buildings and transportation; engaging and educating the community; addressing the impacts and welfare of all species, including animals, insects, and plants; reducing greenhouse gas emissions; reducing toxics and preventing pollution; and supporting environmental justice. The commission works closely with the City of Berkeley’s Office of Energy & Sustainable Development (OESD).

CURRENT SITUATION AND ITS EFFECTS

The ECC has a broad scope and a responsibility to support and work closely with OESD staff. The following projects are the current efforts underway by the ECC:

| Project                                                                          | Status       | Description                                                                                                                                                                                                                                                                                                |
|----------------------------------------------------------------------------------|--------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Transportation Public Space Re-allocation & Vehicle Miles Traveled (VMT) Targets | In Committee | Re-allocate public street space away from auto-centric uses towards pedestrians, bicyclists, and buses, even more than currently envisioned in the bicycle and pedestrian master plans. Consider setting specific, measurable VMT reduction targets and identify and implement strategies to achieve them. |
| Encourage cargo bike deliveries                                                  | In Committee | Encourage e-bike deliveries to & by businesses.                                                                                                                                                                                                                                                            |
| Native Plants and Pest Reduction                                                 | In Committee | Identify opportunities & strategies to support native plants & avoid pesticides.                                                                                                                                                                                                                           |

|                      |         |                                                                                                                                                                                                                                                                    |
|----------------------|---------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| OESD input & support | Ongoing | Support OESD staff with feedback on programs, standards, and other initiatives, including the Building Emissions Saving Ordinance (BESO), the Berkeley Existing Buildings Electrification Strategy (BEBES), the Climate Equity Fund, Climate Action planning, etc. |
|----------------------|---------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

At its February 22, 2023 meeting the Environment and Climate Commission approved the work plan to send to the City Council as follows: Motion/second to approve the 2023 Workplan as revised during the meeting (Tregub, Hedlund). The motion carried 9-0-0-0; Ayes: Tregub, Ranney, Hedlund, McGuire, Tahara, Allen, Guliasi, Lunaparra, Gould. Noes: None. Abstain: None. Absent: None.

**BACKGROUND**

First established in 2022, ECC was formed by merging the Community Environmental Advisory Commission (CEAC) and the Energy Commission (EC). ECC commissioners bring a wide range of expertise, with backgrounds in government, academia, nonprofit, and private sector environmental work. These backgrounds inform ECC’s work and help it to consider diverse and equitable approaches to addressing the City’s environmental challenges.

This work plan is intended to provide a guide to the work ECC plans to take on in 2022. As additional items or issues arise, or are referred to the Commission from Council, ECC will adjust this plan accordingly.

**ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS**

ECC’s initiatives will improve environmental sustainability, reduce greenhouse gas emissions, and support a just transition.

**POSSIBLE FUTURE ACTION**

ECC is considering the following potential additional efforts:

| Project                              | Status     | Description                                                                                                                                                                                                                                                                                                                                      |
|--------------------------------------|------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Green New Deal policies              | Conceptual | Develop and support Green New Deal policies for Berkeley.                                                                                                                                                                                                                                                                                        |
| Electrification Information Campaign | Conceptual | Making it easier for homeowners and renters who are interested in electrification (building + vehicle) to get information & be excited. Give people positive feelings about induction and electrification. Create checklist / resources / what you might do / should think about for people who are not doing major remodel or buying home, etc. |

|                                                                 |            |                                                                                                                                                        |
|-----------------------------------------------------------------|------------|--------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                                 |            | Support renters with feasible, affordable technologies.                                                                                                |
| Electric Mobility                                               | Conceptual | Work to reduce technological, policy, access, and cost barriers to transportation electrification.                                                     |
| Expanded OESD Support – events, resiliency hubs                 | Conceptual | Provide additional support at public events where OESD is staffing tables or otherwise engaging with the public. Support OESD with resiliency centers. |
| Water conservation, recycling, and reuse; stormwater management | Conceptual | Explore opportunities for policies and initiatives around water conservation, recycling, and reuse; stormwater management.                             |

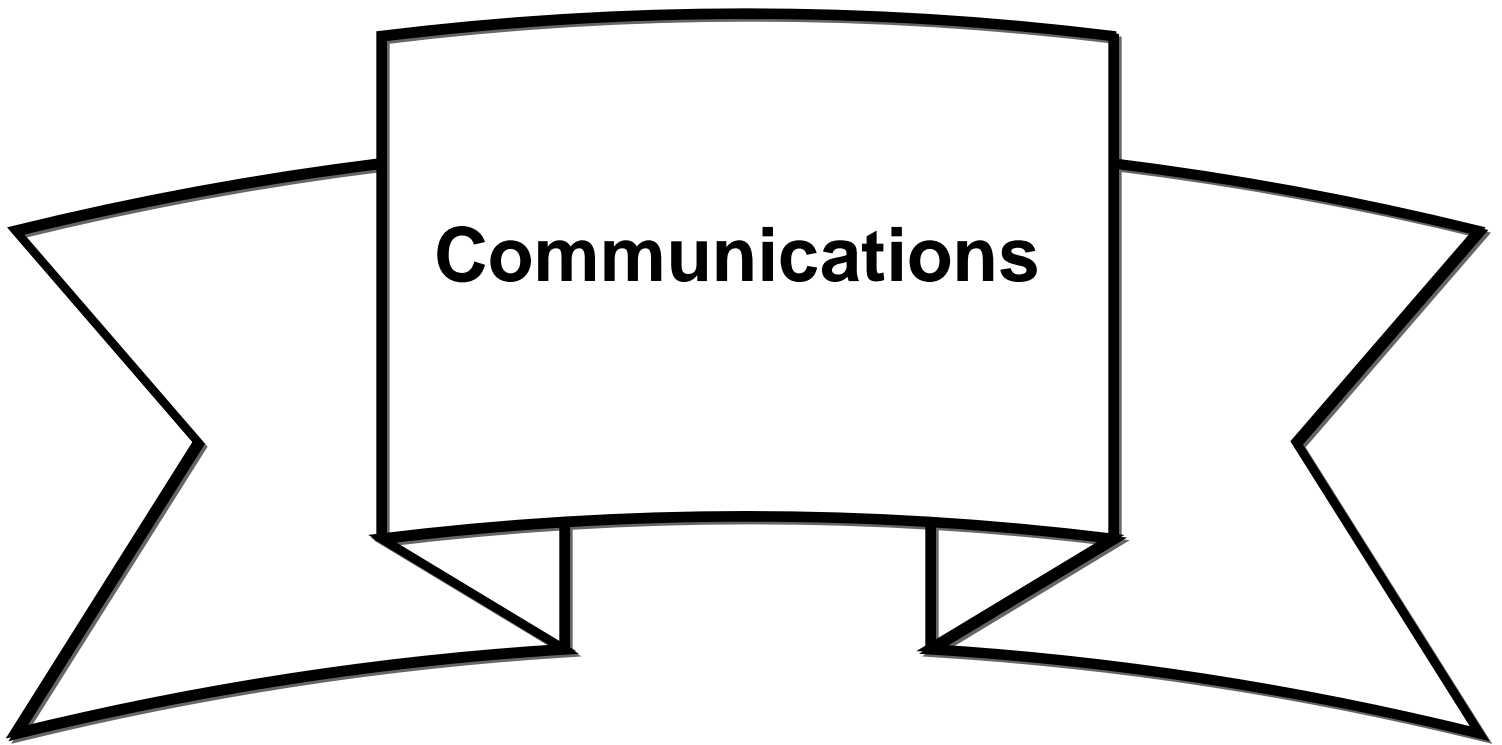
**FISCAL IMPACTS OF POSSIBLE FUTURE ACTION**

Future action items that ECC may send to City Council could require staff time to develop, finalize, and/or implement. ECC strives to ensure proposals provide significant net triple bottom line benefits to the City when evaluating total costs and benefits across environmental, social, and economic impacts.

**CONTACT PERSON**

Billi Romain, Secretary, Environment and Climate Commission,  
[BRomain@cityofberkeley.info](mailto:BRomain@cityofberkeley.info).





All communications submitted to the City Council are public record. Communications are not published directly to the City's website. Copies of individual communications are available for viewing at the City Clerk Department and through Records Online.

**City Clerk Department**

2180 Milvia Street  
Berkeley, CA 94704  
(510) 981-6900

**Records Online**

<https://records.cityofberkeley.info/>

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1. Select Search Type = “Public – Communication Query (Keywords)”
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6. Click the desired file in the Results column to view the document as a PDF