

# AGENDA



## BERKELEY CITY COUNCIL MEETING

Tuesday, June 30, 2020

6:00 PM

JESSE ARREGUIN, MAYOR

Councilmembers:

DISTRICT 1 – RASHI KESARWANI

DISTRICT 2 – CHERYL DAVILA

DISTRICT 3 – BEN BARTLETT

DISTRICT 4 – KATE HARRISON

DISTRICT 5 – SOPHIE HAHN

DISTRICT 6 – SUSAN WENGRAF

DISTRICT 7 – RIGEL ROBINSON

DISTRICT 8 – LORI DROSTE

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

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

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

*To access the meeting remotely: Join from a PC, Mac, iPad, iPhone, or Android device: Please use this URL <https://us02web.zoom.us/j/87199785160>. If you do not wish for your name to appear on the screen, then use the drop down menu and click on "rename" to rename yourself to be anonymous. To request to speak, use the "raise hand" icon by rolling over the bottom of the screen.*

*To join by phone: Dial **1-669-900-9128** and enter Meeting ID: **871 9978 5160**. If you wish to comment during the public comment portion of the agenda, Press \*9 and wait to be recognized by the Chair.*

*To submit an e-mail comment during the meeting to be read aloud during public comment, email [clerk@cityofberkeley.info](mailto:clerk@cityofberkeley.info) with the Subject Line in this format: "PUBLIC COMMENT ITEM ##." Please observe a 150 word limit. Time limits on public comments will apply. Written comments will be entered into the public record.*

*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.*

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

## Preliminary Matters

### Roll Call:

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

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

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

## Consent Calendar

*The Council will first determine whether to move items on the agenda for "Action" or "Information" to the "Consent Calendar", or move "Consent Calendar" items to "Action." Items that remain on the "Consent Calendar" are voted on in one motion as a group. "Information" items are not discussed or acted upon at the Council meeting unless they are moved to "Action" or "Consent".*

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

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

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

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

## Consent Calendar

- 1. FY 2021 Tax Rate: Fund Disaster Fire Protection (Measure Q)**  
**From: City Manager**  
**Recommendation:** Adopt second reading of Ordinance No. 7,709-N.S. setting the FY 2021 tax rate for funding the procurement of disaster fire equipment at \$0.0125 (1.25 cents) per square foot of improvements.  
**First Reading Vote:** All Ayes.  
**Financial Implications:** See report  
Contact: Henry Oyekanmi, Finance, (510) 981-7300
- 2. FY 2021 Tax Rate: Fund Debt Service on Neighborhood Branch Library Improvements Project General Obligation Bonds (Measure FF, November 2008 Election)**  
**From: City Manager**  
**Recommendation:** Adopt second reading of Ordinance No. 7,710-N.S. setting the FY 2021 tax rate for funding the debt service on the Neighborhood Branch Library Improvements Project General Obligation Bonds (Measure FF, November 2008 Election) at 0.0070%.  
**First Reading Vote:** All Ayes.  
**Financial Implications:** See report  
Contact: Henry Oyekanmi, Finance, (510) 981-7300
- 3. FY 2021 Tax Rate: Fund the Debt Service on the Infrastructure and Facilities General Obligation Bonds (Measure T1, November 2016 Election)**  
**From: City Manager**  
**Recommendation:** Adopt second reading of Ordinance No. 7,711-N.S. setting the FY 2021 tax rate funding the debt service on the Infrastructure and Facilities Improvements General Obligation Bonds (Measure T1, November 2016) at 0.0160%.  
**First Reading Vote:** All Ayes.  
**Financial Implications:** See report  
Contact: Henry Oyekanmi, Finance, (510) 981-7300
- 4. FY 2021 Tax Rate: Fund Debt Service on 2015 Refunding General Obligation Bonds (Measures G, S & I)**  
**From: City Manager**  
**Recommendation:** Adopt second reading of Ordinance No. 7,712-N.S. setting the FY 2021 tax rate funding the debt service on the 2015 consolidation of Measures G, S and I (General Obligation Bonds - Elections of 1992, 1996 and 2002) at 0.0140%.  
**First Reading Vote:** All Ayes.  
**Financial Implications:** See report  
Contact: Henry Oyekanmi, Finance, (510) 981-7300

## Consent Calendar

- 5. FY 2021 Special Tax Rate: Fund the Provision of Library Services**  
**From: City Manager**  
**Recommendation:** Adopt second reading of Ordinance No. 7,713-N.S. setting the FY 2021 tax rate for funding the provision of Library Services in the City of Berkeley at the FY 2020 tax rate adopted by Ordinance No. 7,665-N.S. on June 11, 2019 at \$0.2272 (22.72 cents) per square foot for dwelling units and \$0.3435 (34.35 cents) per square foot for industrial, commercial, and institutional buildings.  
**First Reading Vote:** All Ayes.  
**Financial Implications:** See report  
Contact: Henry Oyekanmi, Finance, (510) 981-7300; Elliot Warren, Library, (510) 981-6100
- 6. FY 2021 Tax Rate: Business License Tax on Large Non-Profits**  
**From: City Manager**  
**Recommendation:** Adopt second reading of Ordinance No. 7,714-N.S. setting the FY 2021 tax rate for Business License Tax on large non-profits at \$0.6659 (66.59 cents) per square foot of improvements.  
**First Reading Vote:** All Ayes.  
**Financial Implications:** See report  
Contact: Henry Oyekanmi, Finance, (510) 981-7300
- 7. FY 2021 Tax Rate: Fund the Debt Service on the Affordable Housing General Obligation Bonds (Measure O, November 2018 Election)**  
**From: City Manager**  
**Recommendation:** Adopt second reading of Ordinance No. 7,715-N.S. setting the FY 2021 tax rate funding the debt service on the Affordable Housing General Obligation Bonds (Measure O, November 2018) at 0.0090%.  
**First Reading Vote:** All Ayes.  
**Financial Implications:** See report  
Contact: Henry Oyekanmi, Finance, (510) 981-7300
- 8. FY 2021 Tax Rate: Fund the Debt Service on the Street and Watershed Improvements General Obligation Bonds (Measure M, November 2012 Election)**  
**From: City Manager**  
**Recommendation:** Adopt second reading of Ordinance No. 7,716-N.S. setting the FY 2021 tax rate funding the debt service on the Street and Integrated Watershed Improvements General Obligation Bonds (Measure M, November 2012) at 0.0080%.  
**First Reading Vote:** All Ayes.  
**Financial Implications:** See report  
Contact: Henry Oyekanmi, Finance, (510) 981-7300

## Consent Calendar

- 9. FY 2021 Tax Rate: Fund the Maintenance of Parks, City Trees and Landscaping**  
**From: City Manager**  
**Recommendation:** Adopt second reading of Ordinance No. 7,717-N.S. setting the FY 2021 tax rate for funding all improvements for the maintenance of parks, City trees, and landscaping in the City of Berkeley at \$0.1793 (17.93 cents) per square foot of improvements.  
**First Reading Vote:** All Ayes.  
**Financial Implications:** See report  
Contact: Henry Oyekanmi, Finance, (510) 981-7300
- 10. FY 2021 Tax Rate: Fund Emergency Services for the Severely Disabled (Measure E)**  
**From: City Manager**  
**Recommendation:** Adopt second reading of Ordinance No. 7,718-N.S. setting the FY 2021 tax rate for funding the provision of emergency services for the disabled at \$0.01699 (1.699 cents) per square foot of improvements.  
**First Reading Vote:** All Ayes.  
**Financial Implications:** See report  
Contact: Henry Oyekanmi, Finance, (510) 981-7300
- 11. FY 2021 Tax Rate: Fund the Provision of Emergency Medical Services (Paramedic Tax)**  
**From: City Manager**  
**Recommendation:** Adopt second reading of Ordinance No. 7,719-N.S. setting the FY 2021 tax rate for funding the provision of emergency medical services to Berkeley residents at \$0.0397 (3.97 cents) per square foot of improvements.  
**First Reading Vote:** All Ayes.  
**Financial Implications:** See report  
Contact: Henry Oyekanmi, Finance, (510) 981-7300
- 12. Minutes for Approval**  
**From: City Manager**  
**Recommendation:** Approve the minutes for the council meetings of May 5, 2020 (closed), May 12, 2020 (closed and regular), May 19, 2020 (special), May 21, 2020 (closed) and May 26, 2020 (closed and regular).  
**Financial Implications:** None  
Contact: Mark Numainville, City Clerk, (510) 981-6900
- 13. Animal Services Contract with the City of Piedmont**  
**From: City Manager**  
**Recommendation:** Adopt a resolution authorizing the City Manager to execute a contract, with any amendments, with the City of Piedmont for animal care services for FY2021-FY2025, which increases the existing contract by up to \$180,134, with a total contract amount not to exceed \$441,984.  
**Financial Implications:** See report  
Contact: Erin Steffen, City Manager's Office, (510) 981-7000

## Consent Calendar

- 14. Amendment to Contract No. 10854 (ERMA Contract No. 118939-1): Townsend Public Affairs, Inc. for Legislative and Funding Advocacy Strategy**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute an amendment to the contract with Townsend Public Affairs, Inc., contract No. 10854 (ERMA Contract No. 118939-1), for an ongoing tailored legislative and funding advocacy strategy, increasing the contract amount by \$30,000, for an amount not-to-exceed \$120,000, and extending the contract from June 30, 2020 to June 30, 2021.  
**Financial Implications:** See report  
Contact: Dave White, City Manager's Office, (510) 981-7000
- 15. Contract: Downtown Berkeley YMCA for Fitness Center Memberships for City Employees Pursuant to Negotiated Employee Memoranda of Understanding**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a contract and any amendments with the Downtown Berkeley YMCA in the amount of \$214,848 for fitness center memberships for City employees pursuant to negotiated employee memoranda of understanding from the period July 1, 2020 to June 30, 2021.  
**Financial Implications:** See report  
Contact: Teresa Berkeley-Simmons, Budget Manager, (510) 981-7000
- 16. Formal Bid Solicitations and Request for Proposals Scheduled for Possible Issuance After Council Approval on June 30, 2020**  
**From: City Manager**  
**Recommendation:** Approve the request for proposals or invitation for bids (attached to staff report) that will be, or are planned to be, issued upon final approval by the requesting department or division. All contracts over the City Manager's threshold will be returned to Council for final approval.  
**Financial Implications:** \$195,000  
Contact: Henry Oyekanmi, Finance, (510) 981-7300
- 17. FY 2021 Reaffirming the Investment Policies and Designation of Investment Authority**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution affirming the Statement of Investment Policies (no changes from the current policy) and to confirm the delegation of investment authority to the Director of Finance to make investments for FY 2021.  
**Financial Implications:** None  
Contact: Henry Oyekanmi, Finance, (510) 981-7300

## Consent Calendar

### 18. Appropriations Limit for FY 2021

**From: City Manager**

**Recommendation:** Adopt a Resolution establishing the appropriations limit at \$284,280,447 for FY 2021 pursuant to Article XIII B of the Constitution of the State of California based on the calculations for the appropriations limit.

**Financial Implications:** See report

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

### 19. FY 2021 Tax Rate: Fund Fire Protection and Emergency Response and Preparedness (Measure GG)

**From: City Manager**

**Recommendation:** Adopt first reading of an Ordinance setting the FY 2021 tax rate for funding Fire Protection and Emergency Response and Preparedness in the City of Berkeley at the rate of \$0.05818 (5.818 cents) per square foot of improvements for dwelling units and setting the rate for all other property at \$0.08804 (8.804 cents) per square foot of improvements with no increase in tax rate.

**Financial Implications:** See report

Contact: Henry Oyekanmi, Finance, (510) 981-7300; Dave Brannigan, Fire, (510) 981-5500

### 20. Grant Agreement Amendment: Alameda County Coordinated Entry System (CES) Grant

**From: City Manager**

**Recommendation:** Adopt a Resolution authorizing the City Manager or her designee to: 1. Receive \$878,449 in additional funding and execute any agreements and amendments resulting from an augmentation and extension of a three-year grant from Alameda County Health Care Services Agency (HCSA) to fund a North County Housing Resource Center and Coordinated Entry System to Prevent and End Homelessness through December 31, 2020, increasing the contract amount to \$5,309,786, and extending the end date of the contract to December 31, 2020; 2. Execute resulting contracts for services with Bay Area Community Services (BACS) and the Cities of Albany and Oakland to fulfill the purpose of the grant; and 3. Retain \$90,004 in funding for staff in the Health, Housing & Community Services Department (HHCS) for program delivery.

**Financial Implications:** See report

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

## Consent Calendar

### 21. **Mental Health Services Act Contract Amendment: Covenant House**

**From: City Manager**

**Recommendation:** Adopt two Resolutions authorizing the City Manager or her designee to execute amendments for the following contracts with Covenant House that are funded through Mental Health Services Act (MHSA) Community Services and Supports (CSS) and Prevention and Early Intervention (PEI), and increasing the contract amounts as outlined below, and extending the contracts through March 31, 2021:

1. Increasing PEI ERMA Contract No. 122380-1 (8606J) with Covenant House California-YEAH! Program, in the amount of \$24,035 for a total contract amount not to exceed \$307,139 for support groups for Transition Age Youth (TAY);
2. Increasing CSS ERMA Contract No. 120650-1 (9553F) with Covenant House California-YEAH! Program by \$92,142 for a total contract amount not to exceed \$847,428 for services for transition age youth.

**Financial Implications:** See report

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

### 22. **Contract Amendments: Mental Health Services Act, Prevention and Early Intervention**

**From: City Manager**

**Recommendation:** Adopt two Resolutions authorizing the City Manager or her designee to execute amendments for the following contracts that are funded through Mental Health Services Act (MHSA) Prevention and Early Intervention (PEI), and extending the contracts through March 31, 2021:

1. Increasing PEI ERMA Contract No. 088999 -1 (8801I) with Center for Independent Living (CIL) in the amount of \$24,035 for a total contract amount not to exceed \$280,619 for supports for senior citizens;
2. Increasing PEI ERMA Contract No. 052129-1 (8516J) with Pacific Center for Human Growth in the amount of \$24,035 for a total contract amount not to exceed \$307,139 to serve Lesbian, Gay, Bi-sexual, Transgender, Queer/Questioning, and Intersex (LGBTQI) individuals.

**Financial Implications:** See report

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

### 23. **Contract Amendment with BOSS for Representative Payee services**

**From: City Manager**

**Recommendation:** Adopt a Resolution authorizing the City Manager or her designee to execute a contract amendment with vendor Building Opportunities for Self-Sufficiency (BOSS) to provide Representative Payee services. The amendment will add \$100,000 to the current contract and extend it through June 30, 2021 for a total contract not to exceed amount of \$200,000.

**Financial Implications:** See report

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



## Consent Calendar

24. **Reimbursement Agreement with the City of San Jose and the City of Berkeley Police Department for Training Related to the Internet Crimes Against Children (ICAC) Task Force**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution approving the Agreement of Reimbursement between the City of San Jose and the City of Berkeley Police Department (Internet Crimes Against Children Training Costs) to provide for training reimbursement of Internet Crimes Against Children federal grant-related training costs to the City of Berkeley.  
**Financial Implications:** None  
Contact: Andrew Greenwood, Police, (510) 981-5900
25. **Grant Applications: Active Transportation Program Cycle 5**  
**From: City Manager**  
**Recommendation:** Adopt three Resolutions authorizing the City Manager to submit grant applications to the Caltrans Active Transportation Program for the following projects: 1) Washington Elementary and Berkeley High Safe Routes to School for up to \$2 million; 2) Martin Luther King Jr. Way Vision Zero Phase I Quick Build for up to \$600,000; and 3) Addison Street Bicycle Boulevard Phase II for up to \$2 million; and accept the grants awarded, and execute any resultant agreements and amendments.  
**Financial Implications:** See report  
Contact: Phillip Harrington, Public Works, (510) 981-6300
26. **Contract No. 31900035 Amendment: Ghilotti Construction Company for Shattuck Reconfiguration and Pedestrian Safety Project**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 31900035 with Ghilotti Construction Company for work on the Shattuck Reconfiguration and Pedestrian Safety Project (“Project”), Specification No.17-11090-C, increasing the contract amount by up to \$300,000 for an amended total not to exceed \$8,286,960.  
**Financial Implications:** See report  
Contact: Phillip Harrington, Public Works, (510) 981-6300
27. **Approval and Levy of 2018 Clean Stormwater Fee in FY 2021**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution approving the proposed adjusted fees for the 2018 Clean Stormwater Fee and ordering the levy of the fees in Fiscal Year 2021.  
**Financial Implications:** See report  
Contact: Phillip Harrington, Public Works, (510) 981-6300

## Council Consent items

- 28. Support United States Congresswoman Barbara Lee's legislation to establish a United States Commission on Truth, Racial Healing, and Transformation.**  
**From: Councilmember Davila (Author), Councilmember Bartlett (Co-Sponsor), Mayor Arreguin (Co-Sponsor)**  
**Recommendation:** 1. Adopt a resolution supporting United States Congresswoman Barbara Lee's legislation to establish a United States Commission on Truth, Racial Healing, and Transformation.  
2. Send copies of this resolution to United States Congresswoman Barbara Lee.  
**Financial Implications:** None  
Contact: Cheryl Davila, Councilmember, District 2, (510) 981-7120
- 29. Resolution Urging Members Of Our State Legislature And Governor To Explore New Revenue Generating Options, Including A Millionaire Tax To Ensure Safety Net Programs Are Not Cut Due To An Unprecedented Statewide Deficit**  
**From: Councilmember Harrison (Author), Councilmember Davila (Co-Sponsor)**  
**Recommendation:** Adopt a resolution encouraging State Legislators and the Governor to explore revenue options, including an additional tax on the highest earning Californians, to address the significant state budget shortfall following the impact of COVID-19.  
**Financial Implications:** None  
Contact: Kate Harrison, Councilmember, District 4, (510) 981-7140
- 30. Support for AB-3256: Economic Recovery and Climate Resiliency Bond**  
**From: Councilmember Wengraf (Author)**  
**Recommendation:** Adopt a Resolution in support of AB-3256: Economic Recovery, Wildfire Prevention, Safe Drinking Water, Drought Preparation, and Flood Protection Bond Act of 2020 (E. Garcia, Bloom, Bonta, Friedman, C. Garcia, Mullin, Reyes and Wood).  
**Financial Implications:** None  
Contact: Susan Wengraf, Councilmember, District 6, (510) 981-7160
- 31. Support for AB-2501 COVID-19: Homeowner, Tenant, and Consumer relief**  
**From: Councilmember Wengraf (Author)**  
**Recommendation:** Adopt a Resolution in support of AB-2501: Homeowner, Tenant and Consumer Relief (Limón). Send a copy of the Resolution to Assemblymembers Limón, Skinner and Wicks and Governor Newsom.  
**Financial Implications:** None  
Contact: Susan Wengraf, Councilmember, District 6, (510) 981-7160

## Council Consent items

- 32. Support for ACA 5: California Act for Economic Prosperity**  
**From: Councilmember Robinson (Author), Councilmember Davila (Co-Sponsor), Councilmember Bartlett (Co-Sponsor), Mayor Arreguin (Co-Sponsor)**  
**Recommendation:** Adopt a resolution in support of ACA 5, which would place a measure on the statewide ballot to repeal Proposition 209 (1996) and allow the State of California to pursue minority equal opportunity and access initiatives in public employment, education, and contracting. Send copies of the resolution to Assemblymembers Shirley Weber, Mike Gipson, Miguel Santiago, Lorena Gonzalez, and Buffy Wicks, and State Senator Nancy Skinner.  
**Financial Implications:** None  
Contact: Rigel Robinson, Councilmember, District 7, (510) 981-7170

## Action Calendar

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

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

*The Presiding Officer may, with the consent of persons representing both sides of an issue, allocate a block of time to each side to present their issue.*

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

## Action Calendar – Public Hearings

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

*Up to ten (10) speakers may speak for two minutes. If there are more than ten persons interested in speaking, the Presiding Officer may limit the public comment for all speakers to one minute per speaker. The Presiding Officer may with the consent of persons representing both sides of an issue allocate a block of time to each side to present their issue.*

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

## Action Calendar – Public Hearings

33. **Amend One-Way Car Share Program: Electric Mopeds, Fees, Deposits**  
**From: City Manager**  
**Recommendation:** Conduct a public hearing and upon conclusion, 1) adopt a Resolution to amend the One-Way Car Share Program to rename it as the One-Way Vehicle Share Program, add parking permit and administration fees for electric mopeds, and adjust the administration fee and free-floating parking permit deposits for cars, and 2) adopt the first reading of an Ordinance pursuant to Berkeley Municipal Code Chapter 14.62, renaming the One-Way Car Share Program as the One-Way Vehicle Share Program and removing obsolete references to parking permit stickers affixed to vehicles.  
**Financial Implications:** See report  
Contact: Phillip Harrington, Public Works, (510) 981-6300
34. **Amendments to the Berkeley Election Reform Act; Amending Berkeley Municipal Code Chapter 2.12**  
**From: Fair Campaign Practices Commission**  
**Recommendation:** Conduct a public hearing and upon conclusion, adopt an ordinance amending the Berkeley Election Reform Act, BMC Chapter 2.12, regarding the public financing program.  
**Financial Implications:** None  
Contact: Sam Harvey, Commission Secretary, (510) 981-6950

## Action Calendar – Old Business

35. **Placing Charter Amendment Measure on the November 3, 2020 Ballot Related to Full-Time Status and Salaries for the Mayor and Councilmembers** *(Continued from June 16, 2020)*  
**From: City Manager**  
**Recommendation:**  
1. Adopt a Resolution submitting an Amendment to Article V of the City Charter regarding the full-time status and salaries for the Mayor and City Council to a vote of the electors at the November 3, 2020 General Municipal Election.  
2. Designate, by motion, specific members of the Council to file ballot measure arguments on this measure as provided for in Elections Code Section 9282.  
**Financial Implications:** None  
Contact: Mark Numainville, City Clerk, (510) 981-6900

## Action Calendar - Old Business

- 36. Recommendation to Prepare a City Ballot Measure to Create a Climate Action Fund, in Response to the Fossil Fuel Free Berkeley Referral** *(Item contains supplemental material) (Continued from June 16, 2020)*  
**From: Energy Commission**  
**Recommendation:** The Commission recommends that the City Council develop a referendum and seek approval for it on the 2020 ballot to create a Climate Action Fund, which would support actions to achieve the Berkeley Climate Action Plan, to become Fossil Fuel free, and to respond to the Climate Emergency.  
**Financial Implications:** See report.  
Contact: Billi Romain, Commission Secretary, (510) 981-7400
- 37. Proposed Amendment to Berkeley's Minimum Wage Ordinance: Berkeley Municipal Code Chapter 13.99** *(Continued from June 16, 2020)*  
**From: City Manager**  
**Recommendation:** Adopt first reading of an Ordinance amending Berkeley Municipal Code Chapter 13.99, revising Section 13.99.040 to reinstate the exemption for youth job training programs, and freezing the youth wages at \$14.50 per hour for FY21, then increase the wage annually according to the Consumer Price Index as will occur with the Berkeley Minimum wage.  
**Financial Implications:** See report  
Contact: Lisa Warhuus, Housing and Community Services, (510) 981-5400
- 38. Placing Charter Amendment Measure on the November 3, 2020 Ballot to Repeal the Residency Requirement for Sworn Members of the Berkeley Fire Department** *(Continued from June 16, 2020)*  
**From: City Manager**  
**Recommendation:**  
  1. Adopt a Resolution submitting an Amendment to Article VII of the City Charter regarding the residency requirement for sworn members of the Fire Department to a vote of the electors at the November 3, 2020 General Municipal Election.
  2. Designate, by motion, specific members of the Council to file ballot measure arguments on this measure as provided for in Elections Code Section 9282.**Financial Implications:** See report  
Contact: Mark Numainville, City Clerk, (510) 981-6900
- 39. Contract: CycloMedia Technology, Inc. for Geographic Information System Infrastructure Asset Data Acquisition** *(Continued from June 16, 2020)*  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a contract with CycloMedia Technology Incorporated for Geographic Information System infrastructure asset data acquisition, for an amount not to exceed \$187,401 for the period commencing on May 15, 2020 to June 30, 2022.  
**Financial Implications:** Various Funds - \$187,401  
Contact: Savita Chaudhary, Information Technology, (510) 981-6500

## Action Calendar – New Business

### 40. FY 2021 Mid-Biennial Budget Update Adoption

**From: City Manager**

**Recommendation:** Adopt a Resolution:

1. Adopting the FY 2021 Budget as contained in the City Manager’s FY 2021 Proposed Budget Update presented to Council on May 12, 2020, June 9, 2020, and as amended by subsequent Council action.
2. Authorizing the City Manager to provide applicable advances to selected community agencies receiving City funds in FY 2021, as reflected in Attachment 2, and as amended by subsequent Council action.

**Financial Implications:** See report

Contact: Teresa Berkeley-Simmons, Budget Manager, (510) 981-7000

### 41. FY 2021 Annual Appropriations Ordinance

**From: City Manager**

**Recommendation:** Adopt first reading of an Ordinance adopting the FY 2021 Annual Appropriations Ordinance (AAO) in the amount of \$521,674,251 (gross appropriations) and \$439,737,989 (net appropriations).

**Financial Implications:** See report

Contact: Teresa Berkeley-Simmons, Budget Manager, (510) 981-7000

### 42. Borrowing of Funds and the Sale and Issuance of FY 2020-21 Tax and Revenue Anticipation Notes

**From: City Manager**

**Recommendation:** Adopt a Resolution approving the borrowing of \$43,000,000 and the sale and issuance of Fiscal Year 2020-21 Tax and Revenue Anticipation Notes.

**Financial Implications:**

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

## Information Reports

### 43. Dispatch Audit Report Wins National Recognition

**From: Auditor**

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

### 44. City Auditor Fiscal Year 2021 Audit Plan

**From: Auditor**

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

## Public Comment – Items Not Listed on the Agenda

## Adjournment

**NOTICE CONCERNING YOUR LEGAL RIGHTS:** If you object to a decision by the City Council to approve or deny a use permit or variance for a project the following requirements and restrictions apply: 1) No lawsuit challenging a City decision to deny (Code Civ. Proc. §1094.6(b)) or approve (Gov. Code 65009(c)(5)) a use permit or variance may be filed more than 90 days after the date the Notice of Decision of the action of the City Council is mailed. Any lawsuit not filed within that 90-day period will be

barred. 2) In any lawsuit that may be filed against a City Council decision to approve or deny a use permit or variance, the issues and evidence will be limited to those raised by you or someone else, orally or in writing, at a public hearing or prior to the close of the last public hearing on the project.

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

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

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

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

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

COMMUNICATION ACCESS INFORMATION:

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



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

~~~~~  
*I hereby certify that the agenda for this meeting of the Berkeley City Council was posted at the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way, as well as on the City's website, on June 18, 2020.*

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

Mark Numainville, City Clerk

## **Communications**

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

### **ADU and Golden Duplexes**

1. Elisa Mikiten
2. Erik Dreher
3. Lee Goodwin
4. Jas Kaminsky
5. Andrew Marowitz (2)
6. Lauren Schiller
7. Gail Martin

### **East Bay Community Energy Budget and Rates**

8. Richard Collins

### **Telegraph Avenue Triangle**

9. Diana Bohn

### **True Issues – Not Signage**

10. Wini Williams

### **Good Cause Eviction**

11. Susan Sky

### **Telecom Ordinance**

12. Soula Culver

### **Clean Up Around Adeline and Alcatraz**

13. Ms. Richie and Friends of Adeline

### **Insurance Coverage During Civil Unrest**

14. Ricardo Lara, Insurance Commissioner
15. Mary Beth Bykowsky, on behalf of Community Relations and Outreach Branch

### **Surveillance and Technology Ordinance**

16. Blair Beekman

### **Fuel Powered Leaf Blowers**

17. Yvette Chalom

### **Trump=Nazi Graffiti**

18. Elana Naftalin-Kelman (4)



## **LRDP and Campus Master Plan Update**

19. Margot Smith

## **Measure GG Tax Rate**

20. Gradiva Couzin, Chair, Disaster and Fire Safety Commission

## **Police Concerns**

21. Russbumper

22. Catherine Huchting

23. Margy Wilkinson

24. G. Whittle

25. Carole Marasovic

26. Margy Wilkinson

27. Jane Ellis

28. Lori Pottinger

29. Caterina and Jonathan Polland

30. Tom Luce

31. Christine Schwartz

32. Bud Hazelkorn

33. Carol Denney

34. Elisa Mikiten

## **Black Business Owners**

35. Vivian Warkentin

## **Removing Flyers**

36. Carol Denney

## **Covid-19**

37. Carla Woodworth

38. Rachel Bradley

39. Nikos Daniilidis (2)

40. Rochelle Nason, City Councilmember City of Albany

41. Dawn Abrahamson

42. David Lerman (5)

43. Lisa Hernandez, Health Office/City of Berkeley

44. Chimey Lee

45. Georg Torgun

46. Mariam Wolodarski Lundberg

## **South Berkeley Neighborhood Development Corp. Request**

47. Landon William, on behalf of SBNDC

## **Supplemental Communications and Reports**

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

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

ORDINANCE NO. 7,709-N.S.

SETTING THE FISCAL YEAR 2021 SPECIAL TAX RATE TO FUND THE  
PROCUREMENT OF DISASTER FIRE EQUIPMENT FOR THE CITY OF BERKELEY

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

Section 1. The FY 2020 Tax Rate for the procurement of disaster fire equipment is set at \$0.0125 per square foot of taxable improvements.

Section 2. The cost to taxpayers during FY 2021 will be \$15.00 for a 1,200 square foot home and \$37.50 for a 3,000 square foot home.

Section 3. This tax rate will result in estimated total collections of \$985,734.

Section 4. The tax imposed by this ordinance does not apply to any property owner whose total personal income, from all sources for the previous calendar year, does not exceed that level which shall constitute a very low income, as established by resolution of City Council.

Section 4. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.

At a regular meeting of the Council of the City of Berkeley held on June 16, 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.



ORDINANCE NO. 7,710-N.S.

SETTING THE FY 2021 TAX RATE FOR FUNDING THE DEBT SERVICE ON THE NEIGHBORHOOD BRANCH LIBRARY IMPROVEMENTS PROJECT GENERAL OBLIGATION BONDS (MEASURE FF, NOVEMBER 2008 ELECTION) IN THE CITY OF BERKELEY

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

Section 1. The FY 2021 tax rate for the debt service on the General Obligation Bonds is set at 0.0070%.

Section 2. The Tax Rate will be based on the estimated assessed values for all rolls (secured, unsecured, and utility) and will become a part of the FY 2021 property tax bill.

Section 3. This Tax Rate will result in estimated total collections of \$1,550,000 needed to make the March 1, 2021 and September 1, 2021 debt service payments on the outstanding General Obligation Bonds.

Section 4. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.

At a regular meeting of the Council of the City of Berkeley held on June 16, 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.



ORDINANCE NO. 7,711-N.S.

SETTING THE FISCAL YEAR 2021 TAX RATE FOR FUNDING THE DEBT SERVICE ON THE INFRASTRUCTURE AND FACILITIES IMPROVEMENTS GENERAL OBLIGATION BONDS (MEASURE T1, NOVEMBER 2016 ELECTION) IN THE CITY OF BERKELEY

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

Section 1. The FY 2021 tax rate for debt service on the General Obligation Bonds is set at 0.0160%.

Section 2. The Tax Rate will be based on the estimated assessed values for all rolls (secured, unsecured, and utility) and will become a part of the FY 2021 property tax bill.

Section 3. This Tax Rate will result in estimated total collections of \$3,400,000 needed to make the March 1, 2021 and September 1, 2021 debt service payments on the outstanding and proposed General Obligation Bonds (the September debt service will include both Series A and B).

Section 4. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.

At a regular meeting of the Council of the City of Berkeley held on June 16, 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.





ORDINANCE NO. 7,712-N.S.

SETTING THE FY 2021 TAX RATE FOR FUNDING THE DEBT SERVICE ON THE 2015 REFUNDING GENERAL OBLIGATION BONDS

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

Section 1. The FY 2021 Tax Rate for the debt service on the 2015 Refunding General Obligation Bonds - Measures G, S and I (General Obligation Bonds - Elections of 1992, 1996 and 2002) at 0.0140%.

Section 2. The Tax Rate will be based on estimated assessed values for all rolls (secured, unsecured, and utility) and will become a part of the FY 2021 property tax bill.

Section 3. This Tax Rate will result in estimated total collections of \$3,100,000 needed to make the March 1, 2021 and September 1, 2021 debt service payments on Refunding General Obligation Bonds.

Section 4. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.

At a regular meeting of the Council of the City of Berkeley held on June 16, 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.



ORDINANCE NO. 7,713-N.S.

SETTING THE FISCAL YEAR 2021 SPECIAL TAX RATE TO FUND LIBRARY SERVICES TAX IN THE CITY OF BERKELEY

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

Section 1. The FY 2021 Tax Rate to support usual and current expenses of operating library services is set at \$0.2272 per square foot for dwelling units and \$0.3435 per square foot for industrial, commercial and institutional buildings.

Section 2. The cost to taxpayers during FY 2021 will be \$340.85 for a 1,500 square foot dwelling and \$515.32 for all other property of similar size.

Section 3. This tax rate will result in estimated total collections of \$20,342,539.

Section 4. The tax imposed by this ordinance does not apply to any property owner whose total personal income, from all sources for the previous calendar year, does not exceed that level which shall constitute a very low income, as established by resolution of City Council.

Section 5. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of Old City Hall, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.

At a regular meeting of the Council of the City of Berkeley held on June 16, 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.



ORDINANCE NO. 7,714-N.S.

SETTING THE FY 2021 MUNICIPAL TAX RATE FOR THE CITY OF BERKELEY FOR BUSINESS LICENSE TAX ON LARGE NON-PROFITS

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

Section 1. The rate of tax for the FY 2021 business license tax on large non-profits is as follows:

\$0.6659 per square foot of improvements over 120,000 square feet

Section 2. This Ordinance shall take effect and be in full force from and after its final passage.

Section 3. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.

At a regular meeting of the Council of the City of Berkeley held on June 16, 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.



ORDINANCE NO. 7,715-N.S.

SETTING THE FISCAL YEAR 2021 TAX RATE FOR FUNDING THE DEBT SERVICE ON THE AFFORDABLE HOUSING GENERAL OBLIGATION BONDS (MEASURE O, NOVEMBER 2018 ELECTION) IN THE CITY OF BERKELEY

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

Section 1. The FY 2021 tax rate for debt service on the General Obligation Bonds is set at 0.0090%.

Section 2. The Tax Rate will be based on the estimated assessed values for all rolls (secured, unsecured, and utility) and will become a part of the FY 2021 property tax bill.

Section 3. This Tax Rate will result in estimated total collections of \$1,950,000 needed to make the March 1, 2021 and September 1, 2021 debt service payments on the proposed General Obligation Bonds.

Section 4. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.

At a regular meeting of the Council of the City of Berkeley held on June 16, 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.





ORDINANCE NO. 7,716-N.S.

SETTING THE FISCAL YEAR 2021 TAX RATE FOR FUNDING THE DEBT SERVICE ON THE STREET AND WATERSHED IMPROVEMENTS GENERAL OBLIGATION BONDS (MEASURE M, NOVEMBER 2012 ELECTION) IN THE CITY OF BERKELEY

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

Section 1. The FY 2021 tax rate for debt service on the General Obligation Bonds is set at 0.0080%.

Section 2. The Tax Rate will be based on the estimated assessed values for all rolls (secured, unsecured, and utility) and will become a part of the FY 2021 property tax bill.

Section 3. This Tax Rate will result in estimated total collections of \$1,750,000 needed to make the March 1, 2021 and September 1, 2021 debt service payments on the outstanding General Obligation Bonds.

Section 4. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.

At a regular meeting of the Council of the City of Berkeley held on June 16, 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.



ORDINANCE NO. 7,717-N.S.

SETTING THE FISCAL YEAR 2021 SPECIAL TAX RATE TO FUND MAINTENANCE OF PARKS, CITY TREES AND LANDSCAPING IN THE CITY OF BERKELEY

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

Section 1. The FY 2021 Tax Rate for the maintenance of parks, City trees and landscaping is set at \$0.1793 per square foot of taxable improvements.

Section 2. The cost to the taxpayer during FY 2021 will be \$215.16 for a 1,200 square foot home and \$537.90 for a 3,000 square foot home.

Section 3. This Tax Rate will result in estimated total collections of \$14,369,024.

Section 4. The tax imposed by this ordinance does not apply to any property owner whose total personal income, from all sources for the previous calendar year, does not exceed that level which shall constitute a very low income, as established by resolution of City Council.

Section 5. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.

At a regular meeting of the Council of the City of Berkeley held on June 16, 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.



ORDINANCE NO. 7,718-N.S.

SETTING THE FISCAL YEAR 2021 SPECIAL TAX RATE TO FUND EMERGENCY SERVICES FOR THE SEVERELY DISABLED IN THE CITY OF BERKELEY

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

Section 1. The FY 2021 Tax Rate to fund emergency services for severely disabled persons is set at \$0.01699 per square feet of improvements.

Section 2. The cost to taxpayers during FY 2021 will be \$20.39 for a 1,200 square foot home and \$50.97 for a 3,000 square foot home.

Section 3. This tax rate will result in estimated total collections of \$1,361,402.

Section 4. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.

At a regular meeting of the Council of the City of Berkeley held on June 16, 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.



ORDINANCE NO. 7,719-N.S.

SETTING THE FISCAL YEAR 2021 SPECIAL TAX RATE TO FUND THE PROVISION OF EMERGENCY MEDICAL SERVICES FOR THE CITY OF BERKELEY

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

Section 1. The FY 2020 Tax Rate for Emergency Medical Services is set at \$0.0397 per square foot of taxable improvements.

Section 2. The cost to taxpayers during FY 2021 will be \$47.64 for a 1,200 square foot home and \$119.10 for a 3,000 square foot home.

Section 3. This tax rate will result in estimated total collections of \$3,183,676.

Section 4. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.

At a regular meeting of the Council of the City of Berkeley held on June 16, 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.







Office of the City Manager

CONSENT CALENDAR  
June 30, 2020

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

RECOMMENDATION

Approve the minutes for the council meetings of May 5, 2020 (closed), May 12, 2020 (closed and regular), May 19, 2020 (special), May 21, 2020 (closed) and May 26, 2020 (closed and regular).

CONTACT PERSON

Mark Numainville, City Clerk, 981-6900

Attachments:

1. May 5, 2020 – Closed City Council Meeting
2. May 12, 2020 – Closed City Council Meeting
3. May 12, 2020 – Regular City Council Meeting
4. May 19, 2020 – Special City Council Meeting
5. May 21, 2020 – Closed City Council Meeting
6. May 26, 2020 – Closed City Council Meeting
7. May 26, 2020 – Regular City Council Meeting

# BERKELEY CITY COUNCIL SPECIAL MEETING MINUTES

TUESDAY, MAY 5, 2020

3:00 P.M.

JESSE ARREGUIN, MAYOR

Councilmembers:

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

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

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

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

*To access the meeting remotely: Join from a PC, Mac, iPad, iPhone, or Android device: Please use this URL <https://us02web.zoom.us/j/82901927929>. If you do not wish for your name to appear on the screen, then use the drop down menu and click on "rename" to rename yourself to be anonymous. To request to speak, use the "raise hand" icon by rolling over the bottom of the screen.*

*To join by phone: Dial **1-669-900-9128** and enter Meeting ID: **829 0192 7929**. If you wish to comment during the public comment portion of the agenda, Press \*9 and wait to be recognized by the Chair.*

*To submit an e-mail comment during the meeting to be read aloud during public comment, email [clerk@cityofberkeley.info](mailto:clerk@cityofberkeley.info) with the Subject Line in this format: "PUBLIC COMMENT ITEM ##." Please observe a 150 word limit. Time limits on public comments will apply. Written comments will be entered into the public record.*

*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.*

## Preliminary Matters

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

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

**Absent:** Kesarwani, Bartlett, Robinson

Councilmember Bartlett present at 3:08 p.m.

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

## CLOSED SESSION:

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

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

Significant exposure to litigation – one case: Scott Donahue – Deaccession of Berkeley Big People

**Action:** M/S/C (Wengraf/Hahn) to provide direction to approve a monetary settlement of \$25,000 in a potential lawsuit stemming from the deaccession of the Berkeley Big People.

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

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

City of Berkeley v. Regents of the University of California, Alameda Superior Court Case No. RG19023058

**Action:** No reportable action taken.

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

Property addresses:

MLK Junior Services Center 1730 Oregon Street; Willard Pool 2701 Telegraph Avenue; West Campus Pool 2100 Browning Street; King Pool 1700 Hopkins Street

Measure Y Parks - King Park, 1700 Hopkins Avenue; Thousand Oaks Park, 1780 Tacoma Ave at Ensenada Ave; Leconte School, 2241 Russell Street (play/open space area in back of school); Malcolm X School, 1731 Prince Street (play area/open space in back of school); Rosa Parks School, 920 Allston Way (play area/open space in back of school); John Muir School, 2995 Claremont Avenue (play area/open space in back of school); Washington School, 2300 Martin Luther King Jr. Way (play area/open space in back of school)

Agency Negotiators: Dee Williams-Ridley, City Manager, David White, Deputy City Manager, Scott Ferris, Director of Parks, Recreation and Waterfront

Negotiating parties: City of Berkeley, 2180 Milvia Street, Berkeley, CA  
Property Owner – Berkeley Unified School District, 2020 Bonar Street, Berkeley, CA

Under negotiation: Price and terms

**Action:** No reportable action taken.

**OPEN SESSION:**

The City Council met in closed session Pursuant to Government Code Section 54956.9(d)(2) and provided direction to approve a monetary settlement of \$25,000 in a potential lawsuit stemming from the deaccession of the Berkeley Big People.

**Adjournment**

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

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

Adjourned at 5:47 p.m.

I hereby certify that the foregoing is a true and correct record of the closed session meeting held on May 5, 2020.

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Mark Numainville  
City Clerk

# BERKELEY CITY COUNCIL SPECIAL MEETING MINUTES

TUESDAY, MAY 12, 2020

4:00 P.M.

JESSE ARREGUIN, MAYOR

Councilmembers:

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

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

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

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

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*To access the meeting remotely: Join from a PC, Mac, iPad, iPhone, or Android device: Please use this URL <https://us02web.zoom.us/j/85809429003>. If you do not wish for your name to appear on the screen, then use the drop down menu and click on "rename" to rename yourself to be anonymous. To request to speak, use the "raise hand" icon by rolling over the bottom of the screen.*

*To join by phone: Dial 1-669-900-9128 and enter Meeting ID: 858 0942 9003. If you wish to comment during the public comment portion of the agenda, Press \*9 and wait to be recognized by the Chair.*

*To submit an e-mail comment during the meeting to be read aloud during public comment, email [clerk@cityofberkeley.info](mailto:clerk@cityofberkeley.info) with the Subject Line in this format: "PUBLIC COMMENT ITEM ##." Please observe a 150 word limit. Time limits on public comments will apply. Written comments will be entered into the public record.*

*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.*

**Preliminary Matters**

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

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

**Absent:** Hahn

Councilmember Hahn present at 4:06 p.m.

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

**CLOSED SESSION:**

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

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

Negotiators: Dee Williams-Ridley, City Manager, Paul Buddenhagen, Deputy City Manager, David White, Deputy City Manager, LaTanya Bellow, Human Resources Director, Dania Torres-Wong, Chief Labor Negotiator, Jonathan Holtzman, Chief Labor Negotiator, David Brannigan, Fire Chief, Andy Greenwood, Police Chief.

Employee Organizations: Berkeley Fire Fighters Association Local 1227, Berkeley Police Association, Service Employees International Union, Local 1021 Maintenance and Clerical Chapters, Berkeley Fire Fighters Association, Local 1227 I.A.F.F. / Berkeley Chief Fire Officers Association; International Brotherhood of Electrical Workers, Local 1245.

**Action:** No reportable action.

**OPEN SESSION:**

No reportable action.

**Adjournment**

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

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

Councilmember Davila absent 6:37 p.m. – 6:38 p.m.

Adjourned at 6:38 p.m.

I hereby certify that the foregoing is a true and correct record of the closed session meeting held on May 12, 2020.

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

**MINUTES**  
**BERKELEY CITY COUNCIL MEETING**  
**Tuesday, May 12, 2020**  
**6:00 PM**

JESSE ARREGUIN, MAYOR

Councilmembers:

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

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

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

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

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

*To access the meeting remotely: Join from a PC, Mac, iPad, iPhone, or Android device: Please use this URL <https://us02web.zoom.us/j/85809429003>. 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.*

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*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.*

*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:** 6:49 p.m.

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

**Absent:** None

**Action:** M/S/C (Arreguin/Harrison) to suspend certain rules related to comments from Councilmembers and the public and to adopt new rules for the meeting of May 12, 2020.

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

## Ceremonial Matters:

1. Adjourn in memory of all the victims of the COVID-19 pandemic
2. Adjourn in memory of Don Yost, Local Business Leader
3. Courtney Brousseau, Local Activist
4. Little Richard, Musician
5. Thelma Moody, Sister of Congresswoman Maxine Waters

## City Auditor Comments:

The City Auditor gave a presentation on the economic impacts of the COVID-19 pandemic.

## City Manager Comments:

The City Manager expressed appreciation to the City Council and the Senior Leadership Team for their efforts on behalf of the community during the pandemic.

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

## Consent Calendar

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

**Action:** M/S/C (Hahn/Wengraf) to add an urgent item from Vice-Mayor Hahn to the agenda pursuant to Government Code Section 54954.2(b).

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

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

**Vote:** All Ayes.



## Consent Calendar

### **Letter to Governor Newsom in Support of State and Federal Assistance to Address COVID-19 Fiscal Impact on California Cities**

**From:** Vice Mayor Sophie Hahn (Author), Mayor Jesse Arreguin (Co-Sponsor), and Councilmember Kate Harrison (Co-Sponsor)

**Recommendation:** Send a letter to Governor Gavin Newsom in support of state and federal assistance to address the COVID-19 fiscal impact on California cities, including by establishing at least a \$7 billion city revenue stabilization fund for direct aid to all cities to address the general revenue shortfall over the next two fiscal years; allocating a share of the State's \$8.4 billion CARES Act funding for cities with populations under 500,000 to support COVID-19 expenses; and creating a COVID-19 financing vehicle that all cities can access to support immediate cash flow needs; and send copies of the letter to Senator Nancy Skinner and Assemblymember Buffy Wicks.

**Financial Implications:** See report

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

**Action:** Councilmember Wengraf added as a co-sponsor. Approved recommendation amended as follows:

- Add that a copy of the letter be sent to Congresswoman Barbara Lee, House Speaker Nancy Pelosi, and U.S. Senators Kamala Harris and Dianne Feinstein.
- Update the "shortfall" number in the first line of third paragraph of the letter from \$25.5 Million to \$28.5 Million.
- Correction in third paragraph of the letter, last line, the word "1-time" should be "one-time."
- Correction in final paragraph of letter, middle line, revised to read ". . . how, working together, we can continue . . ."

### **1. Citizens Redistricting Commission Implementation Ordinance; Adding BMC Chapter 2.10**

**From:** City Manager

**Recommendation:** Adopt second reading of Ordinance No. 7,699-N.S. establishing regulations and procedures for the Berkeley Citizens Redistricting Commission to supplement the existing provisions of the City Charter related to redistricting, and adding Berkeley Municipal Code Chapter 2.10.

**First Reading Vote:** All Ayes.

**Financial Implications:** None

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

**Action:** Adopted second reading of Ordinance No. 7,699-N.S.

## Consent Calendar

### 2. Amendment: FY 2020 Annual Appropriations Ordinance

**From: City Manager**

**Recommendation:** Adopt first reading of an Ordinance amending the FY 2020 Annual Appropriations Ordinance No. 7,694–N.S. for fiscal year 2020 based upon recommended re-appropriation of committed FY 2019 funding and other adjustments in the amount of \$47,602,843 (gross) and \$42,647,016 (net).

**Financial Implications:** See report

Contact: Teresa Berkeley-Simmons, Budget Manager, (510) 981-7000

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

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

**Action:** M/S/C (Droste/Hahn) to call the previous question.

**Vote:** All Ayes.

**Action:** Moved to Action Calendar. 3 speakers. M/S/C (Arreguin/Droste) to adopt first reading of Ordinance No. 7,700–N.S. amended to correct Item 2, starting on page 3 should be modified as follows: ~~\$230,000~~ \$398,088 in Community Action Fund (CSBG) monies for rental assistance to formerly homeless clients participating in the Shelter Plus Care Program (\$30,000) and allocation for Berkeley of CSBG funds for a mobile shower program (\$30,000) and to prevent, prepare for, and respond to coronavirus (COVID-19) (\$368,088). Gross appropriations amended to \$47,770,931 and Net \$42,815,104. Second reading scheduled for May 26, 2020.

**Vote:** All Ayes.

### 3. Formal Bid Solicitations and Request for Proposals Scheduled for Possible Issuance After Council Approval on May 12, 2020

**From: City Manager**

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

**Financial Implications:** Various Funds - \$729,806

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

**Action:** Approved recommendation.

## Consent Calendar

### 4. Revenue Grant Agreements: Funding Support from the State of California to Conduct Public Health Services

**From: City Manager**

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

1. Child Health and Disability Prevention (CHDP) Program, which includes Early Periodic Screening, Diagnosis and Treatment (EPSDT) and Health Care Program for Children in Foster Care (HCPCFC), in the projected amount of \$352,000 for FY 2021.
2. Maternal, Child, and Adolescent Health (MCAH) Program, in the projected amount of \$336,000 for FY 2021.
3. Tobacco Trust Fund: There is no match required and this contract is expected to be for \$300,000 in FY 2021.
4. Immunization Program: In the projected amount of \$42,204 for FY 2021.
5. Public Health Emergency Preparedness/Pandemic Flu/Cities Readiness Initiative (CRI) Program in the projected allocation of \$260,000 for FY 2021.
6. Public Health Emergency Preparedness Program COVID-19 Crisis Response in the projected allocation of \$401,462 for the period of March 5, 2020 through March 15, 2021.
7. Infectious Disease Prevention and Control, Grant Agreement 19-10870, funding allocation of \$210,468 for the period of February 1, 2020 through June 30, 2023.

**Financial Implications:** See report

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

**Action:** Adopted Resolution No. 69,380–N.S. (CHDP); Resolution No. 69,381–N.S. (MCAH); Resolution No. 69,382–N.S. (Tobacco Trust Fund); Resolution No. 69,383–N.S. (Immunization Program); Resolution No. 69,384–N.S. (Emergency Preparedness - Pandemic Flu); Resolution No. 69,385–N.S. (Emergency Preparedness - COVID-19); and Resolution No. 69,386–N.S. (Infectious Disease Prevention).

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

**From: City Manager**

**Recommendation:** Adopt a Resolution authorizing the City Manager or her designee to submit a grant application to Essential Access Health, to accept the grant, execute any resultant revenue agreement and amendment, and implement the projects and appropriation of funding for related expenses to conduct public health promotion, protection, and prevention services for the Essential Access Health revenue agreement in the projected amount of \$265,000 for April 1, 2020 to March 30, 2021.

**Financial Implications:** See report

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

**Action:** Adopted Resolution No. 69,387–N.S.

## Consent Calendar

- 6. Dorothy Day House License Agreements: Veterans Memorial Building and Old City Hall**  
**From: City Manager**  
**Recommendation:** Adopt first reading of two ordinances authorizing the City Manager or her designee to execute license agreements and any amendments thereto with Dorothy Day House to provide services at the Veterans' Memorial Building at 1931 Center Street and the Old City Hall at 2134 Martin Luther King Jr. Way.  
**Financial Implications:** See report  
Contact: Lisa Warhuus, Housing and Community Services, (510) 981-5400  
**Action:** Adopted first reading of Ordinance No. 7,701–N.S. (1931 Center St) and Ordinance No. 7,702–N.S. (2134 MLK Jr. Way). Second reading scheduled for May 26, 2020.
- 7. Contract: CycloMedia Technology, Inc. for Geographic Information System Infrastructure Asset Data Acquisition**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a contract with CycloMedia Technology Incorporated for Geographic Information System infrastructure asset data acquisition, for an amount not to exceed \$187,401 for the period commencing on May 15, 2020 to June 30, 2022.  
**Financial Implications:** Various Funds - \$187,401  
Contact: Savita Chaudhary, Information Technology, (510) 981-6500  
**Action:** Item 7 held over to May 26, 2020.
- 8. Contract: Integration Partners for Avaya Upgrade, Support, and Maintenance**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager execute a contract with Integration Partners, for Avaya support and maintenance, for a total not to exceed amount of \$727,821, from July 1, 2020 to June 30, 2024.  
**Financial Implications:** Various Funds - \$727,821  
Contact: Savita Chaudhary, Information Technology, (510) 981-6500  
**Action:** Adopted Resolution No. 69,388–N.S.
- 9. \*\*\*Removed from Agenda by the City Manager\*\*\* Contract No. 10551C**  
**Amendment: Santalynda Marrero DBA SMconsulting for Professional Consulting Services**  
**From: City Manager**  
Contact: Savita Chaudhary, Information Technology, (510) 981-6500

## Consent Calendar

**10. Contract No. 9237A Amendment: 3T Equipment Company, Inc. for Maintenance of the Pipeline Observation System Management (POSM) Software**

**From: City Manager**

**Recommendation:** Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 9237A with 3T Equipment Company, Inc. to provide additional maintenance services and support for the Pipeline Observation System Management (POSM) software in an amount not to exceed \$31,500 for a total contract amount not to exceed \$81,167, extending the term from February 1, 2013 to June 30, 2023.

**Financial Implications:** Sanitary Sewer Fund - \$81,167

Contact: Savita Chaudhary, Information Technology, (510) 981-6500

**Action:** Adopted Resolution No. 69,389–N.S.

**11. Contract: ERA Construction, Inc. for Strawberry Creek Park Play Area and Restroom Renovation Project**

**From: City Manager**

**Recommendation:** Adopt a Resolution: 1. Approving the plans and specifications for the Strawberry Creek Park Play Area and Restroom Renovation Project, Specification No. 20-11382-C; and 2. Accepting the correction of the sum of bid items for ERA Construction, Inc.'s bid; and 3. Accepting the bid of the lowest responsive and responsible bidder, ERA Construction, Inc.; and 4. 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 ERA Construction, Inc., for the Strawberry Creek Park Play Area and Restroom Renovation Project at 1260 West Street, Berkeley, CA 94702, in an amount not to exceed \$900,122, which includes a contract amount of \$782,715 and a 15% contingency in the amount of \$117,407.

**Financial Implications:** Various Funds - \$900,122

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

**Action:** Item 11 continued to June 2, 2020.

## Consent Calendar

- 12. Contract: Suarez and Munoz Construction, Inc. for San Pablo Park Playground and Tennis Court Renovation Project**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution: 1. Approving the plans and specifications for the San Pablo Park Playground and Tennis Court Renovation Project, Specification No. 20-11381-C; and 2. Rejecting the bid protest of Redwood Engineering Construction, the second lowest bidder; and 3. Accepting the bid of the lowest responsive and responsible bidder, Suarez and Munoz Construction, Inc.; and 4. 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 Suarez and Munoz Construction, Inc., for the San Pablo Park Playground and Tennis Court Renovation Project at 2800 Park Street, Berkeley, CA 94702, in an amount not to exceed \$1,969,056, which includes a contract amount of \$1,790,051 and a 10% contingency in the amount of \$179,005.  
**Financial Implications:** Various Funds - \$1,969,056  
 Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700  
**Action:** Adopted Resolution No. 69,390–N.S.
- 13. Contract: BMI Imaging Systems, Incorporated for Data Conversion Services for the Berkeley Police Department**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a contract and any necessary amendments with BMI Imaging Systems, Incorporated to provide data conversion services and necessary hosting services for the Berkeley Police Department (BPD) for a term of five years, for a total contract not to exceed \$200,000.  
**Financial Implications:** State Proposition 172 Special Fund - \$200,000  
 Contact: Andrew Greenwood, Police, (510) 981-5900  
**Action:** Adopted Resolution No. 69,391–N.S.
- 14. Contract: Bay Cities Paving & Grading Inc. for Measure T1 Street Improvements & Green Infrastructure Project**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution approving plans and specifications for the Measure T1 Street Improvements, Ward Street, Monterey Avenue and Green Infrastructure project, Specification No. 20-11394-C & 20-11387-C; accepting the bid of Bay Cities Paving & Grading Inc. as the lowest responsive and responsible bidder; and 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 \$4,598,942 which includes a 15% contingency for unforeseen circumstances.  
**Financial Implications:** Various Funds - \$4,598,942  
 Contact: Phillip Harrington, Public Works, (510) 981-6300  
**Action:** Adopted Resolution No. 69,392–N.S.

## Consent Calendar

- 15. Contract No. 9677 Amendment: On-Call Traffic Engineering Services Contract with AECOM USA, Inc. for Design and Construction Support Services**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to amend Contract No. 9677 with AECOM USA, Inc. (“AECOM”) for work on the Ashby-San Pablo Intersection Improvements Project (“Project”), Specification No. 18-11182-C, to: (a) Finalize the design documents plans, specifications, and estimate (PS&E) and perform as-needed technical construction support services, increasing the contract for On-Call Traffic Engineering Services by up to \$200,000, for a total amount not to exceed \$1,200,000, and (b) Extend the ending date of the contract from June 30, 2020 to December 31, 2022.  
**Financial Implications:** Measure BB - Local Streets and Roads Fund - \$200,000  
 Contact: Phillip Harrington, Public Works, (510) 981-6300  
**Action:** Adopted Resolution No. 69,393–N.S.
- 16. Contract No. 10706 Amendment: SCS Engineers and SCS Field Services for Cesar Chavez Landfill Post-Closure Maintenance and Monitoring**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 10706 with SCS Engineers and SCS Field Services for engineering services for landfill post-closure engineering, maintenance, and monitoring services at Cesar Chavez Park, increasing the amount by \$338,000 for a total not to exceed \$862,900, and extending the expiration date to June 30, 2022.  
**Financial Implications:** Various Funds - \$338,000  
 Contact: Phillip Harrington, Public Works, (510) 981-6300  
**Action:** Adopted Resolution No. 69,394–N.S.
- 17. Navigating the Impact of the COVID-19 Pandemic on Berkeley’s Finances**  
**From: Auditor**  
**Recommendation:** Consider this framework when making budget decisions about managing revenues and expenditures impacted by the COVID-19 pandemic, as well as using reserve funds. This high level report includes three sections: impact on economy, revenues, and expenditures. Government finance experts offer key considerations for managing expenditures including: reducing expenditures; focusing on essential activities that prioritize public health and community value; and long-term planning when spending reserves to make sure that enough funds are available to pull the City through a potentially long economic downturn. See full report for more information.  
**Financial Implications:** See report  
 Contact: Jenny Wong, Auditor, (510) 981-6750  
**Action:** Approved recommendation including revised material in Supplemental Communications Packet #1 from the City Auditor.

## Action Calendar

18. **Repeal SB 872 – Prohibition on Sugar Sweetened Beverages Tax**  
**From: Mayor Arreguin (Author), Councilmember Kesarwani (Author), Councilmember Davila (Co-Sponsor), Councilmember Harrison (Co-Sponsor)**  
**Recommendation:** Adopt a Resolution calling on the Governor and State Legislature to overturn SB 872, a 2018 law prohibiting new sugar sweetened beverage taxes until 2030. Send a copy of the Resolution to Governor Gavin Newsom, State Senator Nancy Skinner, and Assemblymember Buffy Wicks.  
**Financial Implications:** None  
Contact: Jesse Arreguin, Mayor, (510) 981-7100  
**Action:** Adopted Resolution No. 69,395–N.S.
19. **Support California Farmworker COVID-19 Relief Legislation**  
**From: Councilmember Davila (Author), Councilmember Bartlett (Co-Sponsor), Mayor Arreguin (Co-Sponsor)**  
**Recommendation:**  
1. Adopt a resolution supporting the California Farmworker COVID-19 Relief Legislation advocated by State Assemblymember Robert Rivas (Author)  
2. Send copies of this resolution to State Assemblymember Robert Rivas, as well as State Assemblymember Buffy Wicks, and State Senator Nancy Skinner.  
**Financial Implications:** None  
Contact: Cheryl Davila, Councilmember, District 2, (510) 981-7120  
**Action:** Councilmember Harrison added as a co-sponsor. 1. Adopted Resolution No. 69,396–N.S. 2. Approved recommendation.
20. **Berkeley Juneteenth Association: Relinquishment of Council Office Budget Fund to General Fund and Grant of Such Funds**  
**From: Councilmember Bartlett (Author), Councilmember Davila (Author)**  
**Recommendation:** Adopt a Resolution approving the expenditure of an amount not to exceed \$500 per Councilmember, including \$500 from both Councilmember Ben Bartlett & Cheryl Davila, for pre-planning the Berkeley Juneteenth Festival (organized by Berkeley Juneteenth Association, Inc. 501(c)3). The funds will be relinquished to the City's General Fund for this purpose from the discretionary council office budget of Councilmember Bartlett and any other councilmembers who would like to contribute.  
**Financial Implications:** See report  
Contact: Ben Bartlett, Councilmember, District 3, (510) 981-7130  
**Action:** Item 20 removed from the agenda by Councilmember Bartlett.



## Action Calendar

21. **Board of Library Trustees Reappointment: John Selawsky**  
**From: Councilmember Hahn (Author), Councilmember Bartlett (Co-Sponsor), Mayor Arreguin (Co-Sponsor)**  
**Recommendation:** Adopt a Resolution approving the reappointment of John Selawsky to the Board of Library Trustees (“BOLT”) for a term of four years commencing May 16, 2020 and ending May 16, 2024.  
**Financial Implications:** None  
Contact: Sophie Hahn, Councilmember, District 5, (510) 981-7150  
**Action:** Adopted Resolution No. 69,397–N.S.
22. **Budget Referral: Telegraph Shared Streets**  
**From: Councilmember Robinson (Author), Councilmember Harrison (Co-Sponsor)**  
**Recommendation:** Refer \$500,000 to the FY2021-FY2022 Budget Process and subsequent budget processes for 30% designs of the Telegraph Shared Streets Project.  
**Financial Implications:** See report  
Contact: Rigel Robinson, Councilmember, District 7, (510) 981-7170  
**Action:** Approved recommendation.

## Action Calendar – Public Hearings

23. **Published Charges: Mental Health Clinical Services**  
**From: City Manager**  
**Recommendation:** Conduct a public hearing and, upon conclusion, adopt a Resolution establishing Published Charges for Mental Health Clinical Services for FY 2020. Published Charges are effective July 1, 2019.  
**Financial Implications:** See report  
Contact: Lisa Warhuus, Housing and Community Services, (510) 981-5400  
  
**Action:** 0 speakers. M/S/C (Hahn/Davila) to adopt Resolution No. 69,398–N.S.  
**Vote:** All Ayes.  
  
Recess 8:53 p.m. – 9:10 p.m.
- 24a. **Fiscal Year 2021 Proposed Budget Update Public Hearing #1**  
**From: City Manager**  
**Recommendation:** Conduct a public hearing regarding the FY 2021 Proposed Budget Update.  
**Financial Implications:** See report  
Contact: Teresa Berkeley-Simmons, Budget Manager, (510) 981-7000  
  
**Action:** M/S/C (Arreguin/Robinson) to accept supplemental material from the City Manager on Item 24a.  
**Vote:** Ayes – Kesarwani, Bartlett, Harrison, Hahn, Wengraf, Robinson, Droste, Arreguin; Noes – None; Abstain – Davila.

## Action Calendar – Public Hearings

**24b. FY 2020 Mid-Year Budget Update** *(Continued from April 28, 2020)*

**From: City Manager**

Contact: Teresa Berkeley-Simmons, Budget Manager, (510) 981-7000

**Action:** M/S/C (Arreguin/Hahn) to suspend the rules and extend the meeting to 11:20 p.m., and continue Item 24b to May 26, 2020.

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

**Action:** 7 speakers. Discussion held. No action taken.

## Action Calendar – Old Business

**25. Surveillance Technology Report, Surveillance Acquisition Report, and Surveillance Use Policy for Automatic License Plate Readers** *(Continued from February 25, 2020. Item contains revised and supplemental materials)*

**From: City Manager**

**Recommendation:** Adopt a Resolution accepting the Surveillance Technology Report, Surveillance Acquisition Report, and Surveillance Use Policy for Automatic License Plate Readers submitted pursuant to Chapter 2.99 of the Berkeley Municipal Code.

**Financial Implications:** None

Contact: Andrew Greenwood, Police, (510) 981-5900; Dave White, City Manager's Office, (510) 981-7000

**Action:** Item 25 referred to the Agenda & Rules Committee for future scheduling.

## Information Reports

**26. LPC NOD: 2043 Lincoln Street/#LMIN2019-0004**

**From: City Manager**

Contact: Timothy Burroughs, Planning and Development, (510) 981-7400

**Action:** Received and filed.

**27. LPC NOD: 2133 University Avenue/#LMSA2019-0001**

**From: City Manager**

Contact: Timothy Burroughs, Planning and Development, (510) 981-7400

**Action:** Received and filed.

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

## Adjournment

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

**Vote:** All Ayes.

Adjourned at 11:28 p.m.

I hereby certify that the foregoing is a true and correct record of the regular meeting of the City Council held on May 12, 2020.

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Mark Numainville  
City Clerk

## Communications

### **Item #18: Repeal SB 872 – Prohibition on Sugar Sweetened Beverages Tax**

1. Lynn Silver, on behalf of Public Health Institute

### **Item #19: Support California Farmworker COVID-19 Relief Legislations**

2. Chimey Lee

### **Tenants/Eviction Ban/Rent Suspension**

3. Palbo Pruiiz
4. Sheila Goldmacher
5. Lisa Camasi
6. Judy McLean

### **Affordable Housing**

7. Michael Fullerton
8. Sophia DeWitt

### **Homelessness**

9. Liz Wiener
10. Margy Wilkinson

### **Santa Rita Jail**

11. Sally Nelson
12. Jenny White
13. Joanne Cohn
14. Rachel Resnikoff
15. Jessica Woodard
16. Betsy Bigelow-Teller
17. Charlene Woodcock

**Group Housing**

- 18. Marcia Poole (2)
- 19. Jamie Almanza

**Construction**

- 20. Kelly Elena Marshall, on behalf of the Building and Construction Trades Council of Alameda County
- 21. Moni Law

**Berkeley Relief Fund**

- 22. Melissa Weaver
- 23. Diana Gordon
- 24. Isis Feral
- 25. Pil Orbison
- 26. Sharon Delap

**Slow Streets – Walk/Bike**

- 27. Liza Lutzker
- 28. Ben Gerhardstein
- 29. Amy Eisenberg

**Mental Health**

- 30. Kristin Leimkuhler

**Police Review Commission**

- 31. Peter Haberfeld

**COVID-19 – General**

- 32. Max Ventura
- 33. Cynthia Sue Larson
- 34. Eden I&R
- 35. Patrick Hamill
- 36. Isabelle Gaston
- 37. Mayor Arreguin
- 38. David Mayer
- 39. Arthur Stopes III
- 40. Thomas Lord (2)
- 41. Vivian Warkentin
- 42. David Lerman

**Housing Retention Fund**

- 43. Southberkeley94703

**City of Berkeley’s Website**

- 44. Thomas Lord

**The Constitution Has Been Suspended**

45. Thomas Lord

**Access to Voter Emails**

46. Jessica Forbes

**Cell Towers**

47. Phoebe Anne Sorgen (2)

48. Cindy Rahav

49. Carol Denney (3)

50. Mil Apostol

51. Soula Culver

**University of California/Berkeley – EIR on Long Range Development Plan**

52. Joe Liesner

**PG&E + Nuclear Power**

53. Ceyda Durmaz Dogan, on behalf of East Bay Clean Power Alliance

**Naming Shattuck Avenue East After Kala Bagai**

54. Chris Carlson and Lisa Ruth Elliott

55. Liam O'Donoghure

**African American/Black Holistic Resource Center (AAHRC)**

56. AAHRC Steering Committee

**Supplemental Communications and Reports 1**

**Item #17: Navigating the Impact of the COVID-19 Pandemic on Berkeley's Finances**

57. Revised material, submitted by the Auditor

**Item #24a: Fiscal Year 2021 Proposed Budget Update Public Hearing #1**

58. Supplemental material, submitted by Finance

**Supplemental Communications and Reports 2**

**Item #21: Board of Library Trustees Reappointment: John Selawsky**

59. Andrea Mullarkey

**Supplemental Communications and Reports 3**

**Item #21: Board of Library Trustees Reappointment: John Selawsky**

60. Andrea Mullarkey

**Item #24a: Fiscal Year 2021 Proposed Budget Update Public Hearing #1**

61. Supplemental material, submitted by the Budget Manager (CMO)

62. Presentation, submitted by the Budget Manager (CMO)

**Miscellaneous Communications**

**1921 Walnut Street**

63. S. Borhan

64. Theo Robinson

**Covid-19**

65. Bryce Nesbit

**Zoom Meeting**

66. Thomas Lord (2)

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

**Tuesday, May 19, 2020**

**6:00 P.M.**

JESSE ARREGUIN, MAYOR

Councilmembers:

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

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

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

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

## **Preliminary Matters**

**Roll Call:** 6:02 p.m.

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

**Absent:** Bartlett

Councilmember Bartlett present at 6:06 p.m.

**Action:** M/S/C (Arreguin/Harrison) to accept revised materials from Councilmember Wengraf on Item 1.

**Vote:** All Ayes.

## Action Calendar

**1. Adoption of an Ordinance Amending Berkeley Municipal Code Chapter 16.10 (Installation of Video and Telecommunications Systems) and Revised Guidelines for Issuance of Public Right-of-Way Permits**

**From:** City Manager

**Recommendation:** Adopt first reading of an ordinance amending Berkeley Municipal Code Chapter 16.10 (Installation of Video and Telecommunications Systems), and adopt revised administrative guidelines for the issuance of Public Right-of-Way Permits.

**Financial Implications:** See report

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

**Action:** 39 speakers. M/S/C (Arreguin/Wengraf) to refer both items to the Agenda & Rules Committee for scheduling with Item 2 as an informational supplement to Item 1.

**Vote:** All Ayes.

**2. Updating Berkeley Telecom Ordinances and BMC Codes** *(Reviewed by the Agenda & Rules Committee. Item contains revised material.)*

**From:** Councilmember Davila (Author)

**Recommendation:** Adopt a resolution directing the City Manager to include the attached sample language and contained hyperlinked references to update the City's Telecom Ordinances and BMC codes.

**Financial Implications:** See report

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

**Action:** See action on Item 1.

## Adjournment

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

**Vote:** All Ayes.

Adjourned at 8:38 p.m.

I hereby certify that the foregoing is a true and correct record of the special meeting of the City Council held on May 19, 2020.

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Mark Numainville  
City Clerk



## Communications

**Item#1: Adoption of an Ordinance Amending Berkeley Municipal Code Chapter 16.10 (Installation of Video and Telecommunications Systems) and Revised Guidelines for Issuance of Public Right-of-Way Permits**

**Item #2: Updating Berkeley Telecom Ordinances and BMC Codes**

1. Elizabeth Starr & Clifford Fred (4)
2. Dominkia Bednarska (2)
3. Vanessa Lowe (2)

## Supplemental Communications and Reports 1

- None

## Supplemental Communications and Reports 2

**Item # 1: Adoption of an Ordinance Amending Berkeley Municipal Code Chapter 16.10 (Installation of Video and Telecommunications Systems) and Revised Guidelines for Issuance of Public Right-of-Way Permits**

4. Supplemental material, submitted by Councilmember Wengraf
5. Ariel Strauss, on behalf of Greenfire Law (2)

**Item #2: Updating Berkeley Telecom Ordinances and BMC Codes**

6. Kristi Taylor
7. Dominika Bednarska
8. Max Ventura (4)
9. Phoebe Anne Sorgen (3)
10. Mark Numainville, City Clerk
11. Kate Bernier
12. Sarah Aminoff
13. Wisteria Stock (2)
14. Soula Culver (5)
15. Colleen Andreetta
16. Lucy Collier
17. Mil Apostol
18. Isis Feral (2)
19. Aria Cahir
20. Nori Hudson
21. Judith Granada-Dewey
22. Jean Molesky-Poz
23. Margy Wilkinson
24. Anne Herrick (2)
25. Jennifer LaPorta
26. Paul Albritton on behalf of Mackenzie & Albritton Law firm
27. Vivian Warkentin
28. Kristi Lentz
29. Terry Dillon
30. Erika Alexi Corey

31. Alexi Malenky
32. Linda Sikorski
33. Erika Shaver-Nelson
34. Diana Bohn
35. Marcia Umland
36. Steve Jackson & Kori Kody
37. Gail Nekunam
38. Eric Zivnuska
39. Eric and Malisa Burkhart
40. Ellen Marks
41. Toshiro Mafune
42. Jacqueline Bott
43. Monique Lukens
44. Connie Anderson
45. Jenny Miller
46. Hanna Castaneda
47. Cynthia Rahav
48. Yani Teichner
49. Clifford Fred (2)
50. Carol Denney
51. Barbara Bent
52. Ardys DeLu
53. Carol Hirth
54. Derek Legg
55. Jose Franklin Arau
56. Marie Nadeau
57. Cynthia McGrane
58. Erica Etelson
59. Gar Smith
60. Lindsay Vurek
61. Ann Smock
62. Charles Schad
63. Virginia Hollins-Davidson
64. Julie Kramer
65. Chimey Lee
66. Carla Sienna
67. Raquel Pinderhughes
68. Steve Martinot
69. Hulda Nystrom
70. Melissa Clinton
71. Rosemary Bensko (2)
72. seaye@
73. Charlotte Off
74. Anne Kay
75. dwbrah@
76. Marge Turngren
77. Cate Leger
78. Virginia Browning
79. Sierra Murphree
80. Sara Sunstein

81. Victoria Hoekstra
82. Sarah Aminoff
83. Peter Schwab
84. Rachel Haight
85. Moshe Shafrir
86. Wanda Warkentin
87. Carolyn Sweeney
88. Paul Karsh
89. Meave O'Connor
90. Sofia Pavlova
91. MaryAnn Furda
92. Phyllis Zisman
93. Clover Catskill
94. Cecile Leneman
95. Alexis Schroeder
96. Sheella Mierson
97. Alla Marinow
98. Samuel Kanenwisher
99. Connie Anderson
100. Jillian Standish
101. James Lerager
102. Steve Kuttner
103. L. Darlene Pratt
104. Carol Takaki
105. Roberta Lewis
106. Rafael Gonzalez
107. Jason Winnett
108. Sandy Nixon
109. Stephanie Thomas
110. Reza Sirafinejad
111. Heidi Davis

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

#### **Item # 1: Adoption of an Ordinance Amending Berkeley Municipal Code Chapter 16.10 (Installation of Video and Telecommunications Systems) and Revised Guidelines for Issuance of Public Right-of-Way Permits**

112. Revised supplemental material, submitted by Councilmember Wengraf
113. Presentation, submitted by the Attorney's Office

#### **Item #2: Updating Berkeley Telecom Ordinances and BMC Codes**

114. Mary Ellen Sperling (2)
115. Olga Rapoport
116. Marion Off (2)
117. Caren Quay
118. Connie Anderson (2)
119. Willian Bruno
120. Ayako Nagano
121. Jodi Nelson
122. Lori Hines
123. Wendy Tico

124. Daniel Borgstrom
125. Stephen Williams
126. Phoebe Anne Sorgen
127. Jenny Miller (2)
128. Cynthia Rahav
129. Terry
130. Chimey Lee
131. Zach Sorgen
132. Aria Cahir
133. Cecile Pineda
134. Patrick McCarthy
135. Clifford Fred (2)
136. Marilla Arguelles
137. Isis Feral
138. Julie Kramer
139. Terry Dillon
140. Negeene Mosaed
141. Priscilla Meckel
142. Susan Werner

# BERKELEY CITY COUNCIL SPECIAL MEETING MINUTES

THURSDAY, MAY 21, 2020

3:00 P.M.

JESSE ARREGUIN, MAYOR

Councilmembers:

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

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

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

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**Preliminary Matters**

**Roll Call:** 3:09 p.m.

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

**Absent:** None

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

**CLOSED SESSION:**

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

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

Negotiators: Dee Williams-Ridley, City Manager, Paul Buddenhagen, Deputy City Manager, David White, Deputy City Manager, LaTanya Bellow, Human Resources Director, Dania Torres-Wong, Chief Labor Negotiator, Jonathan Holtzman, Chief Labor Negotiator, David Brannigan, Fire Chief, Andy Greenwood, Police Chief.

Employee Organizations: Berkeley Fire Fighters Association Local 1227, Berkeley Police Association, Service Employees International Union, Local 1021 Maintenance and Clerical Chapters, Berkeley Fire Fighters Association, Local 1227 I.A.F.F. / Berkeley Chief Fire Officers Association; International Brotherhood of Electrical Workers, Local 1245.

**Action:** No reportable action.

**OPEN SESSION:**

No reportable action.

**Adjournment**

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

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

Adjourned at 5:42 p.m.

I hereby certify that the foregoing is a true and correct record of the closed session meeting held on May 21, 2020.

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

# BERKELEY CITY COUNCIL SPECIAL MEETING MINUTES

TUESDAY, MAY 26, 2020

3:30 P.M.

JESSE ARREGUIN, MAYOR

Councilmembers:

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

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

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

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## Preliminary Matters

**Roll Call:** 3:32 p.m.

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

**Absent:** Kesarwani, Bartlett, Harrison

Councilmember Harrison present at 3:35 p.m.

Councilmember Bartlett present at 3:36 p.m.

Councilmember Kesarwani present at 4:01 p.m.

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

## CLOSED SESSION:

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

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

a. **Title of position to be filled:** Director of Public Works

**Action:** No reportable action taken.

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

Negotiators: Dee Williams-Ridley, City Manager, Paul Buddenhagen, Deputy City Manager, David White, Deputy City Manager, LaTanya Bellow, Human Resources Director, Dania Torres-Wong, Chief Labor Negotiator, Jonathan Holtzman, Chief Labor Negotiator, David Brannigan, Fire Chief, Andy Greenwood, Police Chief.

Employee Organizations: Berkeley Fire Fighters Association Local 1227, Berkeley Police Association, Service Employees International Union, Local 1021 Maintenance and Clerical Chapters, Berkeley Fire Fighters Association, Local 1227 I.A.F.F. / Berkeley Chief Fire Officers Association; International Brotherhood of Electrical Workers, Local 1245.

**Action:** No reportable action taken.

## OPEN SESSION:

No reportable action taken.

## Adjournment

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

**Vote:** All Ayes.

Adjourned at 5:50 p.m.



I hereby certify that the foregoing is a true and correct record of the closed session meeting held on May 26, 2020.

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Mark Numainville  
City Clerk

**MINUTES**  
**BERKELEY CITY COUNCIL MEETING**  
**Tuesday, May 26, 2020**  
**6:00 PM**

JESSE ARREGUIN, MAYOR

Councilmembers:

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

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

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## Preliminary Matters

**Roll Call:** 6:09 p.m.

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

**Absent:** None

**Action:** M/S/C (Arreguin/Robinson) to adopt the temporary rules presented by the Mayor for the conduct of business at the May 26, 2020 Council meeting.

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

### Ceremonial Matters:

1. Adjourn in memory of all victims of COVID-19
2. Morton McDonald, Berkeley Resident
3. Lynette Levy, Berkeley Resident
4. Maria Guevarra, Local Activist
5. William Barclay Caldeira a.k.a. "300"
6. Recognition of May 2020 as Mental Health Month

### City Auditor Comments:

The City Auditor provided a summary of the services provided by the City Auditor Department and an update on the budget and staffing demands on the Department.

### City Manager Comments:

The City Manager expressed appreciation to the City Council and COVID-19 response team for their efforts. The City Manager also provided a summary of the efforts to respond to and contain COVID-19 in the Skilled Nursing Facilities and Long Term and Memory Care Facilities in Berkeley.

**Public Comment on Non-Agenda Matters:** 8 speakers.

## Consent Calendar

**Public Comment on Consent Calendar and Information Items Only:** 3 speakers.

**Action:** M/S/C (Arreguin/Robinson) to accept supplemental material from the City Manager on Item 24a.

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

**Action:** M/S/C (Arreguin/Wengraf) to add an urgent item from the City Manager to the agenda pursuant to Government Code Section 54954.2(b).

**Vote:** All Ayes.

## Consent Calendar

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

**Vote:** All Ayes.

## Consent Calendar

### **Urgency Item: Contract with Berkeley Food & Housing Project for COVID-19 Non-Congregate Shelter Services**

**From:** City Manager

**Recommendation:** Adopt a Resolution authorizing the City Manager or her designee to: 1) Execute one or more sole-source contract(s) and any amendments with Berkeley Food & Housing Project (BFHP) for one year to provide homeless wrap-around supportive services at Berkeley's COVID-19 Respite Sites, located at 1281 University Avenue, 1654 5<sup>th</sup> Street and 701 Harrison Street; and 2) Make an advance payment on this contract from Homeless Emergency Aid Program (HEAP) funding sufficient to cover one month's worth of services prior to contract execution.

**Financial Implications:** See report.

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

**Action:** Adopted Resolution No. 69,399–N.S.

### **1. Amendment: FY 2020 Annual Appropriations Ordinance**

**From:** City Manager

**Recommendation:** Adopt second reading of Ordinance No. 7,700-N.S. amending the FY 2020 Annual Appropriations Ordinance No. 7,694–N.S. for fiscal year 2020 based upon recommended re-appropriation of committed FY 2019 funding and other adjustments in the amount of \$47,770,093 (gross) and \$42,815,104 (net).

**First Reading Vote:** All Ayes.

**Financial Implications:** See report

Contact: Teresa Berkeley-Simmons, Budget Manager, (510) 981-7000

**Action:** Adopted second reading of Ordinance No. 7,700-N.S.

### **2. Dorothy Day House License Agreements: Veterans Memorial Building and Old City Hall**

**From:** City Manager

**Recommendation:** Adopt second reading of Ordinance Nos. 7,701-N.S. and 7,702-N.S. authorizing the City Manager or her designee to execute license agreements and any amendments thereto with Dorothy Day House to provide services at the Veterans' Memorial Building at 1931 Center Street (Ordinance No. 7,701-N.S.) and the Old City Hall at 2134 Martin Luther King Jr. Way (Ordinance No. 7,702-N.S.).

**First Reading Vote:** All Ayes.

**Financial Implications:** See report

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

**Action:** Adopted second reading of Ordinance No. 7,701-N.S. (1931 Center Street) and Ordinance No. 7,702-N.S. (2134 MLK Jr. Way).

## Consent Calendar

- 3. Minutes for Approval**  
**From: City Manager**  
**Recommendation:** Approve the minutes for the council meetings of April 14, 2020 (special closed and regular), April 21, 2020 (special closed and regular) and April 28, 2020 (regular).  
**Financial Implications:** None  
Contact: Mark Numainville, City Clerk, (510) 981-6900  
**Action:** Approved minutes as submitted.
- 4. California Governor's Office of Emergency Services - Authorized Agent for Disaster Relief for COVID-19**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution designating the City Manager as the Authorized Agent for the purpose of obtaining certain state and financial assistance related to preparation for, response to, and recovery from the COVID-19 pandemic.  
**Financial Implications:** See report  
Contact: Dave White, City Manager's Office, (510) 981-7000  
**Action:** Adopted Resolution No. 69,400–N.S.
- 5. Assessments: Downtown Berkeley Property Based Business Improvement District**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution approving the Downtown Berkeley Property Based Business Improvement District (DPBID) Annual Report of FY 2020 and proposed budget for FY 2021, and declaring Council's intention to levy an annual assessment for the DPBID for FY 2021.  
**Financial Implications:** See report  
Contact: Jordan Klein, Economic Development, (510) 981-7530  
**Action:** Adopted Resolution No. 69,401–N.S.
- 6. Assessments: Telegraph Property Based Business Improvement District**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution approving the Telegraph Property Based Business Improvement District (TBID) Annual Report of FY 2020 and proposed budget for FY 2021, and declaring Council's intention to levy an annual assessment for the TBID for FY 2021.  
**Financial Implications:** See report  
Contact: Jordan Klein, Economic Development, (510) 981-7530  
**Action:** Adopted Resolution No. 69,402–N.S.

## Consent Calendar

7. **Notice of Appropriations Limit for Fiscal Year 2021**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution providing notice that: 1) Council will adopt an appropriations limit for Fiscal Year 2021 at its meeting of June 30, 2020; and 2) the amount of the limit and the background material used in its calculation will be available for public review from the City Clerk's Office on or before June 15, 2020.  
**Financial Implications:** See report  
Contact: Henry Oyekanmi, Finance, (510) 981-7300  
**Action:** Adopted Resolution No. 69,403–N.S.
  
8. **Contract Amendment: Berkeley Food & Housing Project**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager or her designee to execute a contract and any amendments with vendor Berkeley Food & Housing Project (BFHP) to provide administrative services for Berkeley Mental Health (BMH) Flexible Spending Programs and the Russell Street Residence through June 30, 2021 in an amount not to exceed \$960,874. This will extend the existing contract by one year and add in \$603,874 in funding to pay for the services outlined below.  
**Financial Implications:** Various Funds - \$603,874  
Contact: Lisa Warhuus, Housing and Community Services, (510) 981-5400  
**Action:** Adopted Resolution No. 69,404–N.S.
  
9. **Contract: Bay Area Community Resources for the Placement of AmeriCorps Members**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager or her designee to execute an expenditure contract and any amendments or extensions thereto with Bay Area Community Resources in an amount not to exceed \$56,000 for the period July 1, 2020 through June 30, 2021 for the placement of AmeriCorps members.  
**Financial Implications:** See report  
Contact: Lisa Warhuus, Housing and Community Services, (510) 981-5400  
**Action:** Adopted Resolution No. 69,405–N.S.
  
10. **Grant Agreement: Funding Support from Alameda County to Public Health Infrastructure Program**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager or her designee to submit grant agreements to Alameda County, to accept the grant, and execute any resultant revenue agreements and amendments to conduct public health promotion, protection, and prevention services for the Public Health Infrastructure Program in the projected amount of \$32,080 for FY 2021.  
**Financial Implications:** See report  
Contact: Lisa Warhuus, Housing and Community Services, (510) 981-5400  
**Action:** Adopted Resolution No. 69,406–N.S.

## Consent Calendar

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

**From: City Manager**

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

1. Foster Care Program in the projected amount of \$93,187 for FY 2021;
2. Berkeley High School and Berkeley Technology Academy Health Center Programs in the projected amount of \$178,778 for FY 2021;
3. School Linked Health Services Program (Measure A Funding) in the projected amount of \$193,175 for FY 2021;
4. Tobacco Prevention Program in the projected amount of \$76,290 for FY 2021.

**Financial Implications:** See report

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

**Action:** Adopted Resolution No. 69,407–N.S. (Foster Care), Resolution No. 69,408–N.S. (Berkeley High), Resolution No. 69,409–N.S. (School Linked), and Resolution No. 69,410–N.S. (Tobacco Prevention).

### 12. Revenue Grant Agreement: Funding Support from the State of California for the Tuberculosis Program

**From: City Manager**

**Recommendation:** Adopt a Resolution authorizing the City Manager or her designee to submit grant agreements to the State of California, to accept the grant, and execute any resultant revenue agreements and amendments to conduct public health promotion, protection, and prevention services for the Tuberculosis Control Program in the projected amount of \$14,000 for FY 2021.

**Financial Implications:** See report

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

**Action:** Adopted Resolution No. 69,411–N.S.

### 13. Contract: Software AG, Inc. for Software, maintenance and professional services for Data Integration Middleware Platform webMethods

**From: City Manager**

**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a contract with Software AG, Inc. for software, maintenance and professional services for Data Integration Middleware Platform webMethods in an amount not to exceed \$436,000 for the term June 1, 2020 to June 30, 2023.

**Financial Implications:** See report

Contact: Savita Chaudhary, Information Technology, (510) 981-6500

**Action:** Adopted Resolution No. 69,412–N.S.

## Consent Calendar

- 14. Contract No. 10414B Amendment: Geographic Technologies Group (GTG) for Geographic Information System (GIS) Master Plan**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to amend Contract No. 10414B with Geographic Technologies Group (GTG) for Geographic Information System (GIS) Master Plan, for a total not to exceed \$95,451 and for a total contract value of \$399,411 from September 14, 2016 to June 30, 2022.  
**Financial Implications:** Professional Services Fund - \$95,451  
Contact: Savita Chaudhary, Information Technology, (510) 981-6500  
**Action:** Adopted Resolution No. 69,413–N.S.
- 15. Donation: Friends of Berkeley Tuolumne Camp for Berkeley Tuolumne Camp Shade Structure Design**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution accepting a cash donation from the Friends of Berkeley Tuolumne Camp in the amount of \$74,266 for the Berkeley Tuolumne Camp Shade Structure Design.  
**Financial Implications:** Donation - \$74,266  
Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700  
**Action:** Adopted Resolution No. 69,414–N.S.
- 16. Lease for 235 University Avenue – YOONACO, Inc. dba Hana Japan**  
**From: City Manager**  
**Recommendation:** Adopt first reading of an Ordinance authorizing the City Manager to execute a lease agreement and necessary amendments with YOONACO, Inc., doing business as Hana Japan Steak and Seafood, at 235 University Avenue at the Berkeley Marina for a term of five years, with a five year tenant-option.  
**Financial Implications:** See report  
Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700  
**Action:** Adopted first reading of Ordinance No. 7,703–N.S. Second reading scheduled for June 16, 2020.
- 17. Declaration of Intent - FY 2021 Street Lighting Assessments**  
**From: City Manager**  
**Recommendation:** Adopt two Resolutions granting the City Manager the authority to approve the Engineer’s Reports; set a public hearing to be held before the Council of the City of Berkeley at its June 16, 2020 meeting; and authorize the City Clerk to publish Notice of the Public Hearing for FY 2021 Levy of Assessments for Berkeley Street Lighting Assessment District No. 1982-1 and Street Lighting Assessment District 2018.  
**Financial Implications:** See report  
Contact: Phillip Harrington, Public Works, (510) 981-6300  
**Action:** Adopted Resolution No. 69,415–N.S. (District No. 1982-1) and Resolution No. 69,416–N.S. (District 2018).



## Consent Calendar

- 18. Contract Amendment No. 31900055: Community Conservation Centers, Inc. for Processing and Marketing Services of Recyclable Materials**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to amend and extend Contract No. 31900055 with Community Conservation Centers, Inc. for the Processing and Marketing of Recyclable Materials, which includes curbside collected, residential drop-off and buyback materials, for one (1) year through June 30, 2021, with an increase of \$2,100,000 for a revised Contract not to exceed amount of \$6,100,000.  
**Financial Implications:** Zero Waste Fund - \$2,100,000  
Contact: Phillip Harrington, Public Works, (510) 981-6300  
**Action:** Adopted Resolution No. 69,417–N.S.
- 19. Contract No. 10661A Amendment: SKIDATA, Inc. (formerly Sentry Control Systems) for Parking Access and Revenue Control System Maintenance Services and Warranties**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 10661A with SKIDATA, Inc. (formerly Sentry Control Systems) to provide maintenance services and warranties for parking access and revenue control system equipment, increasing the contract amount by \$111,150 for a total not-to-exceed amount of \$1,335,257.  
**Financial Implications:** See report  
Contact: Phillip Harrington, Public Works, (510) 981-6300  
**Action:** Adopted Resolution No. 69,418–N.S.
- 20. Contract No. 10145 Amendment: IPS Group, Inc. for Parking Meter Operations**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to amend Contract No.10145 with IPS Group, Inc. to provide parking meters, replacement parts, and support services, increasing the contract amount by an additional \$1,513,540 for a total contract amount not to exceed \$7,033,457 through June 30, 2022.  
**Financial Implications:** See report  
Contact: Phillip Harrington, Public Works, (510) 981-6300  
**Action:** Adopted Resolution No. 69,419–N.S.

## Consent Calendar

21. **Contract No. 9977A Amendment: Portable Computer Systems dba PCS Mobile for Automated License Plate Reader Equipment**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 9977A with Portable Computer Systems dba PCS Mobile to replenish the contract budget for automated license plate reader equipment, increasing the contract amount by \$175,000, for a total amount not to exceed \$1,825,000.  
**Financial Implications:** See report  
Contact: Phillip Harrington, Public Works, (510) 981-6300  
**Action:** Adopted Resolution No. 69,420–N.S.  
**Vote:** Ayes – Kesarwani, Wengraf, Robinson, Droste, Arreguin; Noes – None; Abstain – Davila, Bartlett, Harrison, Hahn.

## Action Calendar – Public Hearings

22. **Electric Bike Share Program Franchise Amendment** (*Continued from April 21, 2020*)  
**From: City Manager**  
**Recommendation:** Pursuant to Berkeley Municipal Code Chapter 9.60, conduct a public hearing and upon conclusion, adopt the first reading of an Ordinance granting a Franchise Agreement Amendment to Bay Area Motivate, LLC, a subsidiary of Lyft Incorporated, to provide shared electric bicycles to the Berkeley public.  
**Financial Implications:** See report  
Contact: Phillip Harrington, Public Works, (510) 981-6300  
  
**Action:** Item 22 removed from the agenda by the City Manager.

## Action Calendar – Old Business

23. **Contract: CycloMedia Technology, Inc. for Geographic Information System Infrastructure Asset Data Acquisition** (*continued from May 12, 2020*)  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a contract with CycloMedia Technology Incorporated for Geographic Information System infrastructure asset data acquisition, for an amount not to exceed \$187,401 for the period commencing on May 15, 2020 to June 30, 2022.  
**Financial Implications:** Various Funds - \$187,401  
Contact: Savita Chaudhary, Information Technology, (510) 981-6500  
**Action:** 3 speakers. M/S/C (Harrison/Hahn) to continue Item 23 to the June 16, 2020 agenda and direct the City Manager to provide an acquisition report and use policy for the infrastructure asset data technology.  
**Vote:** All Ayes.

Recess 8:15 p.m. – 8:25 p.m.

## Action Calendar – New Business

### 24a. Fiscal Year 2021 Proposed Budget Update Discussion

**From: City Manager**

**Recommendation:** Discussion regarding the FY 2021 Proposed Budget Update.

**Financial Implications:** See FY 2021 Proposed Budget Update

Contact: Teresa Berkeley-Simmons, Budget Manager, (510) 981-7000

**Action:** 4 speakers. Presentation made and discussion held.

### 24b. FY 2020 Mid-Year Budget Update *(Continued from May 12, 2020)*

**From: City Manager**

Contact: Teresa Berkeley-Simmons, Budget Manager, (510) 981-7000

**Action:** M/S/C (Arreguin/Robinson) to continue Item 24b to June 2, 2020.

**Vote:** All Ayes.

### 25. Establishing a COVID-19 Business Damage Mitigation Fund

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

**Recommendation:** Refer to the City Manager to establish a COVID-19 Business Damage Mitigation Fund in an amount up to \$100,000 to provide one-time grants to small businesses who experience property damage due to vandalism and other problematic behavior during this COVID-19 local State of Emergency

**Financial Implications:** Up to \$100,000

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

**Action:** speakers. M/S/C (Arreguin/Harrison) to suspend the rules and extend the meeting to 11:30 p.m. and continue Item 25 to June 2, 2020 to be the first item on the Action Calendar.

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

### 26. Support a Global Ceasefire During the Coronavirus (COVID-19) Pandemic

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

**Recommendation:**

1. Adopt a Resolution in Support of a Global Ceasefire during the COVID-19 Pandemic.

2. Send copies of this resolution to the United Nations Secretary-General, United States Senators Bernie Sanders, Kamala Harris, Dianne Feinstein, and United States Congressional Representatives Barbara Lee, Ro Khanna, Alexandria Ocasio-Cortez, Ilhan Omar, Ayanna Pressley, Rashida Harbi Tlaib, and Pramila Jayapa.

**Financial Implications:** None

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

**Action:** Moved to Consent Calendar. Adopted Resolution No. 69,421–N.S. and approved sending the resolution to the listed entities.

## Action Calendar – New Business

27. **Urgency Ordinance: Updates to the Covid-19 Emergency Response Ordinance From: Councilmember Harrison (Author), Councilmember Davila (Co-Sponsor), Councilmember Bartlett (Co-Sponsor)** *(Item contains revised material)*  
**Recommendation:** Adopt an urgency ordinance amending Berkeley Municipal Code 13.110, Title 13, “The COVID-19 Emergency Response Ordinance,” to enhance emergency tenant protections consistent with recently adopted County laws, action in other jurisdictions, and consultation with community stakeholders.  
**Financial Implications:** None  
Contact: Kate Harrison, Councilmember, District 4, (510) 981-7140
- Action:** speakers. M/S/C (Arreguin/Hahn) to suspend the rules and extend the meeting to 11:40 p.m.  
**Vote:** Ayes – Kesarwani, Bartlett, Harrison, Hahn, Wengraf, Robinson, Droste, Arreguin; Noes – Davila.
- Action:** 16 speakers. M/S/C (Harrison/Davila) to adopt Ordinance No. 7,704–N.S. as revised in Supplemental Communications Packet #1 from Councilmember Harrison with additional amendments to sections 13.110.020B, 13.110.030A, 13.110.030D, 13.110.050A, and 13.110.050B introduced verbally at the meeting.  
**Vote:** All Ayes.

## Information Reports

28. **FY 2019 Fourth Quarter Investment Report: Ended June 30, 2019** *(Reviewed by Budget & Finance Policy Committee. Item contains supplemental material)*  
**From: City Manager**  
Contact: Henry Oyekanmi, Finance, (510) 981-7300  
**Action:** Received and filed. (Item contains supplemental material.)
29. **FY 2020 First Quarter Investment Report: Ended September 30, 2019** *(Reviewed by Budget & Finance Policy Committee. Item contains supplemental material)*  
**From: City Manager**  
Contact: Henry Oyekanmi, Finance, (510) 981-7300  
**Action:** Received and filed. (Item contains supplemental material.)

**Public Comment – Items Not Listed on the Agenda – 4 speakers.**

**Adjournment** Adjourned at 11:40 p.m.

I hereby certify that the foregoing is a true and correct record of the regular meeting of the City Council held on May 26, 2020.

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Mark Numainville  
City Clerk

## Communications

### **Item #25: Establishing a COVID-19 Business Damage Mitigation Fund**

1. John Caner, on behalf of the Downtown Berkeley Association

### **Item #27: Urgency Ordinance: Update to the Covid-19 Emergency Ordinance**

2. Samara Bennett
3. Diana Bohn
4. Friends of Adeline
5. Ellen Woods
6. David Seegal
7. Ariana Thompson-Lastad

### **Berkeley Manufacturing**

8. Kirsten MacDonald, on behalf of the Berkeley Chamber of Commerce
9. Sam Johnson (4)
10. Dee Williams-Ridley, City Manager (2)

### **Slow Streets – Walkers, Runners and Bicyclists**

11. Sabina McMurtry
12. Shirley Stuart
13. Hanna Tamrat
14. Josie Gerst

### **Homelessness**

15. Alfred Manning
16. Safiyah Lazkani

### **Construction during the Pandemic**

17. Thomas Lord

### **Transfer Station Rates**

18. David Lerman

### **Berkeley Businesses, Arts and Education Programs**

19. Doris Fukawa, on behalf of the Crowden Music Center

### **TOD at Ashby and Berkeley BART**

20. Laura Klein
21. Councilmember Harrison
22. Barbara Gilbert
23. David Taylor

### **People's Park**

24. Max Ventura
25. Ivar Diehl
26. Tom Luce

**KPFB**

- 27. Thomas Lord (2)
- 28. Mark Numainville, City Clerk

**Property Lien**

- 29. Sinan and Arzu Sabuncuoglu

**Golden Duplex/ADU/Airbnb**

- 30. Monika Mann
- 31. Judy Hunt
- 32. Sage Linda Spatz

**Crisis at Aquatic Park**

- 33. James Corrie

**Salary Cuts for City of Berkeley Employees**

- 34. Genevieve Wilson (2)

**COVID-19**

- 35. Todd Seeley
- 36. David Lerman (3)
- 37. Carol Denney
- 38. Topher Brennan
- 39. Thomas Lord

**Supplemental Communications and Reports 1**

**Item #25: Establishing a COVID-19 Business Damage Mitigation Fund**

- 40. Kathryn Collins, on behalf of Harvest Properties
- 41. Eric Friedman

**Item #27: Urgency Ordinance: Updates to the Covid-19 Emergency Response Ordinance**

- 42. Revised material, submitted by Councilmember Harrison
- 43. Chimey Lee
- 44. The 1921 Walnut Street Association
- 45. Chris Hudson
- 46. Pablo
- 47. Tim Ranahan
- 48. Samara Bennett

**Supplemental Communications and Reports 2**

**Item #22: Electric Bike Share Program Franchise Amendment**

- 49. Ingrid Good
- 50. Chimey Lee

**Item #25: Establishing a COVID-19 Business Damage Mitigation Fund**

- 51. Eric Friedman (2)
- 52. Councilmember Harrison (2)

**Item #26: Support a Global Ceasefire During the Coronavirus (COVID-19) Pandemic**

- 53. Chimey Lee

**Item #27: Urgency Ordinance: Updates to the Covid-19 Emergency Response Ordinance**

- 54. Evelina Nava, on behalf of the East Bay Community Law Center
- 55. Max Ventura
- 56. Pam Speich
- 57. Juli Dickey
- 58. Todd Jersey
- 59. Summi Kaipa
- 60. Bruce Bagnell
- 61. Margot Smith
- 62. Michael Katz
- 63. Jane Kitchel
- 64. Donna Mickleson
- 65. Carol Denney
- 66. Kitty Calavita
- 67. Sophia DeWitt
- 68. Arnold Kessler
- 69. Glen Lindwall
- 70. Erik Dreher
- 71. Zane Dundon
- 72. Milind Hegde
- 73. Elizabeth Ferguson
- 74. Louise Rosenkrantz
- 75. Igor Tregub, on behalf of the Sierra Club Northern Alameda County
- 76. Travis King
- 77. Blair Beckman
- 78. Mick Mize
- 79. Bert Knorr
- 80. Corey Sherman
- 81. Izaak Meckler
- 82. Michael Stock-Matthews
- 83. Liza Veale
- 84. Leah Bacon
- 85. Isaac Krone
- 86. Linda Franklin
- 87. Sally Nelson
- 88. Kitty Calavita
- 89. Rose Glickman
- 90. Lynne Camerson
- 91. Rosie Cohan
- 92. Zoe Stahl

- 93. Kevin Jude
- 94. Emma Heinichen, on behalf of Zacks, Freedman & Patterson Law Firm
- 95. Andrew Muhoberac
- 96. Chimey Lee
- 97. Xenia Lopez (2)

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

#### **Item #24a: Fiscal Year 2021 Proposed Budget Update Discussion**

- 98. Supplemental material, submitted by the City Manager's Office
- 99. Presentation, submitted by the City Manager's Office

#### **Item #27: Urgency Ordinance: Updates to the Covid-19 Emergency Response Ordinance**

- 100. Andrea Mullarkey
- 101. Sophia Hussain
- 102. Melanie Lawrence & John Small
- 103. Terry Taplin
- 104. Brian Troutwine
- 105. Sara Elzeiny
- 106. Sara
- 107. Sheila Jordan
- 108. Chimey Lee
- 109. Christine Schwartz
- 110. Bay Area Community Land Trust
- 111. Bryce Nesbit
- 112. Carole Marasovic

#### **Urgent Item: Contract with Berkeley Food & Housing Project for COVID-19 Non-Congregate Shelter Services**

- 113. Urgent Item, submitted by the City Manager's Office

### **Miscellaneous Communications**

#### **Keeping Lockdown Livable**

- 114. Bryce Nesbit

#### **Cell Tower Installation**

- 115. Wanda Warkentin (2)





Office of the City Manager

13

CONSENT CALENDAR  
JUNE 30, 2020

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams Ridley, City Manager  
 Submitted by: Erin Steffen, Assistant to the City Manager  
 Subject: Animal Services Contract with the City of Piedmont

RECOMMENDATION

Adopt a resolution authorizing the City Manager to execute a contract, with any amendments, with the City of Piedmont for animal care services for FY2021-FY2025, which increases the existing contract by up to \$180,134, with a total contract amount not to exceed \$441,984.

FISCAL IMPACTS OF RECOMMENDATION

The City of Berkeley provides animal care services to the City of Piedmont and currently receives \$52,370 annually for these services. Berkeley's cost for providing animal services to Piedmont is currently \$101,062. Berkeley proposes to gradually increase the cost of services each year until the revenue from the City of Piedmont matches the expenses for the City of Piedmont. The City of Piedmont will reimburse the City for these additional estimated costs, and revenues will be deposited into the General Fund. The total contract will not exceed \$441,984.

CURRENT SITUATION AND ITS EFFECTS

The current contract between the City of Berkeley and the City of Piedmont shall expire on June 30, 2020.

Operational costs of sheltering animals has increased significantly. A recent cost analysis conducted by the City of Berkeley revealed an annual operating cost of \$1.6 million not including administrative costs. The City of Berkeley calculated the share of services provided to the City of Piedmont as \$101,062 which is significantly more than the current contracted amount.

Upon request by the City of Piedmont, the City of Berkeley performs the following services:

1. Shelter and feed animals brought to the Berkeley Animal Shelter from Piedmont and Emeryville

2. Euthanize after legal holding and only as necessary, animals brought to the Berkeley Animal Shelter
3. Accept animals brought to the Berkeley Animal Shelter by residents of Piedmont and Emeryville
4. Quarantine animals, as necessary, for rabies observation for and on behalf of the cities of Piedmont and Emeryville
5. Issue pre-prepared citations of claimants of aforementioned animals, which citations have been completed and signed by a Piedmont/Emeryville Animal Control Officer

#### BACKGROUND

The City of Piedmont does not have its own Animal Shelter and therefore requires assistance in providing care and shelter for animals from within the Cities of Piedmont and Emeryville who are in need of care by reason of accident, sickness or being lost, stray or abandoned. In 2019, the City of Berkeley Animal Services handled 1,366 live animals of which 10% came from Piedmont and Emeryville.

#### RATIONALE FOR RECOMMENDATION

The City of Berkeley is well equipped and capable of providing the services outlined above for the City of Piedmont, and should be appropriately compensated for the services.

#### ALTERNATIVE ACTIONS CONSIDERED

If the City were to not engage in the contract with the City of Piedmont, it would still incur the costs associated with building maintenance and staffing for the shelter. There would likely be a small decrease in sheltering costs.

#### ENVIRONMENTAL SUSTAINABILITY

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

#### CONTACT PERSON

Amelia Funghi, Manager, Animal Services, (510) 981-6603

#### Attachments:

- 1: Resolution
2. City of Piedmont FY20 Costs of service

RESOLUTION NO.

-N.S.

AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT AND ANY AMMENDMENTS WITH THE CITY OF PIEDMONT AND CITY OF BERKELEY ANIMAL CARE SERVICES FOR FY2021-FY2025 IN THE AMOUNT NOT TO EXCEED \$441,984

WHEREAS, The City of Piedmont requires assistance in providing care and shelter for small animals within the City who are in need by reason of accident, sickness or being lost, stray or abandoned; and

WHEREAS, The City of Berkeley is able to provide these services to the City of Piedmont.

NOW THEREFORE, BE IT RESOLVED that the Council of the City of Berkeley authorizes the City Manager to execute a contract, with any amendments, with the City of Piedmont for animal care services for FY2021-FY2025, which increases the existing contract by up to \$180,134, with a total contract amount not to exceed \$441,984.

**PIEDMONT/EMERYVILLE FY 19/20 Costs**

10% of live animal  
intake  
15% of DOA intake  
0% field calls

| <b>PERSONNEL</b> | <b>Total Cost</b> | <b>% Cost</b>   |
|------------------|-------------------|-----------------|
| ASA - 3.5 (10%)  | \$384,125         | \$38,412        |
| RVT - 1 (10%)    | \$116,445         | \$11,644        |
|                  | <b>\$500,570</b>  | <b>\$50,056</b> |

**BUILDING MAINT & UTILITIES ( based on 10%)**

|                                              |                  |                 |
|----------------------------------------------|------------------|-----------------|
| PW-Building maintenance (10%)                | \$130,130        | \$13,013        |
| Facilities (10%)                             | \$43,885         | \$4,388         |
| Utilities (10%)                              | \$74,071         | \$7,407         |
| Emergency Generator (3.3% per yr over 3 yrs) | \$30,386         | \$1,003         |
| Roof Restoration (3.3% per yr over 3 yrs)    | \$24,136         | \$796           |
|                                              | <b>\$302,608</b> | <b>\$26,607</b> |

**SHELTERING COSTS**

|                               |                  |                 |
|-------------------------------|------------------|-----------------|
| Animal Food (10%)             | \$17,840         | \$1,784         |
| Shelter Supplies (10%)        | \$20,365         | \$2,036         |
| Medical Supplies (10%)        | \$66,170         | \$6,617         |
| Veterinary Services (10%)     | \$109,020        | \$10,902        |
| Deceased animal service (15%) | \$20,400         | \$3,060         |
|                               | <b>\$233,795</b> | <b>\$24,399</b> |

**TOTAL ANNUAL COST** **\$101,062**

current contracted  
amount = **\$52,370**



Office of the City Manager

CONSENT CALENDAR

June 30, 2020

To: Honorable Mayor and Members of the City Council  
From: Dee Williams-Ridley, City Manager  
Submitted by: David A. White, Deputy City Manager  
Subject: Amendment to Contract No. 10854 (ERMA Contract No. 118939-1):  
Townsend Public Affairs, Inc. for Legislative and Funding Advocacy Strategy

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to execute an amendment to the contract with Townsend Public Affairs, Inc., contract No. 10854 (ERMA Contract No. 118939-1), for an ongoing tailored legislative and funding advocacy strategy, increasing the contract amount by \$30,000, for an amount not-to-exceed \$120,000, and extending the contract from June 30, 2020 to June 30, 2021.

FISCAL IMPACTS OF RECOMMENDATION

The proposed amendment increases the Townsend Public Affairs, Inc. contract amount by \$30,000 from \$90,000 to a not to exceed amount of \$120,000. The funding source for the amendment is 011-99-900-900-0000-000-412-612990.

CURRENT SITUATION AND ITS EFFECTS

The City Manager's Office requires legislative information and support that includes the following:

- Review of legislation to determine potential beneficial or adverse impacts to the City and recommend appropriate responses.
- Monitoring, analysis, and reporting on selected legislative and agency hearings that have impact on the City's priorities.
- Management of City Council-sponsored legislation, including: drafting language, securing authors and co-authors, and shepherding the bill through the legislative process to a successful conclusion.
- Facilitating participation of City representatives in the legislative process, including: Arranging and preparing legislative testimony, participating in informational hearings as expert witnesses, coordinating meetings and written communications with legislators and agency officials.

- Coordinating, building, and leveraging coalitions with other cities and interest groups with similar legislative needs in order to advance mutual priorities.
- Coordinating a minimum of one advocacy trip each year to Sacramento as requested, including client briefing, documentation, decision-maker briefing, meeting staffing, and follow up.

The current not to exceed amount of \$90,000 will be depleted at the end of June 2020, and the City Manager issued an extension of the contract. The contract will require additional funding to provide coverage for an additional 12 months of service.

#### BACKGROUND

On November 1, 2009, the City entered into agreement with Townsend Public Affairs, Inc., to have legislative representation in Washington, D.C. to further strengthen the community's access to federal agencies and legislators, as well as to obtain information about local government funding opportunities. The City is interested in having its representative continue to track funding requests and support the City's efforts to secure additional funding for a variety of programs and services.

#### ENVIRONMENTAL SUSTAINABILITY

There are no anticipated negative environmental effects of this action.

#### RATIONALE FOR RECOMMENDATION

Townsend Public Affairs, Inc. has provided excellent legislative and policy advocacy at the Federal level for the City of Berkeley.

#### ALTERNATIVE ACTIONS CONSIDERED

There are no proposed alternatives to consider.

#### CONTACT PERSON

David A. White, Deputy City Manager, (510) 981-7012  
Melanie E. McLean, Administrative Assistant to the Deputy City Managers, (510) 981-7005

Attachments:  
1: Resolution

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

CONTRACT NO. 10854 (ERMA CONTRACT NO. 118939-1) AMENDMENT:  
TOWNSEND PUBLIC AFFAIRS, INC. FOR LEGISLATIVE AND FUNDING ADVOCACY  
STRATEGY

WHEREAS, on November 1, 2009, the City entered into Agreement with Townsend Public Affairs, Inc. to have legislative representation in Washington, D.C. to further strengthen the community's access to federal agencies and legislators, and to obtain information about local government funding opportunities; and

WHEREAS, the City and Townsend Public Affairs, Inc. have historically entered in to a new contract at or near the end of each term, with each new term ranging between 12 and 18 months, and to date, new contracts have been executed on five occasions, as follows: November 1, 2009, July 1, 2011, July 1, 2012, July 1, 2015, and July 1, 2017; and

WHEREAS, on May 27, 2020, the City Manager approved an extension to the term of the contract from June 30, 2020 to June 30, 2021; and

WHEREAS, the extension effectively requires an increase in the not-to-exceed amount, from \$90,000 to \$120,000, which reflects an additional 12 months at a cost of \$2,500 per month; and

WHEREAS, the City's General Services Division has mandated that an Amendment to the most recent contract be produced and submitted to Council for approval and Resolution; and

WHEREAS, Townsend Public Affairs, Inc. has provided excellent legislative and policy advocacy at the Federal level for the City of Berkeley.

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. 10854 (ERMA Contract No. 118939-1) with Townsend Public Affairs, Inc., for an ongoing tailored legislative and funding advocacy strategy, increasing the contract amount by \$30,000, for an amount not-to-exceed \$120,000, and extending the contract from June 30, 2020 to June 30, 2021.







Office of the City Manager

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CONSENT CALENDAR  
June 30, 2020

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Teresa Berkeley-Simmons, Budget Manager

Subject: Contract: Downtown Berkeley YMCA for Fitness Center Memberships for City Employees Pursuant to Negotiated Employee Memoranda of Understanding

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to execute a contract and any amendments with the Downtown Berkeley YMCA in the amount of \$214,848 for fitness center memberships for City employees pursuant to negotiated employee memoranda of understanding for the period July 1, 2020 through June 30, 2021.

FISCAL IMPACTS OF RECOMMENDATION

FY 2021 Contract Cost: \$214,848 (373 members @ \$48 per month \* 12 months)

FY 2020 Contract Cost: \$224,064 (389 members @ \$48 per month \* 12 months)

The FY 2021 contract represents a decrease of \$9,216 from the FY 2020 contract. The decrease is due to the number of memberships decreasing from 389 members to 373 members. Although the contract cost of \$214,848 for FY 2021 is based on 373 memberships, this amount is a flat fee for the duration of the fiscal year regardless of whether memberships increase or decrease during the fiscal year. The FY 2021 Budget includes funding for this contract in fringe benefit accounts in department budgets that is collected and paid out from the Payroll Deduction Trust Fund. The General Fund will cover approximately \$102,392 of the contract cost and the remaining \$112,456 will be covered by other funds.

CURRENT SITUATION AND ITS EFFECTS

The current agreement began on July 1, 2019 and ends on June 30, 2020. A new contract is needed for FY 2021, which will continue the memberships for City employees and Legislative Assistants at a low cost.

BACKGROUND

Since 1989, the City has had an agreement with the YMCA to provide low cost fitness memberships for City employees and officials.

The City's labor contracts require the City to pay 75% of the total membership cost and employees pay the remaining 25%. Beginning on July 1, 2019, the full membership cost was \$64 per month, which meant the City's share was \$48 per month and the employee's share was \$16 per month. For FY 2021, the membership cost will remain at \$64 per month.

This benefit is included in all of the collective bargaining agreements and would terminate at the same time as the longest union contract containing the benefit. The City would need to hold meet and confer sessions with the unions if it wishes to eliminate this benefit.

The Downtown Berkeley YMCA contract is a Strategic Plan Priority, advancing our goal to attract and retain a talented and diverse City government workforce.

ENVIRONMENTAL SUSTAINABILITY

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

RATIONALE FOR RECOMMENDATION

City contracts for personal services over \$50,000 require authorization from the City Council before the City Manager can execute the contract.

ALTERNATIVE ACTIONS CONSIDERED

None

CONTACT PERSON

Rama Murty, Senior Management Analyst, City Manager's Office, 981-7044

Attachments:

1: Resolution

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

CONTRACT: DOWNTOWN BERKELEY YMCA FOR LOW COST FITNESS CENTER  
MEMBERSHIPS FOR CITY EMPLOYEES

WHEREAS, the City has had an agreement with the Downtown Berkeley YMCA to provide low cost fitness memberships for City employees and legislative assistants; and

WHEREAS, the City's labor contracts require the City to pay 75 percent of the total membership cost; and

WHEREAS, the current agreement began on July 1, 2019 and ends on June 30, 2020 and a new contract is proposed for FY 2021; and

WHEREAS, the FY 2021 Budget includes funding for this contract in fringe benefit accounts in department budgets that is collected and paid out from the Payroll Deduction Trust Fund.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that that the City Manager is authorized to execute a contract and any amendments with the Downtown Berkeley YMCA for low cost fitness center memberships for City of Berkeley employees and legislative assistants for the period July 1, 2020 to June 30, 2021 in the amount not to exceed \$214,848. 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  
June 30, 2020

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: Henry Oyekanmi, Director, Finance  
 Subject: Formal Bid Solicitations and Request for Proposals Scheduled for Possible Issuance After Council Approval on June 30, 2020

RECOMMENDATION

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

FISCAL IMPACTS OF RECOMMENDATION

Total estimated cost of items included in this report is \$195,000.

| <u>PROJECT</u>                                 | <u>Fund</u> | <u>Source</u>      | <u>Amount</u>    |
|------------------------------------------------|-------------|--------------------|------------------|
| Third-Party Administrator for Commute Benefits | 011         | Discretionary Fund | \$195,000        |
| <b>Total:</b>                                  |             |                    | <b>\$195,000</b> |

CURRENT SITUATION AND ITS EFFECTS

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

Formal Bid Solicitations and Request for Proposals  
Scheduled for Possible Issuance After Council  
Approval on June 30, 2020

CONSENT CALENDAR  
June 30, 2020

**BACKGROUND**

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

ENVIRONMENTAL SUSTAINABILITY

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

RATIONALE FOR RECOMMENDATION

Need for the services.

ALTERNATIVE ACTIONS CONSIDERED

None.

CONTACT PERSON

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

Attachments:

1: Formal Bid Solicitations and Request for Proposals Scheduled For Possible Issuance After Council Approval on June 30, 2020

- a) Third-Party Administrator for Commute Benefits

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

DATE SUBMITTED:

| 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                                      |
|--------------------|-------------------------------------------------|----------------------|--------------------------|-------------------------------------------------------------------------------------|-----------------------------|-----------------------------------------------|-------------------------------------|-----------------------------------------------------------|
| 20-11404-C         | Third-Party Administrator for Commute Benefits  | 6/31/2020            | 7/31/2020                | Third-party administration of the City's Commute Benefit Program for its employees. | \$195,000 (3-year contract) | 501-52-543-582-0000-000-461-663110-PRWRC18002 | PRW/<br>Waterfront Capital Projects | Taylor Lancelot<br>981-6421<br><br>Nelson Lam<br>981-6395 |
| <b>DEPT. TOTAL</b> |                                                 |                      |                          |                                                                                     | <b>\$195,000</b>            |                                               |                                     |                                                           |
| <b>GRAND TOTAL</b> |                                                 |                      |                          |                                                                                     | <b>\$195,000</b>            |                                               |                                     |                                                           |

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Office of the City Manager

CONSENT CALENDAR  
June 30, 2020

To: Honorable Mayor and Members of the City Council  
From: Dee Williams-Ridley, City Manager  
Submitted by: Henry Oyekanmi, Director, Finance Department  
Subject: FY 2021 Reaffirming the Investment Policies and Designation of Investment Authority

RECOMMENDATION

Adopt a Resolution affirming the Statement of Investment Policies (no changes from the current policy) and to confirm the delegation of investment authority to the Director of Finance to make investments for FY 2021.

FISCAL IMPACTS OF RECOMMENDATION

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

CURRENT SITUATION AND ITS EFFECTS

**A. City's Statement of Investment Policy**

The City's Statement of Investment Policies requires the City Council to annually reaffirm the Statement of Investment Policy. There are no changes made to the investment policy from the prior year.

**B. Delegating Authority to Make Investments**

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

BACKGROUND

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

INVESTMENT OVERSIGHT

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

ENVIRONMENTAL SUSTAINABILITY

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

RATIONALE FOR RECOMMENDATION

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

ALTERNATIVE ACTIONS CONSIDERED

None.

CONTACT PERSON

Henry Oyekanmi, Director, Finance, 981-7326

Attachments:

- 1: Resolution
2. Investment Policies for Idle Pooled Cash (Effective July 1, 2020)
3. Investment Policies for Retiree Medical Plan Trust Funds (Effective July 1, 2020)

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

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

WHEREAS, by Resolution No. 68,968-N.S. dated June 25, 2019, the City Council adopted the Investment Policy for the City of Berkeley; and

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

WHEREAS, the Director of Finance has no recommendation or amendments to the investment policies to the City Council.

NOW THEREFORE, BE IT RESOLVED that the Council of the City of Berkeley authorizes to adopt a resolution to affirm the Statement of Investment Policies, and to confirm the delegation of investment authority to make investments to the Director of Finance for FY 2021.

# City of Berkeley Investment Policy



*Effective July 1, 2020*

# City of Berkeley Investment Policy July 1, 2020

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**I. Introduction**

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

**A. Scope of Policies**

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

**B. Investment Objectives**

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

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

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

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

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

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

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

## 2. **Liquidity**

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

## 3. **Yield**

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

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

## 4. **Responsible Investing**

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

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

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

a. **Nuclear-Free Berkeley Act**

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## **II. Investment Authority and Responsibilities**

### **A. Authorized Investment Officers**

#### **1. Idle Funds**

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

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

## **B. Internal Controls**

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

- Separation of transaction authority from accounting and physical custody.
- By separating the person who authorizes or performs the transaction from the people who record or otherwise account for the transaction, a separation of duties is achieved.
- Also, securities purchased from any bank or dealer including appropriate collateral (as defined by State Law), shall be placed with an independent third party for custodial

safekeeping.

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

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

- Competitive bidding on investment transactions. Before the City invests in any secondary market funds, competitive bids shall be requested. If a specific maturity date is required, either for cash flow purposes or for conformance to maturity guidelines, bids will be requested from at least three financial institutions for instruments which meet the maturity requirement. If no specific maturity is required, a yield curve analysis will be conducted to determine which maturities would be most advantageous.
- Written confirmation and documentation of all financial transactions.
- Due to the potential for error and improprieties arising from telephone transactions, all telephone transactions should be supported by written communications and approved by the appropriate person. Written communications may be via fax if on letterhead and the safekeeping institution has a list of authorized signatures.

- Rapid deposit of funds received by the City (i.e., large checks.)
- Bonding of all investments officials.

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

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

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

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

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

### **A. Overview**

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

### **B. Portfolio Diversification Practices**

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

- Authorized Dealers

- Investment Vehicles
- Investment Maturity

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

## **IV. Eligible Financial Institutions**

### **A. Authorized Dealers**

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

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

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

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

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

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

## **V. Investment Vehicles**

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

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

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

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

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

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

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

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

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

#### **4. Banker's Acceptances**

As provided in Government Code Section 53601(f)g, 40% of the City's portfolio may be invested in Banker's Acceptances, otherwise known as bills of exchange or time drafts that are drawn on and accepted by a commercial bank, although no more than 30% of the portfolio may be invested in Bankers' Acceptances with any one

commercial bank. Additionally, the maturity period cannot exceed 180 days.

**5. Commercial Paper**

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

**6. Negotiable Certificates of Deposit**

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

**7. Repurchase Agreements**

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

**8. Reverse Repurchase Agreements**

Reverse repurchase agreements are a sale of securities by the local agency with a simultaneous agreement for the local agency to repurchase the securities on or before a specified date. As provided in Government Code section 53635(j), reverse repurchase agreements require the prior approval of the City Council. Reverse repurchase agreements can only be made with primary dealers of the Federal Reserve Bank of New York or with a nationally or state-chartered bank that has or has had a significant banking relationship with the local agency. There are no portfolio limitations on the amount for these investments.

**9. Medium-Term Corporate Notes**



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

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

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

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

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

**12. Time Certificates of Deposit**

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

**13. Local Agency Investment Fund**

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

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

As authorized in Government Code Section 53601(m), debt proceeds held by a trustee or fiscal agent, which are pledged to the payment or security of bonds or other indebtedness may be invested in accordance with the statutory provisions governing the issuance of those bonds or other agreement; or to the extent not inconsistent with statutory provisions, or if there are no specific statutory provisions, investments may be made in accordance with the ordinance, resolution, indenture, or agreement of the local agency for the issuance.

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

**15. Other Secured Notes, Bonds Or Other Obligations**

As authorized in Government Code Section 53601(n), notes, bonds, or other obligations that are at all times secured by a valid first priority security interest in securities of the types listed by Section 53651 as eligible securities.

**16. Mortgage Pass Through, Collateralized Mortgage Obligation, Mortgage-backed Bond, Equipment Lease-backed Certificate, Consumer Receivable Pass through Certificate, and Consumer Receivable-backed Bond**

As authorized in Government Code Section 53601(o), securities in this category must be rated "AA" or its equivalent or better by a nationally recognized rating service. Purchases may not exceed 20% of the agency's portfolio.

**B. City Policies**

**1. Allowable Investment Vehicles and Restrictions**

The Director of Finance/City Treasurer is authorized to invest in any of the investment vehicles allowed by Sections 53601, 53635 and 16429.1 of the Government Code above, with the following limitations:

Financial futures; option contracts, floaters, inverse floaters, range notes, interest-only strips that are derived from a pool of mortgages, or any security that could result in zero interest income if held to maturity may not be purchased. Exclusion of these vehicles is consistent with the City's overall objective of achieving reasonable yields on public funds while minimizing risk and capital losses. Although the potential exists for greater interest yields with these vehicles, it is believed that the potential level of risk exceeds their benefits except in very limited circumstances.

- Reverse repurchase agreements shall be entered into only to effect a "matched" transaction whereby the proceeds of the reverse are reinvested for the same period as the term of the reverse repurchase agreement.
- Funds will only be invested in negotiable Certificates of Deposit that are fully insured by the Federal Deposit Insurance Corporation (FDIC) or the Federal Savings and Loan Insurance Corporation (FSLIC) in amounts up to \$250,000 (including interest).
- The authority to invest in certain securities is restricted by the provisions of the section entitled "Responsible Investing".

- No more than 35% of the portfolio may be invested in callable agency or government- sponsored enterprise securities.
- Commercial paper is limited to a maturity of 180 days, and the issuer must have the highest rating from two nationally recognized rating agencies, not one (as required by the State).
- The greater of \$5 million or 2% of the short-term portfolio can be in the commercial paper of any single corporation or group under essentially common ownership or control.
- Purchases of such corporate notes as mortgage pass through, collateralized mortgage obligation, mortgage-backed bond, equipment lease-backed certificate, consumer receivable pass through certificate and consumer receivable-backed bond must be rated “Aa” or AA or its equivalent or better by a nationally recognized rating service. As authorized in Government Code Section 53601(j), staff may invest in corporate bonds and notes of industrial companies, banks, bank holding companies, insurance companies, thrifts and finance companies that are rated “A” or better by a nationally recognized rating service; and issued by corporations organized and operating in the United States. The amount invested must not exceed 30% of the agency's portfolio.
- No investment shall be made which involve a “hidden” reduction in the investment rate or yield in order to subsidize other investment programs. For example, the City invests \$10,000,000 for a year at a rate of 1% less than “market” rates.
- Up to 100% of the portfolio may be placed in money market accounts.

See Appendix A for the Investment Portfolio/Diversification Requirements, which lists the maximum amounts that may be invested in the various investment types and the maximum authorized maturities.

## **2. Term**

Reserve funds from the proceeds of debt issues may be invested by the Director of Finance/City Treasurer in government agency securities with terms exceeding five (5) years, if the maturity of such investments are made to coincide as nearly as practicable with the life of the debt issue. A maximum of 30 percent of the par value of the portfolio may be invested in a stated maturity of up to 10 years.

## **3. New Investments**

No new types of investments will be purchased for the first time without at least two weeks notification to the City Council. For example, although Mortgage Pass through securities

are authorized investments, none will be purchased for the first time without such prior City Council notification.

## **VI. Investment Maturity**

In addition to the risks associated with the credit-worthiness of the financial institution and the security of the investment vehicle, the maturity period of investments is also a significant consideration in the management of the City's portfolio. In order to minimize the impact of market risk, it is intended that all investments will be held until maturity. Investments may be sold prior to maturity for cash flow or appreciation purposes; however, no investment shall be made based solely on yields resulting from anticipated capital gains.

Also, except for debt proceeds, a maximum of 30 percent of the par value of the portfolio may exceed five years.

## **VII. Cash Management**

To achieve a reasonable return on public funds, the following cash management practices will be followed:

- Maintain maximum investment of all City funds not required to meet immediate cash flow needs while maintaining adequate compensating balances as required under the City's banking services agreement.
- Pool resources available for investment from all City-administered funds, with interest earnings allocated to each of the funds in accordance with generally accepted accounting principles.
- Maximize the City's cash flow through the immediate deposit of all cash receipts, use of direct deposits and wire transfers when available, and appropriate timing of payments to vendors.
- Maximize the cash flow information available through the use of only one operating bank account.

## **VIII. Evaluation of Investment Performance**

As indicated in the Introduction section of this document, it is the City's primary investment objective to achieve a reasonable rate of return on public funds while minimizing risks and preserving capital. In evaluating the performance of the City's portfolio in achieving this objective, it is expected that yields on City investments will regularly meet or exceed the average return on the State Local Agency Investment Fund (LAIF).

## IX. Investment Reporting

Consistent with Sections 16481.2 and 53646 of the Government Code, the Department of Finance shall submit an annual Statement of Investment Policies to the Council for consideration at a public meeting.

In addition to the submittal of an annual Statement of Investment Policies, the Department of Finance shall provide the Council with a quarterly and annual investment report providing the following information for each investment or security:

- Issuer or broker/dealer (financial institution)
- Type of investment
- Certificate or other reference number if applicable
- Percentage yield on an annualized basis
- Purchase date
- Maturity date for each investment and the weighted average maturity of all the investments within the portfolio
- Current book value
- Current market value
- Total cost and market value, including source of this valuation, of the City's portfolio
- A description of the compliance with the Statement of Investment Policies
- An evaluation of investment operations for the preceding year. This shall include an evaluation of how well the objectives have been achieved: the accuracy of forecasting expenditures and revenues, as well as a comparison of the average returns on the investment portfolio with that of the Local Agency Investment Fund (LAIF).
- Report of investments. The Director of Finance shall prepare a report that provides a clear status of the current investment portfolio and transactions. The report will be prepared in a manner which allows the City Manager and Council to ascertain whether investment activities during the reporting period have conformed to the investment policies.
- Summary of key or unusual events, including but not limited to:
  - Any exceptions to policies;
  - Adherence to or deviations from social investment goals;
  - Purchases of Treasury securities, other than in repurchase agreements with maturities of seven days or less;
  - Purchases of securities that exceed maturity limits;
  - Sales of securities more than three months before maturity;
  - Changes in investment procedures, dealers, staff, etc.

- Investment performance:
  - A glossary, defining all funds or accounts referred to elsewhere in the report; and a listing of banks, securities dealers and custodians that the City has had investment transactions during the period.
  - A summary of the certifications for deposits of City funds.
  - Other information regarding the City's portfolio as appropriate

The Quarterly Investment Report shall include all investments as of the end of the quarter from all funds held in the City's portfolio, and shall be issued within 60 days after the end of the quarterly reporting period to the City Manager, and the City Council; the annual report shall be issued within 90 days after the end of the fiscal year to the City Manager, and the City Council.

## X. Appendices

### A. Investment Portfolio – Diversification Requirements

#### Investment Portfolio Diversification Requirements

| Investment Instrument                                         | Maximum Amount of Portfolio | Maximum Length to Maturity |
|---------------------------------------------------------------|-----------------------------|----------------------------|
| Bank / Time Deposit Accounts                                  | 100%                        | 5 Years                    |
| Money Market Deposit Accounts                                 | 100%                        | N/A                        |
| Repurchase Agreements                                         | 10%                         | 1 Year                     |
| Reverse Repurchase Agreements                                 | 10%                         | 7 Days                     |
| Bankers Acceptances                                           | 40%                         | 7 Days                     |
| U.S. Government Securities (Treasury Bills, Notes, and Bonds) | 100%                        | 10 Years                   |
| U.S. Government Agency Securities by Agency                   | 100%                        | 10 Years                   |
| Certificates of Deposit (Negotiable)                          | 30%                         | 10 Years                   |
| Municipal Bonds                                               | 100%                        | 5 Years                    |
| Commercial Paper                                              | 25%                         | 180 Days                   |
| Medium Term Notes                                             | 30%                         | 10 Years                   |

## B. Berkeley's ESG Investing Initiative

CITY OF BERKELEY



### BERKELEY'S ESG INVESTING INITIATIVE

On November 27, 2018, City of Berkeley City Council approved the recommendation to incorporate the Environmental, Social, and Governance (ESG) principles in the City of Berkeley's investment policy. This is a new effort to integrate ESG considerations into Berkeley's investment decision-making process would lead the way for responsible investment in the United States and across the globe. ESG factors makes good business sense and leads to more sustainable markets and better outcomes for societies.

### WHAT IS ESG INVESTING?

ESG investing describes the consideration of environmental, social, and governance (ESG) factors alongside traditional financial factors in the investment decision-making process, ensuring that investments are financially prudent and impact driven. ESG factors may include greenhouse gas emissions, energy usage, labor standards, business ethics, gender and racial diversity, executive compensation, and more.

### WHY IS ESG INVESTING IMPORTANT?

First, ESG investing drives better risk-adjusted returns, since companies that score higher on ESG factors tend to have stronger fundamentals that mitigate financial risk, putting those companies in a better position for long-run stability and profitability.

And second, ESG investing helps guide investment dollars to make a positive impact on some of the most fundamental challenges facing Berkeleyans. Through promoting investments in companies that prioritize conservation and sustainable business practices, it helps protect our environment for future generations. Through promoting investments in companies that promote a better quality of life for all of us, it helps create a more equitable, just corporate eco-system and world. And through promoting investments in companies with strong corporate governance, it helps promote sound and representative management practices.

### WHAT IS THE CITY OF BERKELEY'S APPROACH?

We plan to take clear, defined steps toward fully integrating ESG factors into the investment decisions within our operating portfolio, potentially including the following actions and commitments:

- **100% Integration:** Ensure that 100% of investment decisions on corporate securities are analyzed through ESG factors, making Berkeley one of the few cities in the country to take this step with its operating portfolio. Specific factors will include (but will not be limited to):
  - *Environmental:* Carbon Footprint; Energy Consumption; Water/Waste; External Conservation Initiatives; and Sector-Specific Adjustments.
  - *Social:* Labor Rights; Employee Diversity; Corporate Social Responsibility; and Human Rights/Ethics.
  - *Governance:* Leadership Structure; Executive Compensation; Human Capital Management; Transparency/Disclosure; and Shareholder Rights.
- **Comprehensive Approach:** Seek to maintain a minimum ESG portfolio rating of investment grade or higher.
- **Proactive, Responsible Investing:** Pursue opportunities for sustainable investments, including purchasing securities from market leaders in disclosure and corporate board diversity, securities that fund community development projects, and other securities with strongly positive effects on our communities.
- **Commitment to Carbon-Neutrality:** Achieve a carbon-neutral portfolio from an investment perspective, which may include seeking to offset existing investments in the top 200 publicly-owned coal, oil, and gas reserve owners (ranked by the carbon emissions embedded in their reserves) with socially responsible investments.

2180 Milvia Street, 3<sup>rd</sup> Floor | Civic Center Building - 3rd Floor | Berkeley, CA 94704  
 Phone: (510) 981-7300 | Fax: (510) 981-7390 | Email: [finance@ci.berkeley.ca.us](mailto:finance@ci.berkeley.ca.us)



CITY OF BERKELEY  
INVESTMENT POLICY  
FOR RETIREE MEDICAL PLAN TRUST FUNDS



**Effective July 1, 2020**

**City of Berkeley**  
**INVESTMENT POLICIES FOR RETIREE MEDICAL PLAN**  
**TRUST FUNDS**  
**July 1, 2020**

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## **I. INTRODUCTION**

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

Notwithstanding Section 53601 or 53635, the governing body of a local agency may invest funds designated for the payment of employee retiree health benefits in any form or type of investment deemed prudent by the governing pursuant to Section 53622. The authority of the governing body to invest or to reinvest funds intended for the payment of employee retiree health benefits, or to sell or exchange securities purchased for that purpose, may be delegated by the governing body to designated officers. The City Council has designated the Director of Finance, the Treasurer of the City, or his/her designee, the authority to make investments of the City's retiree medical plan trust funds.

Funds intended for the payment of employee retirement health benefits shall only be held for the purpose of providing benefits to participants in the retiree health benefit plan and defraying reasonable expenses of administering that plan.

The governing board or designated officer, when making investments of the funds, shall discharge its duties with respect to the investment of the funds.

- (1) Solely in the interest of, and for the exclusive purposes of providing benefits to, participants in the retiree health benefit plan, minimizing employer contributions thereto, and defraying reasonable expenses of administering the plan.
- (2) With care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with these matters would use in the conduct of an enterprise of a like character and with like aims.
- (3) Shall diversify the investments of the funds so as to minimize the risk of loss and to maximize the rate of return, unless under the circumstances it is clearly prudent not to do so.

### **A. SCOPE OF POLICIES**

These investment policies apply to the investments of the Retiree Medical Plan Trust Funds.

### **B. INVESTMENT OBJECTIVES**

The Treasurer adheres to the principle which maintains that over the long-term, prudent investment risk-taking may be rewarded with higher incremental returns. Consequently, while capital preservation (i.e., Safety) is regarded to be of paramount importance, the Treasurer regards prudent risk-taking as justifiable.

## C. USE OF STATE INVESTMENT GUIDELINES

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

## II. INVESTMENT AUTHORITY AND RESPONSIBILITIES

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### A. AUTHORIZED INVESTMENT OFFICERS

#### 1. *Retiree Medical Trust Funds:*

A Trust is to be established by the City for the purpose of holding and investing assets separate and apart from the other funds of the City to fund the benefits of the Program. The specific terms governing the Trust are to be set forth in a separate trust instrument.

- The trustee of the Trust (the “Trustee”) may be the City Treasurer (i.e., Director of Finance) or an independent third party qualified to act as a trustee under California law and designated by the City.
- The Trustee shall be a fiduciary of the Program and shall act solely in the interest of the Participants, minimizing employer contributions to the Trust, and defraying reasonable expenses of administering the Program.
- The City Manager may, with the written concurrence of the City Council, appoint an “investment manager” (as that term is defined in section 3(38) of the Employee Retirement Income Security Act) to have responsibility for investment of the Trust assets. In this case, the Trustee shall act as directed by the investment manager. The investment manager shall act as a fiduciary of the Program and shall act with the same duties and responsibilities set out in “Investment Objectives” section above.

### B. INTERNAL CONTROLS

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

- Separation of transaction authority from accounting and physical custody.
- By separating the person who authorizes or performs the transaction from the people who record or otherwise account for the transaction, a separation of duties is achieved.
- Also, securities purchased from any bank or dealer including appropriate collateral (as defined by State Law), shall be placed with an independent third party for custodial safekeeping.
- Avoidance of physical delivery of securities by using a delivery versus payment “Basis

of Settlement Only”.

- All trades will be executed on a delivery versus payment (DVP) basis. This ensures that securities are delivered to the City’s safekeeping bank at the same time the funds are released by the City’s safekeeping bank.
- Third-Party custodial safekeeping of securities held in the name of the City. Delivered securities must be properly safeguarded against loss or destruction. Book entry securities are recorded in electronic records and the potential for fraud and loss increases with physically delivered securities. All investment securities, except collateralized certificates of deposit and money market funds, purchased by the City will be delivered by either book entry or physical delivery and will be held in third-party safekeeping by a City-approved custodian bank, its correspondent New York Bank or the Depository Trust Corporation (DTC). Whenever possible, securities purchased are to be recorded in “book entry” form.
- All securities and applicable collateral will be held by the City’s third party custodian and evidenced by safekeeping receipts. All book entry securities owned by the City shall be evidenced by a safekeeping receipt issued to the City by the custodian bank to acknowledge that the securities are held in the Federal Reserve system in a “customer account” for the custodian bank which names the City as “customer”;

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

- Competitive bidding on investment transactions. Before the City invests in any secondary market funds, competitive bids shall be requested. If a specific maturity date is required, either for cash flow purposes or for conformance to maturity guidelines, bids will be requested from at least three financial institutions for instruments which meet the maturity requirement. If no specific maturity is required, a yield curve analysis will be conducted to determine which maturities would be most advantageous.
- Written confirmation and documentation of all financial transactions.
- Due to the potential for error and improprieties arising from telephone transactions, all telephone transactions should be supported by written communications and approved by the appropriate person. Written communications may be via fax if on letterhead and the safekeeping institution has a list of authorized signatures.
- Rapid deposit of funds received by the City (i.e., large checks.)
- Bonding of all investments officials.

### **C. EVALUATION OF INVESTMENT OFFICER ACTIONS**

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

are reported in a timely fashion and the liquidity and the sale of securities are carried out in accordance with the terms of this plan.

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

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

### **III. CAPITAL PRESERVATION AND RISK**

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#### **A. OVERVIEW**

The Treasurer adheres to the principle which maintains that over the long-term, prudent investment risk-taking may be rewarded with higher incremental returns. Consequently, while capital preservation (i.e., Safety) is regarded to be of paramount importance, the Treasurer regards prudent risk-taking as justifiable.

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

#### **B. PORTFOLIO DIVERSIFICATION PRACTICES**

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

- Authorized Dealers
- Investment Vehicles
- Investment Maturity

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

#### **IV. ELIGIBLE FINANCIAL INSTITUTIONS**

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##### **A. AUTHORIZED DEALERS**

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

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

##### Financial Institutions

Current audited financial statements

Depository contracts, as appropriate

A copy of the latest FDIC call report or the latest FHLBB report, as appropriate.

##### Broker/Dealers

Current audited financial statements

Proof that brokerage firm is a member in good standing with a national securities exchange.

- Except for repurchase agreements, investments shall be awarded based on competitive bids. Documentation relating to investment quotes shall be maintained by the Finance Department for a period of one year.

##### **B. INDIVIDUAL PLACEMENT OF DEPOSITS**

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

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

#### **V. INVESTMENT VEHICLES**

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The governing body of a local agency may invest funds designated for the payment of employee retiree health benefits in any form or type of investment deemed prudent by the governing pursuant to Section 53622. Some of the investment vehicles the City Council has authorized are the following:

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

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

**2. Government Sponsored Enterprises**

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

**3. Municipal Securities**

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

- The securities are rated “A” or higher by at least one nationally recognized statistical rating organization.
- 
- There are no limitations on the amount or period.

**4. Banker's Acceptances**

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

**5. Commercial Paper**

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

**6. Negotiable Certificates of Deposit**



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

**7. Repurchase Agreements**

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

**8. Reverse Repurchase Agreements**

Reverse repurchase agreements are a sale of securities by the local agency with a simultaneous agreement for the local agency to repurchase the securities on or before a specified date. As provided in Government Code section 53635(j), reverse repurchase agreements require the prior approval of the City Council. Reverse repurchase agreements can only be made with primary dealers of the Federal Reserve Bank of New York or with a nationally or state-chartered bank that has or has had a significant banking relationship with the local agency. There are no portfolio limitations on the amount for these investments.

**9. Medium-Term Corporate Notes**

As authorized in Government Code Section 53601(k), local agencies may invest in corporate bonds and notes of industrial companies, banks, bank holding companies, insurance companies, thrifts and finance companies that are rated "A" or better by a nationally recognized rating service; and issued by corporations organized and operating in the United States. There are no portfolio limitations for these investments.

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

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

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

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

**12. Time Certificates of Deposit**

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

**13. Local Agency Investment Fund**

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

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

As authorized in Government Code Section 53601(m), debt proceeds held by a trustee or fiscal agent, which are pledged to the payment or security of bonds or other indebtedness may be invested in accordance with the statutory provisions governing the issuance of those bonds or other agreement; or to the extent not inconsistent with statutory provisions, or if there are no specific statutory provisions, investments may be made in accordance with the ordinance, resolution, indenture, or agreement of the local agency for the issuance.

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

**15. Other Secured Notes, Bonds Or Other Obligations**

As authorized in Government Code Section 53601(n), notes, bonds, or other obligations that are at all times secured by a valid first priority security interest in securities of the types listed by Section 53651 as eligible securities.

**16. Mortgage Pass Through, Collateralized Mortgage Obligation, Mortgage-backed Bond, Equipment Lease-backed Certificate, Consumer Receivable Pass through Certificate, and Consumer Receivable-backed Bond**

As authorized in Government Code Section 53601(o), securities in this category must be rated "AA" or its equivalent or better by a nationally recognized rating service. Purchases may not exceed 20% of the agency's portfolio.

In addition to the authorized investments above, the following investments may be made by Retiree Medical plan funds:

- Up to 100% of the retiree medical plans funds may be invested in equity mutual funds<sup>1</sup> or equity index funds<sup>2</sup>, preferred stock<sup>3</sup> and bond funds<sup>4</sup>.

<sup>1</sup>Equity Mutual Fund – A financial intermediary that allows a group of investors to pool their money together with a predetermined investment objective. The mutual fund will have a fund

manager who is responsible for investing the pooled money into specific securities. When you invest in a mutual fund, you are buying shares of the mutual fund and become a shareholder of the fund. They are very cost effective, as the fund can purchase securities with much lower trading costs than an individual investor. But the biggest advantage to mutual funds is diversification.

<sup>2</sup>Equity Index Fund – A mutual fund that attempts to copy the performance of a stock market index. The most common index fund tries to track the S&P 500 by purchasing all 500 stocks using the same percentages as the index. Index funds have lower fees because computers do most of the work. There is no need to hire an expensive fund manager or research analysts. Index funds can have an expense ratio as low as .18%, while actively managed funds can have an expense ratio over 3%. Over the long-term, the S&P 500 beats the returns of 80% of actively managed funds.

<sup>3</sup>Preferred Stock – A hybrid between common stock and a bond. Each share of preferred stock is normally paid a guaranteed dividend that receives first priority (i.e., the common stockholders cannot receive a dividend until the preferred dividend has been paid in full) and has priority over the common stockholders relative to the company's assets in the event of bankruptcy.

<sup>4</sup>Bond Fund- A bond fund is a more efficient way of investing in bonds than buying individual securities. Bond mutual funds are just like stock mutual funds in that you put your money into a pool with other investors, and a professional invests that pool of money according to what he or she thinks the best opportunities are. They are very cost effective, as the fund can purchase securities with much lower trading costs than an individual investor. But the biggest advantage to mutual funds is diversification.

Some of the investment vehicles that are Unallowable Investment Vehicles and Restrictions:

The Director of Finance/City Treasurer is not authorized to invest in any of the following investment vehicles:

Financial futures; option contracts, floaters, inverse floaters, range notes, interest-only strips that are derived from a pool of mortgages, or any security that could result in zero interest income if held to maturity may not be purchased. Exclusion of these vehicles is consistent with the City's overall objective of achieving reasonable yields on public funds while minimizing risk and capital losses. Although the potential exists for greater interest yields with these vehicles, it is believed that the potential level of risk exceeds their benefits except in very limited circumstances.

See Appendix A for the Investment Portfolio/Diversification Requirements, which lists the maximum amounts that may be invested in the various investment types and the maximum authorized maturities.

In accordance with Government Code Sections 53620-53622, the assets of the City of Berkeley Retiree Medical Plan Trust may be invested in any form or type of investment deemed prudent by the City Council.

The maximum maturity for Retiree Medical Plan Trust funds is 30 years.

## **VI. CASH MANAGEMENT**

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To achieve a reasonable return on public funds, the following cash management practices will be followed:

- Maintain maximum investment of all City funds not required to meet immediate cash flow needs.
- Maximize the City's cash flow through the immediate deposit of all cash receipts, use of direct deposits and wire transfers when available, and appropriate timing of payments to vendors.
- Maximize the cash flow information available through the use of only one operating bank account.

## **VII. EVALUATION OF INVESTMENT PERFORMANCE**

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An actuarial study commissioned by the City many years ago determined that, in addition to City Contributions, an average rate of return of 7% on miscellaneous employees' retiree medical trust fund assets invested must be achieved to fund the retiree health benefit at the desired 70% level. Primarily as a result of the Federal Reserve Board's decision to keep short-term rates near zero for the last 10 years, the average rate currently earned is significantly below that 7% level.

## **VIII. INVESTMENT REPORTING**

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Consistent with Sections 16481.2 and 53646 of the Government Code, the Department of Finance shall submit an annual Statement of Investment Policies to the Council for consideration at a public meeting.

In addition to the submittal of an annual Statement of Investment Policies, the Department of Finance shall provide the Council with a quarterly and annual investment report providing the following information for each investment or security:

- Issuer or broker/dealer (financial institution)
- Type of investment
- Certificate or other reference number if applicable
- Percentage yield on an annualized basis
- Purchase date
- Maturity date for each investment and the weighted average maturity of all the investments within the portfolio
- Current book value
- Current market value
- Total cost and market value, including source of this valuation, of the City's portfolio
- A description of the compliance with the Statement of Investment Policies

- An evaluation of investment operations for the preceding year. This shall include an evaluation of how well the objectives have been achieved: the accuracy of forecasting expenditures and revenues, as well as a comparison of the average returns on the investment portfolio with that of the Local Agency Investment Fund (LAIF).
- Report of investments. The Director of Finance shall prepare a report that provides a clear status of the current investment portfolio and transactions. The report will be prepared in a manner which allows the City Manager and Council to ascertain whether investment activities during the reporting period have conformed to the investment policies.
- Summary of key or unusual events, including but not limited to:
  - Any exceptions to policies;
  - Adherence to or deviations from social investment goals;
  - Purchases of Treasury securities, other than in repurchase agreements with maturities of seven days or less;
  - Purchases of securities that exceed maturity limits;
  - Sales of securities more than three months before maturity;
  - Changes in investment procedures, dealers, staff, etc.
- Investment performance;
  - A glossary, defining all funds or accounts referred to elsewhere in the report; and
  - A listing of banks, securities dealers and custodians that the City has had investment transactions during the period.
  - A summary of the certifications for deposits of City funds.
  - Other information regarding the City's portfolio as appropriate

The Quarterly Investment Report shall include all investments as of the end of the quarter from all funds held in the City's portfolio, including funds held and invested by trustees; and shall be issued within 30 days after the end of the quarterly reporting period to the City Manager, and the City Council; the annual report shall be issued within 90 days after the end of the fiscal year to the City Manager, and the City Council.

APPENDIX A

**INVESTMENT PORTFOLIO  
Diversification Requirements**

| <u>Investment Instrument</u>                                        | <u>Maximum<br/>Amount<br/>Of Portfolio</u> | <u>Maximum<br/>Length<br/>To Maturity</u> |
|---------------------------------------------------------------------|--------------------------------------------|-------------------------------------------|
| Bank / Time Deposit<br>Accounts                                     | 100%                                       | 5 Years                                   |
| Money Market Deposit<br>Accounts                                    | 100%                                       | N/A                                       |
| Repurchase Agreements                                               | 10%                                        | 1 Year                                    |
| Reverse Repurchase<br>Agreements                                    | 10%                                        | 7 Days                                    |
| Bankers Acceptances                                                 | 40%                                        | 7 Days                                    |
| U.S. Government Securities<br>(Treasury Bills,<br>Notes, and Bonds) | 100%                                       | 30 Years                                  |
| U.S. Government Agency<br>Securities by Agency                      | 100%                                       | 30 Years                                  |
| Certificates of Deposit<br>(Negotiable)                             | 30%                                        | 30 Years                                  |
| Municipal Bonds                                                     | 100%                                       | 30 Years                                  |
| Commercial Paper                                                    | 25%                                        | 180 Days                                  |
| Medium Term Notes                                                   | 30%                                        | 30 years                                  |

In addition to the investments above, the following investments may be made by Retiree Medical plan funds:

- Up to 25% of the retiree medical plans funds may be invested in equity mutual funds<sup>1</sup> or

equity index funds<sup>2</sup>, and preferred stock<sup>3</sup>.

<sup>1</sup>Equity Mutual Fund – A financial intermediary that allows a group of investors to pool their money together with a predetermined investment objective. The mutual fund will have a fund manager who is responsible for investing the pooled money into specific securities. When you invest in a mutual fund, you are buying shares of the mutual fund and become a shareholder of the fund. They are very cost effective, as the fund can purchase securities with much lower trading costs than an individual investor. But the biggest advantage to mutual funds is diversification.

<sup>2</sup>Equity Index Fund – A mutual fund that attempts to copy the performance of a stock market index. The most common index fund tries to track the S&P 500 by purchasing all 500 stocks using the same percentages as the index. Index funds have lower fees because computers do most of the work. There is no need to hire an expensive fund manager or research analysts. Index funds can have an expensive ratio as low as .18%, while actively managed funds can have an expense ratio over 3%. Over the long-term, the S&P 500 beats the returns of 80% of actively managed funds.

<sup>3</sup>Preferred Stock – A hybrid between common stock and a bond. Each share of preferred stock is normally paid a guaranteed dividend that receives first priority (i.e., the common stockholders cannot receive a dividend until the preferred dividend has been paid in full) and has priority over the common stockholders relative to the company's assets in the event of bankruptcy.







Office of the City Manager

CONSENT CALENDAR

June 30, 2020

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Henry Oyekanmi, Director, Finance Department

Subject: Appropriations Limit for FY 2021

RECOMMENDATION

Adopt a Resolution establishing the appropriations limit at \$284,280,447 for FY 2021 pursuant to Article XIII B of the Constitution of the State of California based on the calculations for the appropriations limit.

FISCAL IMPACTS OF RECOMMENDATION

The amount of appropriations subject to the limit are budgeted proceeds of taxes (e.g., all taxes levied; transfers from an enterprise fund to the extent those transfers exceed the cost of providing the services; discretionary state subventions; interest earned from the investment of proceeds of taxes, etc.), and the total of these budgeted revenues cannot exceed the total appropriations limit. The City's actual appropriations in each fiscal year have been significantly below the limit, as they will be for FY 2021. Thus, there are no present financial implications of establishing the limit.

CURRENT SITUATION AND ITS EFFECTS

Each year in June, concurrent with the adoption of the budget, Council must approve an appropriations limit for the following fiscal year pursuant to the State constitution. This resolution adopts the appropriations limit for FY 2021 at \$284,280.447. The excess of the appropriations limit over appropriations is \$86,336,657 for FY 2021 based on the proposed budget appropriations for FY 2021.

The Finance Department has compiled the data and made calculations to determine the FY 2021 appropriations limit. The documentation of determination, upon adoption and promulgation of the attached draft resolution, has been available for review by the public in the Office of the City Clerk. Exhibits A and B attached hereto, provide the required documentation. Exhibit A is a summary of the appropriations limit determination, the amount of appropriations subject to the limit, and the excess of the appropriations limit over appropriations. Exhibit B provides details of the appropriations limit calculations.

The Council action will set the FY 2021 appropriations subject to the limitations of Article XIII B of the Constitution of the State of California, which may not exceed the

amounts calculated by the City's Finance Department. These calculations were filed with the City Clerk at least 15 days prior to June 30, 2020.

BACKGROUND

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

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

The Council action will set the FY 2021 appropriations subject to the limitations of Article XIII B of the Constitution of the State of California, which may not exceed the amounts calculated by the City's Finance Department. These calculations were filed with the City Clerk 15 days prior to June 30, 2020.

RATIONALE FOR RECOMMENDATION

This is a state law.

ALTERNATIVE ACTIONS CONSIDERED

None

ENVIRONMENTAL SUSTAINABILITY

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

CONTACT PERSON

Henry Oyekanmi, Director, Finance Department, 981-7326

Attachments:

1: Resolution

Exhibit A: GANN Appropriation Limit FY 2021

Exhibit B: Schedule to Calculate Appropriation Limitation FY 2021

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

ESTABLISHING AN APPROPRIATIONS LIMIT FOR FY 2021

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

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

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

WHEREAS, pursuant to the requirements of Senate Bill 1352, the City Council, on May 31, 2016 adopted a Resolution which gave notice, as required by law, that the City Council would establish the City of Berkeley appropriations limit for FY 2021 by a Resolution of the City Council on June 30, 2021.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley, that the Council, pursuant to the requirements and criteria set forth in Senate Bill 1352, does hereby establish the appropriations limit at \$284,280,447 for FY 2021 for the City of Berkeley as documented in Exhibits A and B attached hereto and incorporated herein by reference as though fully set forth.

Exhibits:

A: GANN Appropriation Limit FY 2021

B: Schedule to Calculate Appropriation Limitation FY 2021

**EXHIBIT A**

**CITY OF BERKELEY  
GANN APPROPRIATION LIMITATION FOR FY 2021  
(Based on the FY 2021 Proposed Budget)**

|                                                                                                                                      |           |                                          |
|--------------------------------------------------------------------------------------------------------------------------------------|-----------|------------------------------------------|
| FY 2020 Gann Appropriation Limit of \$229,212,345 (before Special Taxes Added), Adjusted for Growth Factor of 1.0411 (See Exhibit B) | \$        | <b>238,632,972</b>                       |
| <b>ADD BACK:</b>                                                                                                                     |           |                                          |
| Library Relief Tax                                                                                                                   |           | 20,342,539                               |
| Emergency Medical Services Special Tax                                                                                               |           | 3,183,676                                |
| Park Maintenance, City Trees and Landscaping Special Tax                                                                             |           | 14,369,024                               |
| Emergency Services for Severely Disabled Tax                                                                                         |           | 1,361,402                                |
| Disaster Fire Protection Tax                                                                                                         |           | 985,734                                  |
| Fire Protection and Emergency Response and Preparedness                                                                              |           | 5,405,100                                |
| <b>TOTAL Gann Appropriation Limitation</b>                                                                                           | <b>\$</b> | <b>284,280,447</b> <sup>(1)</sup>        |
| Appropriations Subject to Gann Limitation                                                                                            | <b>\$</b> | <b><u>197,943,790</u></b> <sup>(2)</sup> |
| <b>EXCESS of Limitation Over Appropriation</b>                                                                                       | <b>\$</b> | <b><u><u>86,336,657</u></u></b>          |

*Notes:*

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

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

The GANN Limit override to raise the spending limit for the special taxes are required to be renewed by voters every four years. The date the next GANN Limit override is to be submitted to voters is November, 2020

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

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

| Fiscal Year | Beginning Balances |                                                                           | Less: Transferred Cost |                 | Add Back: Special Taxes |                                        |                                                         |                           |                              |                                                     |  | Subtotal Transferred Cost and Special Taxes | Appropriation Limit After Transferred Cost and Add Back of Special Taxes |
|-------------|--------------------|---------------------------------------------------------------------------|------------------------|-----------------|-------------------------|----------------------------------------|---------------------------------------------------------|---------------------------|------------------------------|-----------------------------------------------------|--|---------------------------------------------|--------------------------------------------------------------------------|
|             | Growth Factor      | Appropriation Limit Before Transferred Cost and Add Back of Special Taxes | Landscaping            | Street Lighting | Library Relief Tax      | Emergency Medical Services Special Tax | Park Maintenance City Trees and Landscaping Special Tax | Emergency Paratransit Tax | Disaster Fire Protection Tax | Fire Protection & Emergency Response & Preparedness |  |                                             |                                                                          |
| Base Year   |                    | \$ 29,928,853                                                             |                        |                 |                         |                                        |                                                         |                           |                              |                                                     |  | \$ -                                        | \$ 29,928,853                                                            |
| 1980        | 1.097700           | 32,852,902                                                                |                        |                 |                         |                                        |                                                         |                           |                              |                                                     |  | -                                           | 32,852,902                                                               |
| 1981        | 1.121400           | 36,841,244                                                                |                        |                 |                         |                                        |                                                         |                           |                              |                                                     |  | -                                           | 36,841,244                                                               |
| 1982        | 1.083100           | 39,902,752                                                                | \$ (949,298)           | \$ (522,600)    |                         |                                        |                                                         |                           |                              |                                                     |  | \$ (1,471,898)                              | 38,430,854                                                               |
| 1983        | 1.070200           | 41,128,700                                                                |                        |                 |                         |                                        |                                                         |                           |                              |                                                     |  | -                                           | 41,128,700                                                               |
| 1984        | 1.029600           | 42,346,109                                                                |                        |                 |                         |                                        |                                                         |                           |                              |                                                     |  | -                                           | 42,346,109                                                               |
| 1985        | 1.047000           | 44,336,377                                                                |                        |                 |                         |                                        |                                                         |                           |                              |                                                     |  | -                                           | 44,336,377                                                               |
| 1986        | 1.045400           | 46,349,249                                                                |                        |                 |                         |                                        |                                                         |                           |                              |                                                     |  | -                                           | 46,349,249                                                               |
| 1987        | 1.025800           | 47,545,060                                                                |                        |                 |                         |                                        |                                                         |                           |                              |                                                     |  | -                                           | 47,545,060                                                               |
| 1988        | 1.047500           | 49,803,451                                                                |                        |                 |                         |                                        |                                                         |                           |                              |                                                     |  | -                                           | 49,803,451                                                               |
| 1989        | 1.054700           | 52,527,700                                                                |                        |                 |                         |                                        |                                                         |                           |                              |                                                     |  | -                                           | 52,527,700                                                               |
| 1990        | 1.050200           | 55,164,591                                                                |                        |                 | \$ 6,010,000            |                                        |                                                         |                           |                              |                                                     |  | 6,010,000                                   | 61,174,591                                                               |
| 1991        | 1.056300           | 58,270,356                                                                |                        |                 | 6,600,000               |                                        |                                                         |                           |                              |                                                     |  | 6,600,000                                   | 64,870,356                                                               |
| 1992        | 1.056800           | 61,580,113                                                                |                        |                 | 6,752,000               |                                        |                                                         |                           |                              |                                                     |  | 6,752,000                                   | 68,332,113                                                               |
| 1993        | 1.057900           | 65,145,601                                                                |                        |                 | 6,850,000               |                                        |                                                         |                           |                              |                                                     |  | 6,850,000                                   | 71,995,601                                                               |
| 1994        | 1.043100           | 67,953,377                                                                |                        |                 | 7,202,000               |                                        |                                                         |                           |                              |                                                     |  | 7,202,000                                   | 75,155,377                                                               |
| 1995        | 1.016900           | 69,101,789                                                                |                        |                 | 7,202,000               |                                        |                                                         |                           |                              |                                                     |  | 7,202,000                                   | 76,303,789                                                               |
| 1996        | 1.030200           | 71,188,663                                                                |                        |                 | 7,570,000               |                                        |                                                         |                           |                              |                                                     |  | 7,570,000                                   | 78,758,663                                                               |
| 1997        | 1.063200           | 75,687,786                                                                |                        |                 | 7,570,000               |                                        |                                                         |                           |                              |                                                     |  | 7,570,000                                   | 83,257,786                                                               |
| 1998        | 1.060800           | 80,289,604                                                                |                        |                 | 7,570,000               | \$ 1,639,599                           | \$ 5,500,000                                            |                           |                              |                                                     |  | 14,709,599                                  | 94,999,203                                                               |
| 1999        | 1.060400           | 85,139,096                                                                |                        |                 | 7,927,500               | 1,651,547                              | 5,790,163                                               |                           |                              |                                                     |  | 15,369,210                                  | 100,508,306                                                              |
| 2000        | 1.059900           | 90,238,928                                                                |                        |                 | 8,373,875               | 1,701,093                              | 5,850,400                                               |                           |                              |                                                     |  | 15,925,368                                  | 106,164,296                                                              |
| 2001        | 1.057500           | 95,427,666                                                                |                        |                 | 8,936,938               | 1,812,014                              | 6,025,912                                               |                           |                              |                                                     |  | 16,774,864                                  | 112,202,530                                                              |
| 2002        | 1.097300           | 104,712,778                                                               |                        |                 | 9,478,469               | 1,927,257                              | 7,211,984                                               | \$ 661,000                |                              |                                                     |  | 19,278,710                                  | 123,991,488                                                              |
| 2003        | 0.999740           | 104,685,553                                                               |                        |                 | 9,997,653               | 1,974,876                              | 7,435,281                                               | 689,369                   | \$ 1,000,000                 |                                                     |  | 21,097,179                                  | 125,782,732                                                              |
| 2004        | 1.031489           | 107,981,996                                                               |                        |                 | 11,654,000              | 2,034,352                              | 7,609,028                                               | 690,475                   | 970,000                      |                                                     |  | 22,957,855                                  | 130,939,851                                                              |
| 2005        | 1.040236           | 112,326,760                                                               |                        |                 | 11,603,755              | 2,000,000                              | 7,594,920                                               | 702,727                   | 950,639                      |                                                     |  | 22,852,041                                  | 135,178,801                                                              |
| 2006        | 1.060000           | 119,066,366                                                               |                        |                 | 12,214,113              | 2,040,000                              | 7,755,780                                               | 754,105                   | 969,652                      |                                                     |  | 23,733,650                                  | 142,800,016                                                              |
| 2007        | 1.052907           | 125,365,810                                                               |                        |                 | 12,580,535              | 2,120,827                              | 7,975,189                                               | 771,244                   | 969,652                      |                                                     |  | 24,417,447                                  | 149,783,257                                                              |
| 2008        | 1.055370           | 132,307,315                                                               |                        |                 | 13,209,469              | 2,184,452                              | 8,214,445                                               | 805,333                   | 998,742                      |                                                     |  | 25,412,441                                  | 157,719,756                                                              |
| 2009        | 1.056666           | 139,804,642                                                               |                        |                 | 13,520,414              | 2,274,380                              | 8,502,545                                               | 839,882                   | 969,652                      |                                                     |  | 26,106,873                                  | 165,911,515                                                              |
| 2010        | 1.018780           | 142,430,173                                                               |                        |                 | 13,655,619              | 2,297,124                              | 8,587,570                                               | 889,152                   | 969,652                      | 5,400,000                                           |  | 31,799,117                                  | 174,229,290                                                              |
| 2011        | 1.072060           | 152,693,690                                                               |                        |                 | 13,904,789              | 2,332,903                              | 8,754,869                                               | 894,401                   | 969,652                      | 3,600,000                                           |  | 30,456,614                                  | 183,150,304                                                              |
| 2012        | 1.0381             | 158,511,319                                                               |                        |                 | 14,425,555              | 2,461,803                              | 9,237,474                                               | 944,155                   | 969,652                      | 3,788,761                                           |  | 31,827,400                                  | 190,338,719                                                              |
| 2013        | 1.04787            | 166,099,254                                                               |                        |                 | 15,028,438              | 2,484,633                              | 9,309,080                                               | 967,511                   | 985,734                      | 3,879,323                                           |  | 32,654,719                                  | 198,753,973                                                              |
| 2014        | 1.063912           | 176,714,993                                                               |                        |                 | 15,870,770              | 2,561,235                              | 9,586,190                                               | 1,022,302                 | 985,734                      | 4,095,987                                           |  | 34,122,218                                  | 210,837,211                                                              |
| 2015        | 1.011200           | 178,694,201                                                               |                        |                 | 16,345,912              | 2,640,032                              | 9,865,971                                               | 1,052,122                 | 985,734                      | 4,186,198                                           |  | 35,075,969                                  | 213,770,170                                                              |
| 2016        | 1.051700           | 187,932,691                                                               |                        |                 | 16,617,288              | 2,687,121                              | 10,043,981                                              | 1,070,929                 | 985,734                      | 4,256,304                                           |  | 35,661,357                                  | 223,594,048                                                              |
| 2017        | 1.064900           | 200,129,523                                                               |                        |                 | 17,893,335              | 2,778,750                              | 12,150,387                                              | 1,152,175                 | 985,734                      | 4,583,053                                           |  | 39,543,434                                  | 239,672,957                                                              |
| 2018        | 1.047200           | 209,575,636                                                               |                        |                 | 18,786,687              | 2,916,558                              | 12,763,390                                              | 1,209,625                 | 985,734                      | 4,812,892                                           |  | 41,474,886                                  | 251,050,522                                                              |
| 2019        | 1.045400           | 219,090,370                                                               |                        |                 | 19,746,463              | 3,047,265                              | 13,411,968                                              | 1,270,257                 | 985,734                      | 5,058,273                                           |  | 43,519,960                                  | 262,610,330                                                              |
| 2020        | 1.046200           | 229,212,345                                                               |                        |                 | 20,806,525              | 3,215,011                              | 14,143,821                                              | 1,339,668                 | 985,734                      | 5,328,686                                           |  | 45,819,445                                  | 275,031,790                                                              |
| 2021        | 1.041100           | 238,632,972                                                               |                        |                 | 20,342,539              | 3,183,676                              | 14,369,024                                              | 1,361,402                 | 985,734                      | 5,405,100                                           |  | 45,647,475                                  | 284,280,447                                                              |





Office of the City Manager

CONSENT CALENDAR

June 30, 2020

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Henry Oyekanmi, Director, Finance Department  
Dave Brannigan, Fire Chief, Fire Department

Subject: FY 2021 Tax Rate: Fund Fire Protection and Emergency Response and Preparedness (Measure GG)

RECOMMENDATION

Adopt first reading of an Ordinance setting the FY 2021 tax rate for funding Fire Protection and Emergency Response and Preparedness in the City of Berkeley at the rate of \$0.05818 (5.818 cents) per square foot of improvements for dwelling units and setting the rate for all other property at \$0.08804 (8.804 cents) per square foot of improvements with no increase in tax rate.

FISCAL IMPACTS OF RECOMMENDATION

The tax levy of the recommended \$0.05818 per square foot of improvements for dwelling units and \$0.08804 per square foot of improvements for all other properties will not be adjusted by the Personal Income Growth of 3.730% or the Consumer Price Consumer Index of 1.110%. This will result in estimated collections of \$5,210,740 for the fund. The same tax rate will result in no increase in the citywide average 1900 square foot dwelling and same for all other property.

CURRENT SITUATION AND ITS EFFECTS

The FY 2020 tax rates of \$0.05818 for dwelling units and \$0.08804 for all other property will not be adjusted by the per capita Personal Income Growth in California that was reported at 3.73%, or the Consumer Price Index (CPI) increase in the immediate San Francisco Bay Area was reported at 1.110%. The voters approved increasing the Measure GG tax rate annually by up to the greater of the Consumer Price Index increase in the immediate San Francisco Bay Area or the per capita Personal Income Growth in California. At their regular meeting on June 11, 2020, the Disaster and Fire Safety Commission voted not to recommend any increase for Measure GG.

It is recommended that the City Council authorize the levy of a special tax of \$0.05818 per square foot for dwelling units and \$0.08804 for all other property in the City of Berkeley. The tax will result in same cost to taxpayers in the following average amounts during Fiscal Year 2021, as compared with amounts for FY 2020, no increase:

**FY 2021**

| Square Feet | Dwelling Units | All Other Properties |
|-------------|----------------|----------------------|
| 1,200       | \$69.81        | \$105.64             |
| 1,500       | 87.27          | 132.06               |
| 1,900       | 110.54         | 167.27               |
| 3,000       | 174.54         | 264.12               |
| 3,900       | 226.90         | 343.35               |
| 10,000      | 581.80         | 880.40               |

**FY 2020**

| Square Feet | Dwelling Units | All Other Properties |
|-------------|----------------|----------------------|
| 1,200       | \$69.81        | \$105.64             |
| 1,500       | 87.27          | 132.06               |
| 1,900       | 110.54         | 167.27               |
| 3,000       | 174.54         | 264.12               |
| 3,900       | 226.90         | 343.35               |
| 10,000      | 581.80         | 880.40               |

**BACKGROUND**

In the November 2008 election, Berkeley voters approved Measure GG, which authorized the levying of a special tax. The tax proceeds will be used first to eliminate rotating closures of operating fire stations, and to provide advanced life support personnel (paramedics) and equipment on all first responder vehicles (ambulances, fire engines and ladder trucks). The funds would also be used to (1) hire a training officer to provide Emergency Medical Service training for first responders; (2) hire staff to conduct Community Emergency Response Training and other similar public disaster training and preparedness efforts and for neighborhood emergency preparedness caches; and (3) to acquire and maintain equipment to enhance emergency preparedness, including equipment to allow compatible radio communications throughout the City and with outside public safety agencies. On November 8, 2016, over 87% of Berkeley voters approved Measure V1 to re-authorize the City, for a period of four (4) years through FY 2020, to spend the Fire Protection and Emergency Response and Preparedness tax.



ALTERNATE CONSIDERATIONS

The City Council may consider adjusting the current recommended tax rate of \$0.05818 per square foot of improvements for dwelling units and \$0.08804 per square foot of improvements for all other property by the Personal Income Growth in California of 3.730% with projected revenue of \$5,405,101, or by the Consumer Price Index in the immediate San Francisco Bay Area of 1.110% with projected revenue of \$5,268,579.

ENVIRONMENTAL SUSTAINABILITY

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

CONTACT PERSON

Henry Oyekanmi, Director, Finance Department, 981-7301  
Dave Brannigan, Fire Chief, 981-5500

Attachments:  
1: Ordinance

ORDINANCE NO. -N.S.

SETTING THE FISCAL YEAR 2021 SPECIAL TAX RATE TO FUND FIRE PROTECTION AND EMERGENCY RESPONSE AND PREPAREDNESS (MEASURE GG) IN THE CITY OF BERKELEY

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

Section 1. The FY 2021 Tax Rate for the Fire Protection and Emergency Response and Preparedness (Measure GG) is set at:

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

Section 2. The cost to taxpayers during FY 2021 will be \$69.81 for a 1,200 square foot dwelling and \$174.54 for a 3,000 square foot dwelling.

Section 3. This tax rate will result in estimated total collections of \$5,210,740.

Section 4. The tax imposed by this ordinance does not apply to any property owner whose total personal income, from all sources for the previous calendar year, does not exceed that level which shall constitute a very low income, as established by resolution of City Council.

Section 5. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.



Office of the City Manager

CONSENT CALENDAR  
June 30, 2020

To: Honorable Mayor and Members of the City Council  
From: Dee Williams-Ridley, City Manager  
Submitted by: Lisa Warhuus, Director, Health, Housing & Community Services Department  
Subject: Grant Agreement Amendment: Alameda County Coordinated Entry System (CES) Grant

RECOMMENDATION

Adopt a Resolution authorizing the City Manager or her designee to:

1. Receive \$878,449 in additional funding and execute any agreements and amendments resulting from an augmentation and extension of a three-year grant from Alameda County Health Care Services Agency (HCSA) to fund a North County Housing Resource Center and Coordinated Entry System to Prevent and End Homelessness through December 31, 2020, increasing the contract amount to \$5,309,786, and extending the end date of the contract to December 31, 2020;
2. Execute resulting contracts for services with Bay Area Community Services (BACS) and the Cities of Albany and Oakland to fulfill the purpose of the grant; and
3. Retain \$90,004 in funding for staff in the Health, Housing & Community Services Department (HHCS) for program delivery.

FISCAL IMPACTS OF RECOMMENDATION

Should City Council approve the recommendation above, Alameda County HCSA will add \$878,449 in additional funding to an existing three-year contract with the City of Berkeley, and the contract will be extended through December 31, 2020 for a total revenue contract amount not to exceed \$5,309,786.

The City Manager will retain \$90,004 for program delivery and deposit these funds into the Housing & Community Services Division of HHCS. The City Manager will also amend or enter into the following contracts adding funds as follows:

1. \$15,500 to a contract with the City of Albany for staff time spent on HRC activities for a total not to exceed \$108,500 for the period August 1, 2017 through December 31, 2020.

2. \$14,058 for a contract with the City of Oakland to serve homeless families in Berkeley through a single-entry point called the North County Family Front Door for the period July 1, 2019 through December 31, 2020.
3. \$758,887 to a contract with Bay Area Community Services for a total not to exceed \$7,601,822 for the period July 1, 2019-June 30, 2023.

County funds for the Cities of Albany and Oakland are only available through December 31, 2020.

#### CURRENT SITUATION AND ITS EFFECTS

Alameda County's Health Care Services Agency (HCSA) and Housing and Community Development Department (HCD) are extending its Coordinated Entry System contracts to support the ongoing operations of the five regional Housing Resource Centers through December 31, 2020, to spend down Whole Person Care funds through the end of its contract period with the State Department of Health Care Services. This extended period will also allow for the spend-down of Alameda County Boomerang Funds.

The City of Berkeley began operating its own Housing Resource Center (HRC) in January of 2016 through a contract with Berkeley Food and Housing Project. On June 25, 2019, Council approved shifting this contract to BACS, which began operating the HRC in July 2019. The City of Berkeley's FY2020 allocation for BACS is approximately \$1.2 million which is matched by approximately \$1.2 million from Alameda County. The contract with BACS also includes funding for the Pathways STAIR navigation center, which was awarded approximately \$2.4 million in FY2020. The HRC currently has capacity to serve 175 clients in housing navigation services at any given point in time. Funding through Alameda County will continue to support the existing operations and staffing at the HRC (to help clients obtain and maintain housing), through rapid re-housing, other temporary financial assistance and permanent housing. A small percentage of the funding will continue to be used for City staff to implement the program, which includes reporting, billing and monitoring contract deliverables.

#### BACKGROUND

In February 2017 Alameda County's Health Care Services Agency (HCSA) and Housing and Community Development Department (HCD) released a Request for Proposals for Housing Resources Centers and Coordinated System to Prevent and End Homelessness. The intent of the funding released through the RFP was to create a network of regional Housing Resource Centers which deliver services as part of a Coordinated Entry System (CES) for persons experiencing homelessness or at-risk of homelessness throughout Alameda County. The system has focused on helping people get and keep permanent housing as quickly as possible.

Contracts awarded under the RFP were funded by a combination of sources:

1. Whole Person Care funds: a pilot program under Medi-Cal Section 1115 Waiver which is targeted to "high utilizers" of expensive health care services;

2. “Boomerang” funds: an annual allocation of funds resulting from the dissolution of the County’s Redevelopment Agency, which will be targeted to addressing affordable housing and homelessness; and
3. Federal Continuum of Care Funds: funds from the U.S. Department of Housing and Urban Development (HUD) which can cover certain costs of operating a county-wide Coordinated Entry System.

Funding under the RFP was divided into five regions, and was based on an estimated demand for homeless services across the regions using point-in-time homeless count and annual data collected in the county-wide Homeless Management Information System. The City of Berkeley applied on April 4, 2017 as the lead agency for funding for the North County region that includes Albany and Emeryville. The application was for a Housing Resource Center that serves single homeless individuals only.

Since the majority of the homeless population in Berkeley, Albany and Emeryville is single adults, the cities partner with the city of Oakland to serve homeless families through a single-entry point called the North County Family Front Door. Oakland was awarded funding by Alameda County under the same RFP to provide services to homeless families throughout northern Alameda County, including Berkeley, Albany and Emeryville.

#### ENVIRONMENTAL SUSTAINABILITY

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

#### RATIONALE FOR RECOMMENDATION

A Coordinated Entry System (CES) is a standardized method to connect people experiencing homelessness to resources available in the community. HUD requires that every community receiving HUD funding throughout the country operate a CES. Alameda County receives almost \$34 million each year from HUD for homeless services, which would be at risk of recapture if the County did not develop a CES. EveryOne Home, the body charged with coordinating efforts to end homelessness in Alameda County, led a county-wide effort over the past two years to design a county-wide CES<sup>1</sup>. Continued participation in the county-wide system is critical to the city of Berkeley and its providers. Programs located in Berkeley receive more than \$4.8 million in HUD funding each year to provide transitional and permanent supportive housing to hundreds of homeless people.

#### ALTERNATIVE ACTIONS CONSIDERED

None.

#### CONTACT PERSON

Kristen Lee, Manager, Housing & Community Services Division, (510) 981-5427

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<sup>1</sup> See here for more information: <http://everyonehome.org/our-work/coordinated-entry-system/>

Attachments:  
1: Resolution

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

ALAMEDA COUNTY COORDINATED ENTRY SYSTEM (CES) GRANT

WHEREAS, the Alameda County Health Care Services Agency (HCSA) awarded funding to the City of Berkeley to fund a Housing Resource Center and Coordinated System to Prevent and End Homelessness; and

WHEREAS, on September 14, 2017 the City of Berkeley entered into a three-year contract amounting to \$4,431,337 with Alameda County HCSA, with approximately \$1.7 million available in year one (FY2018), and \$1.3 million available in years two (FY19) and three (FY20); and

WHEREAS, on May 7, 2020 HCSA notified the City of Berkeley that it would extend the term of the contract through December 31, 2020 and add approximately \$878,449 in funding, for a new total amount not to exceed \$5,309,786; and

WHEREAS, the City of Berkeley previously entered into contracts with the cities of Albany and Oakland, and with the non-profit Bay Area Community Services for services related to the HCSA grant for the HRC.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is hereby authorized to receive \$878,449 in funding from the Alameda County Health Care Services Agency (HCSA) (budget code 336-51-504-530-0000-000-444-636110) and execute any agreements and amendments to support a continuation of homeless coordinated entry services serving Berkeley, Albany and Emeryville.

BE IT FURTHER RESOLVED that the City Manager or her designee is authorized to:

1. Amend Contract Number 31900273 with Bay Area Community Services adding up to \$758,887 for FY2021 to an existing allocation of \$6,936,500 for a total not to exceed \$7,695,387; and
2. Amend Contract Number #119536-1 with the City of Albany, adding \$15,500, for a total not to exceed \$108,500 for the period August 1, 2017 through December 31, 2020 for services related to the operation of the North County HRC; and
3. Enter into a contract with the City of Oakland for a total not to exceed \$14,058 for the period July 1, 2019 through December 31, 2020 for services related to the operation of the North County Family Front Door; and
4. Deposit the remaining \$90,004 in funding into the Housing & Community Services Division of HHCS, budget codes 336-51-504-535-0000-000-444-51110 / 336-51-504-535-0000-000-444-520560.

A signed copy of said documents, agreements and any amendments will be kept on file in the Office of the City Clerk.







Office of the City Manager

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CONSENT CALENDAR

June 30, 2020

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

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

Subject: Mental Health Services Act Contract Amendment: Covenant House

RECOMMENDATION

Adopt two Resolutions authorizing the City Manager or her designee to execute amendments for the following contracts with Covenant House that are funded through Mental Health Services Act (MHSA) Community Services and Supports (CSS) and Prevention and Early Intervention (PEI), and increasing the contract amounts as outlined below, and extending the contracts through March 31, 2021:

1. Increasing PEI ERMA Contract No. 122380-1 (8606J) with Covenant House California-YEAH! Program, in the amount of \$24,035 for a total contract amount not to exceed \$307,139 for support groups for Transition Age Youth (TAY);
2. Increasing CSS ERMA Contract No. 120650-1 (9553F) with Covenant House California-YEAH! Program by \$92,142 for a total contract amount not to exceed \$847,428 for services for transition age youth.

FISCAL IMPACTS OF RECOMMENDATION

Funding from MHSA revenue received from the State of California is subject to appropriation in the FY 2021 budget and available in the following budget codes: Prevention and Early Intervention programs \$24,035 in 315-51-503-526-2016-000-451-636110 and Community Services and Supports program \$92,142 in 315-51-503-526-2017-000-451-636110.

CURRENT SITUATION AND ITS EFFECTS

The State of California MHSA provides Prevention and Early Intervention (PEI) and Community Services and Supports (CSS) funding for local mental health services and supports. MHSA PEI funds are to be utilized for strategies to recognize the early signs of mental illness, to improve early access to services, and to prevent mental illness from becoming severe and disabling. CSS funds provide treatment services and supports for severely mentally ill transition age youth, adults and older adults, and seriously emotionally disturbed children. City of Berkeley MHSA Three Year Program and Expenditure Plans (Three Year Plans) and Annual Updates, details the uses of local PEI and CSS MHSA funds. Development of local MHSA Three Year Plans and Annual

Updates require community program planning, writing a draft plan, providing a 30-day public review, and conducting a public hearing at the Mental Health Commission.

The development of the MHSA FY20/21 – 22/23 Three Year Plan is currently underway and will be on the City Council Agenda in October 2020. The proposed Three Year Plan will include continued funding to Covenant House for MHSA PEI and CSS funded mental health services and supports for Transition Age Youth (TAY) who are homeless or at risk of homelessness.

Given unforeseen delays due to Covid-19, that have occurred (and may likely continue to occur in the near future), we are requesting the approval of these contract amendments prior to the approval of the MHSA FY20/21 – 22/23 Three Year Plan to prevent disruption to these important services and delays in paying contractors. This will assist Contractors who may be experiencing financial hardships during this time as a result of Covid-19. Funding for these services and supports has been included in the FY21 Budget.

To ensure fair City Contracting practices, in the Fall of 2020, Request For Proposals (RFP) will be released for each of the CSS and PEI services that are currently being provided by Covenant House. Funding through the end of March 2021 will enable the RFP and contracting processes to occur and will provide service coverage for individual participants, in the event there is a change in contractors following the RFP process.

#### BACKGROUND

Since the passage of Proposition 63 in 2004, the Health, Housing & Community Services Department, Mental Health Division, has received annual MHSA funding which is utilized to expand and transform the mental health service delivery system to better meet the needs of underserved and inappropriately served communities, among others. This initiative has provided new opportunities for the Mental Health Division to further develop and expand its system of care, adding new programs to the divisions own program and utilizing non-profit providers in the planning and delivery of comprehensive mental health services. The contracts this report seeks to extend advance this goal and provide improved coordination between the City and its partner system of care agencies. The City Council has previously amended these contracts.

#### ENVIRONMENTAL SUSTAINABILITY

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

#### RATIONALE FOR RECOMMENDATION

Both contracts were awarded on a competitive basis following the issuance of a Request for Proposals. The contractor possesses unique capabilities to meet the needs of the specified target population and the ability to effectively coordinate with the Mental Health Division and other community resources.

ALTERNATIVE ACTIONS CONSIDERED

In order for MHSa funded mental health services and supports in the community to continue, no other alternative actions were considered.

CONTACT PERSON

Karen Klatt, Community Services Specialist III, Mental Health Division, HHCS, 981-7644

Attachments:

1. Resolution – Contract No. 122380-1 (8606J) Amendment: Covenant House California-YEAH! Program
2. Resolution – Contract No. 120650-1 (9553F) Amendment: Covenant House California- YEAH! Program

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

CONTRACT NO. 122380-1 (8606J) AMENDMENT: COVENANT HOUSE  
CALIFORNIA-YEAH! PROGRAM FOR SERVICES FOR TRANSITION AGE YOUTH

WHEREAS, the City's Department of Health, Housing & Community Services, Mental Health Division, currently receives Mental Health Services Act Prevention and Early Intervention funds on an annual basis to provide services and supports to children, youth, transition age youth, adults, and older adults; and

WHEREAS, the Mental Health Division works in partnership with community-based agencies and school districts in the provision of such services and supports; and

WHEREAS, pursuant to the City of Berkeley's Mental Health Services Act State approved Prevention and Early Intervention Plan, funds are to be allocated to support the successful implementation of trauma supports for underserved populations; and

WHEREAS, in April 2010, bid Specification No. 10-10508-C was issued for proposals targeting trauma exposed transition age youth and/or those in need of coping strategies for stress related issues and Youth Engagement Advocacy Housing was determined to be the best responsible bidder; and

WHEREAS, on March 29, 2011 by Resolution No. 65,211-N.S., City Council authorized Contract No. 8606 with Youth Engagement Advocacy Housing for the provision of services and supports to transition age youth who are suffering from the impact of oppression, trauma, and other life stressors in an amount not to exceed \$26,520 for the period November 1, 2010 through June 30, 2011; and

WHEREAS, on June 28, 2011 by Resolution No. 65,345-N.S., City Council authorized an amendment to Contract No. 8606A with Youth Engagement Advocacy Housing to increase the amount by \$26,520 for a total contract amount not to exceed \$53,040, and to extend the term to June 30, 2012; and

WHEREAS, on June 12, 2012 by Resolution No. 65,764-N.S., City Council authorized an amendment to Contract No. 8606B with Youth Engagement Advocacy Housing to increase the amount by \$26,520 for a total contract amount not to exceed \$79,560 and to extend the term to June 30, 2013; and

WHEREAS, on May 7, 2013 by Resolution No. 66,113-N.S., City Council authorized an amendment to Contract No. 8606C with Youth Engagement Advocacy Housing to increase the amount by \$26,520 for a total contract amount not to exceed \$106,080 and to extend the term to June 30, 2014; and

WHEREAS, on June 24, 2014 by Resolution No. 66,676 -N.S., City Council authorized an amendment to Contract No. 8606D with Youth Engagement Advocacy Housing to

increase the amount by \$26,520 for a total contract amount not to exceed \$132,600 and to extend the term to June 30, 2015; and

WHEREAS, on June 30, 2015 by Resolution No. 67,121-N.S., City Council authorized an amendment to Contract No. 8606E with Youth Engagement Advocacy Housing to increase the amount by \$26,520 for a total contract amount not to exceed \$159,120 and to extend the term to June 30, 2016; and

WHEREAS, on June 28, 2016 by Resolution No. 67,560-N.S., City Council authorized an amendment to Contract No. 8606F with Youth Engagement Advocacy Housing to increase the amount by \$27,846 for a total contract amount not to exceed \$186,966 and to extend the term to June 30, 2017; and

WHEREAS, on July 25, 2017 by Resolution No. 68,105-N.S., City Council authorized an amendment to Contract No. 8606G with Covenant House California -YEAH! Program to increase the amount by \$32,046 for a total contract amount not to exceed \$219,012 and to extend the term to June 30, 2018; and

WHEREAS, on October 30, 2018 by Resolution No. 68,645-N.S., City Council authorized an amendment to Contract No. 8606H with Covenant House California-YEAH! Program to increase the amount by \$32,046 for a total contract amount not to exceed \$251,058 and to extend the term to June 30, 2019; and

WHEREAS, on July 23, 2019 by Resolution No. 69,039-N.S., City Council authorized an amendment to ERMA Contract No. 122380-1 (8606I) with Covenant House California-YEAH! Program to increase the amount by \$32,046 for a total amount not to exceed \$283,104 and to extend the term to June 30, 2020; and

WHEREAS, funds are available in the FY21 budget in the Mental Health Services Act Fund, budget code 315-51-503-526-2016-000-451-636110; and

WHEREAS, City Council action is required to authorize advances for select community agencies receiving funds in FY2021. The advances are to be equivalent to 25% of the agency's allocation.

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 an amendment to Contract No. 122380-1 (8606J) with Covenant House California - YEAH! Program to provide mental services and supports to transition age youth who are suffering from the impact of oppression, trauma, and other life stressors, to increase the amount by \$24,035 for a total contract amount not to exceed \$307,109, to provide an advance for FY21 funds and to extend the term to March 31, 2021. A record signature copy of said contract and any amendments to be on file in the Office of the City Clerk.

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

CONTRACT NO. 9553F AMENDMENT: COVENANT HOUSE CALIFORNIA-YEAH!  
PROGRAM FOR SERVICES AND SUPPORTS FOR TRANSITION AGE YOUTH

WHEREAS, the City's Department of Health, Housing & Community Services, Mental Health Division, currently receives Mental Health Services Act Community Services and Supports funds on an annual basis to provide mental health services and supports to seriously emotionally disturbed children, and severely mentally ill transition age youth, adults, and older adults; and

WHEREAS, the Mental Health Division works in partnership with community-based agencies and school districts in the provision of such services and supports; and

WHEREAS, pursuant to issued requests for proposals (Specification No. 07-10176-C) for the provision of mental health services and supports to severely mentally ill transition aged youth who are homeless and not currently receiving services, Youth Engagement Advocacy Housing, submitted a proposal and was determined to be the best responsible bidder; and

WHEREAS, on June 12, 2007 by Resolution No. 63,717-N.S., the City Council authorized Contract No. 7338 with Youth Engagement Advocacy Housing, with the Lutheran Church of the Cross acting as fiscal agent, for the provision of mental health services and supports for transition age youth in an amount not to exceed \$102,917 for the period June 1, 2007 through June 30, 2008 with the option to renew annually with eligible Consumer Price Index adjustments for up to two additional years through June 30, 2010 contingent upon satisfactory contract performance and the availability of external funding; and

WHEREAS, on June 16, 2008 by Resolution No. 63,717-N.S., Contract No. 7339 with Youth Engagement Assistance Housing was amended to increase the amount by \$101,768 for a total contract amount not to exceed \$204,685, and to extend the term to June 30, 2009; and

WHEREAS, on June 18, 2009 by Resolution No. 63, 717-N.S., Contract No. 7338 with Youth Engagement Advocacy Housing was amended to increase the amount by \$101,768 for a total contract amount not to exceed \$306,453, and to extend the term to June 30,2010; and

WHEREAS, Contract No. 7338 expired June 30, 2010; and

WHEREAS, on July 13, 2010, by Resolution No. 64,978-N.S., the City Council authorized the City Manager to execute Contract 8439 with Youth Engagement Advocacy Housing, to continue the provision of support services for transition age youth with serious mental health issues who are homeless and not currently receiving services in an amount not to exceed \$101,768 for the period July 1, 2010 through June 30, 2011; and

WHEREAS, on June 28, 2011 by Resolution No. 65,344-N.S., the City Council authorized the City manager to execute an amendment to Contract No. 8439 with Youth Engagement Advocacy Housing, to increase the amount by \$101,768 for a total contract amount not to exceed \$203,536, and to extend the term to June 30, 2012; and

WHEREAS, on June 12, 2012 by Resolution No. 65-765-N.S., the City Council authorized the City Manager to execute an amendment to Contract No. 8439 with Youth Engagement Advocacy Housing, to increase the amount by \$101,768 for a total contract amount not to exceed \$305,304, and to extend the term to June 30, 2013; and

WHEREAS, on May 7, 2013 by Resolution No. 66,108-N.S., the City Council authorized the City Manager to execute an amendment to Contract No. 8439 with Youth Engagement Advocacy Housing, to increase the amount by \$25,442 for a total contract amount not to exceed \$330,746 and to extend the term to September 30, 2013; and

WHEREAS, in May 2013, the City re-issued a request for proposals for the provision of mental health services and supports for severely mentally ill transition age youth, in order to allow other providers an opportunity to compete for these funds and to ensure that the dollars are allocated to the services most likely to benefit the target population; and

WHEREAS, pursuant to the Request for Proposals (Specification No. 13-10759-C) for the provision of mental health services and supports to severely mentally ill transition age youth, Youth Engagement Advocacy Housing was the only bidder that submitted a proposal and was determined to have the capabilities and expertise to provide the services; and

WHEREAS, on July 16, 2013 by Resolution No. 66,258-N.S., the City Council authorized the City Manager to execute an amendment to Contract No. 8439 with Youth Engagement Advocacy Housing, to increase the amount by \$76,326 and to extend the term to June 30, 2014; and

WHEREAS, before the contract amendment was executed Contract No. 8439 expired and a new contract with Youth Engagement Advocacy Housing was created and given Contract No. 9553 for a not to exceed amount of \$76,326 to provide mental health services and supports for transition age youth through June 30,2014; and

WHEREAS, on June 24, 2014 by Resolution No. 66,671-N.S., the City Council authorized the City Manager to execute an amendment to Contract No. 9553 with Youth Engagement Advocacy Housing, to increase the amount by \$101,768 and to extend the term to June 30, 2015; and

WHEREAS, on June 30, 2015 by Resolution No. 67,116-N.S., the City Council authorized the City Manager to execute an amendment to Contract No. 9553A with Youth Engagement Advocacy Housing, to increase the amount by \$101,768 and to extend the term to June 30, 2016; and

WHEREAS, on June 28, 2016 by Resolution No. 67,562-N.S., the City Council authorized the City Manager to execute an amendment to Contract No. 9553B with Youth Engagement Advocacy Housing, to increase the amount by \$106,856 and to extend the term to June 30, 2017; and

WHEREAS, on July 25, 2017 by Resolution No. 68,107-N.S., the City Council authorized the City Manager to execute an amendment to Contract No. 9553C with Covenant House California-YEAH! Program, to increase the amount by \$122,856 for a contract amount not to exceed \$509,574 and to extend the term to June 30, 2018; and

WHEREAS, on October 30, 2018 by Resolution No. 68,647-N.S., the City Council authorized the City Manager to execute an amendment to Contract No. 9553D with Covenant House California-YEAH! Program, to increase the amount by \$122,856 for a contract amount not to exceed \$632,430 and to extend the term to June 30, 2019; and

WHEREAS, on July 23, 2019 by Resolution No. 69,041-N.S., the City Council authorized the City Manager to execute an amendment to ERMA Contract No. 120650-1 (9553E) with Covenant House California-YEAH! Program, to increase the amount by \$122,856 for a contract amount not to exceed \$755,286 and to extend the term to June 30, 2020; and

WHEREAS, funds are available in the FY21 budget in the Mental Health Services Act Fund, budget code 315-51-503-526-2017-000-451-636110; and

WHEREAS, City Council action is required to authorize advances for select community agencies receiving funds in FY2021. The advances are to be equivalent to 25% of the agency's allocation.

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 an amendment to Contract No. 120650-1 (9553F) with Covenant House California-YEAH! Program to provide mental health services and supports to severely mentally ill transition age youth who are homeless and not currently receiving services, to increase the amount by \$92,142 for a total contract amount not to exceed \$847,428, to provide an advance for FY21 funds and to extend the term to March 31, 2021. 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

22

CONSENT CALENDAR  
June 30, 2020

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

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

Subject: Contract Amendments: Mental Health Services Act, Prevention and Early Intervention

RECOMMENDATION

Adopt two Resolutions authorizing the City Manager or her designee to execute amendments for the following contracts that are funded through Mental Health Services Act (MHSA) Prevention and Early Intervention (PEI), and extending the contracts through March 31, 2021:

1. Increasing PEI ERMA Contract No. 088999 -1 (8801I) with Center for Independent Living (CIL) in the amount of \$24,035 for a total contract amount not to exceed \$280,619 for supports for senior citizens;
2. Increasing PEI ERMA Contract No. 052129-1 (8516J) with Pacific Center for Human Growth in the amount of \$24,035 for a total contract amount not to exceed \$307,139 to serve Lesbian, Gay, Bi-sexual, Transgender, Queer/Questioning, and Intersex (LGBTQI) individuals;

FISCAL IMPACTS OF RECOMMENDATION

Funding from MHSA revenue received from the State of California is subject to appropriation and will be available in the FY 2021 budget in the following budget codes: Prevention and Early Intervention programs \$48,070 in 315-51-503-526-2016-000-451-636110.

CURRENT SITUATION AND ITS EFFECTS

The State of California provides MHSA Prevention and Early Intervention (PEI) funding for local mental health services and supports. MHSA PEI funds are to be utilized on strategies to recognize the early signs of mental illness, to improve early access to services, and to prevent mental illness from becoming severe and disabling. City of Berkeley MHSA Three Year Program and Expenditure Plans (Three Year Plans) and Annual Updates, detail the uses of local MHSA PEI funds. Development of local MHSA Three Year Plans and Annual Updates require community program planning, writing a draft plan, providing a 30-day public review, and conducting a public hearing at the Mental Health Commission.

The development of the MHSA FY20/21 – 22/23 Three Year Plan is currently underway and will be on the City Council Agenda in October 2020. The proposed Three Year Plan includes continued funding for the following PEI services provided by area MHSA contractors:

Prevention and Early Intervention (PEI): Funding from the MHSA PEI component has been utilized to provide community-based education, homeless outreach services and trauma support services to underserved and inappropriately served populations through the following community partners:

| AGENCY                                        | POPULATIONS SERVED                                                         |
|-----------------------------------------------|----------------------------------------------------------------------------|
| Center for Independent Living, Inc. (The CIL) | Senior Citizens                                                            |
| Pacific Center for Human Growth               | Lesbian, Gay, Bi-sexual, Transgender, Queer/Questioning, Intersex (LGBTQI) |

Given unforeseen delays due to Covid-19, that have occurred (and may likely continue to occur in the near future), we are requesting the approval of these contract amendments prior to the approval of the MHSA FY20/21 – 22/23 Three Year Plan to prevent disruption to these important services and delays in paying contractors. This will assist Contractors who may be experiencing financial hardships during this time as a result of Covid-19. Funding for these services and supports has been included in the FY21 Budget.

To ensure fair City Contracting practices, in the Fall of 2020, a Request For Proposal (RFP) will be released for each of the PEI services that are currently being provided by the community partners listed above. The approval of funding through March 31, 2021 will enable RFP and contracting processes to occur and will provide service coverage for individual participants, in the event there is a change in contractors following the RFP process.

**BACKGROUND**

Since the passage of Proposition 63 in 2004, the Health, Housing & Community Services Department, Mental Health Division, has received annual MHSA funding which is utilized to expand and transform the mental health service delivery system to better meet the needs of underserved and inappropriately served communities, among others. This initiative has provided new opportunities for the Mental Health Division to further develop and expand its system of care, adding new programs to the divisions own program and utilizing non-profit providers in the planning and delivery of comprehensive mental health services. The contracts this report seeks to extend advance this goal and provide improved coordination between the City and its partner system of care agencies. The City Council has previously amended these contracts.

**ENVIRONMENTAL SUSTAINABILITY**

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

RATIONALE FOR RECOMMENDATION

All contracts were awarded on a competitive basis following the issuance of a Request for Proposals. Each contractor possesses unique capabilities to meet the needs of the specified target populations and the ability to effectively coordinate with the Mental Health Division and other community resources.

ALTERNATIVE ACTIONS CONSIDERED

In order for MHSA funded mental health services and supports in the community to continue, no other alternative actions were considered.

CONTACT PERSON

Karen Klatt, Community Services Specialist III, HH&CS, 981-7644

Attachments:

1. Resolution – Contract No. 088999-1 (8801I) Amendment: Center for Independent Living, Inc.
2. Resolution – Contract No. 052129-1 (8516J) Amendment: Pacific Center For Human Growth

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

CONTRACT NO. 08999-1 (8801I) AMENDMENT: CENTER FOR INDEPENDENT LIVING FOR SERVICES FOR SENIOR CITIZENS

WHEREAS, the City's Department of Health, Housing & Community Services, Mental Health Division, currently receives Mental Health Services Act Prevention and Early Intervention funds on an annual basis to provide services and supports to children, youth, transition age youth, adults, and older adults; and

WHEREAS, the Mental Health Division works in partnership with community-based agencies and school districts in the provision of such services and supports; and

WHEREAS, pursuant to the City of Berkeley's Mental Health Services Act State approved Prevention and Early Intervention Plan, funds are to be allocated to support the successful implementation of trauma supports for underserved populations; and

WHEREAS, in April 2010, bid Specification No. 10-10508-C was issued for proposals targeting trauma exposed senior citizens and/or those in need of coping strategies for stress related issues and Center for Independent Living was determined to be the best responsible bidder; and

WHEREAS, on April 26, 2011 by Resolution No. 65,237-N.S., City Council authorized Contract No. 8648 with Center for Independent Living to provide mental health services and supports to senior citizens in an amount not to exceed \$26,520 for the period February 1, 2011 through June 30, 2011; and

WHEREAS, on July 19, 2011 by Resolution No. 65,395-N.S., City Council authorized an amendment to Contract No. 8648 with Center for Independent Living to increase the amount by \$26,520 for a total contract amount not to exceed \$53,040, and to extend the term to June 30, 2012; and

WHEREAS, Contract No. 8648 expired before the approved amendment was executed, and a new Contract No. 8801 was executed by the City Manager with Center for Independent Living for the amount of \$26, 520 for the term July 1, 2011 through June 30, 2012; and

WHEREAS, on June 12, 2012 by Resolution No. 65,760-N.S., the City Council authorized an amendment to Contract No. 8801A with Center for Independent Living to increase the amount by \$26,520 for a total contract amount not to exceed \$53,040 and to extend the term to June 30, 2013; and

WHEREAS, on May 7, 2013 by Resolution No. 66,110-N.S., the City Council authorized an amendment to Contract No. 8801B with Center for Independent Living to increase the amount by \$26,520 for a total contract amount not to exceed \$79,560 and to extend the term to June 30, 2014; and

WHEREAS, on June 24, 2014 by Resolution No. 66,673-N.S., the City Council authorized an amendment to Contract No. 8801C with Center for Independent Living to increase the amount by \$26,520 for a total contract amount not to exceed \$106,080 and to extend the term to June 30, 2015; and

WHEREAS, on June 30, 2015 by Resolution No. 67,118-N.S., the City Council authorized an amendment to Contract No. 8801D with Center for Independent Living to increase the amount by \$26,520 for a total contract amount not to exceed \$132,600 and to extend the term to June 30, 2016; and

WHEREAS, on June 28, 2016 by Resolution No. 67,557-N.S., the City Council authorized an amendment to Contract No. 8801E with Center for Independent Living to increase the amount by \$27,846 for a total contract amount not to exceed \$160,446 and to extend the term to June 30, 2017; and

WHEREAS, on July 25, 2017 by Resolution No. 68,102-N.S., the City Council authorized an amendment to Contract No. 8801F with Center for Independent Living to increase the amount by \$32,046 for a total contract amount not to exceed \$192,492 and to extend the term to June 30, 2018; and

WHEREAS, on October 30, 2018 by Resolution No. 68,642-N.S., City Council authorized an amendment to Contract No. 8801G with Center for Independent Living to increase the amount by \$32,046 for a total contract amount not to exceed \$224,538 and to extend the term to June 30, 2019; and

WHEREAS, on July 23, 2019 by Resolution No. 69,036-N.S., City Council authorized an amendment to ERMA Contract No. 088999-1 (8801H) with Center for Independent Living to increase the amount by \$32,046 for a total amount not to exceed \$256,584 and to extend the term to June 30, 2020; and

WHEREAS, funds are available subject to appropriation in the FY21 budget in the Mental Health Services Act Fund, budget code 315-51-503-526-2016-000-451-636110; and

WHEREAS City Council action is required to authorize advances for select community agencies receiving funds in FY2021. The advances are to be equivalent to 25% of the agency's allocation.

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 an amendment to Contract No. 088999-1 (8801I) with Center for Independent Living to provide mental health services and supports to senior citizens, to increase the amount by \$24,035 for a total contract amount not to exceed \$280,619, to provide an advance for FY21 funds and to extend the term to March 31, 2021. A record signature copy of said contract and any amendments to be on file in the Office of the City Clerk.

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

CONTRACT NO. 052129-1 (8516J) AMENDMENT: PACIFIC CENTER FOR HUMAN GROWTH TO SERVE LOW INCOME LESBIAN, GAY, BI-SEXUAL, TRANSGENDER, QUEER, AND INTERSEX (LGBTQI) INDIVIDUALS

WHEREAS, the City's Department of Health, Housing & Community Services, Mental Health Division, currently receives Mental Health Services Act Prevention and Early Intervention funds on an annual basis to provide services and supports to children, youth, transition age youth, adults, and older adults; and

WHEREAS, the Mental Health Division works in partnership with community-based agencies and school districts in the provision of such services and supports; and

WHEREAS, pursuant to the City of Berkeley's Mental Health Services Act State approved Prevention and Early Intervention Plan, funds are to be allocated to support the successful implementation of trauma supports for underserved populations; and

WHEREAS, in April 2010, bid Specification No. 10-10508-C was issued for proposals targeting trauma exposed individuals and/or those in need of coping strategies for stress related issues and Pacific Center for Human Growth was determined to be the best responsible bidder; and

WHEREAS, on December 6, 2010, City Manager authorized Contract No. 8516 with Pacific Center for Human Growth to provide mental health services and supports to low-income LGBTQI individuals who are suffering from the impact of oppression, trauma, and other life stressors in an amount not to exceed \$26,520 for the period November 1, 2010 through June 30, 2011; and

WHEREAS, on June 28, 2011 by Resolution No. 65,347-N.S., City Council authorized an amendment to Contract No. 8516A with Pacific Center for Human Growth to increase the amount by \$26,520 for a total contract amount not to exceed \$53,040, and to extend the term to June 30, 2012; and

WHEREAS, on June 12, 2012 by Resolution No. 65,762-N.S., City Council authorized an amendment to Contract No. 8516B with Pacific Center for Human Growth to increase the amount by \$26,520 for a total contract amount not to exceed \$79,560 and to extend the term to June 30, 2013; and

WHEREAS, on May 7, 2103 by Resolution No. 66,112-N.S., City Council authorized an amendment to Contract No. 8516C with Pacific Center for Human Growth to increase the amount by \$26,520 for a total contract amount not to exceed \$106,080 and to extend the term to June 30, 2014; and

WHEREAS, on June 24, 2014 by Resolution No. 66,675 -N.S., City Council authorized an amendment to Contract No. 8516D with Pacific Center for Human Growth to increase

the amount by \$26,520 for a total contract amount not to exceed \$132,600 and to extend the term to June 30, 2015; and

WHEREAS, on June 30, 2015 by Resolution No. 66,120 -N.S., City Council authorized an amendment to Contract No. 8516E with Pacific Center for Human Growth to increase the amount by \$26,520 for a total contract amount not to exceed \$159,120 and to extend the term to June 30, 2016; and

WHEREAS, on June 28, 2016 by Resolution No. 67,559 -N.S., City Council authorized an amendment to Contract No. 8516F with Pacific Center for Human Growth to increase the amount by \$27,846 for a total contract amount not to exceed \$186,966 and to extend the term to June 30, 2017; and

WHEREAS, on July 25, 2017 by Resolution No. 68,104 -N.S., City Council authorized an amendment to Contract No. 8516G with Pacific Center for Human Growth to increase the amount by \$32,046 for a total contract amount not to exceed \$219,012 and to extend the term to June 30, 2018; and

WHEREAS, on October 30, 2018 by Resolution No. 68,644-N.S., City Council authorized an amendment to Contract No. 8516H with Pacific Center for Human Growth to increase the amount by \$32,046 for a total contract amount not to exceed \$251,058 and to extend the term to June 30, 2019; and

WHEREAS, on July 23, 2019 by Resolution No. 69,038-N.S., City Council authorized an amendment to ERMA Contract No. 052129-1 (8516I) with Pacific Center for Human Growth to increase the amount by \$32,046 for a total amount not to exceed \$283,104 and to extend the term to June 30, 2020; and

WHEREAS, funds are subject to appropriation and will be available in the FY21 budget in the Mental Health Services Act Fund, budget code 315-51-503-526-2016-000-451-636110; and

WHEREAS, City Council action is required to authorize advances for select community agencies receiving funds in FY2021. The advances are to be equivalent to 25% of the agency's allocation.

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 an amendment to Contract No. 052129-1 (8516J) with Pacific Center for Human Growth to provide mental services and supports to low-income LGBTQI individuals who are suffering from the impact of oppression, trauma, and other life stressors, to increase the amount by \$24,035 for a total contract amount not to exceed \$307,139, to provide an advance for FY21 funds and to extend the term to March 31, 2021. 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  
June 30, 2020

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: Lisa Warhuus, Director, Health, Housing & Community Services  
 Subject: Contract Amendment with BOSS for Representative Payee services

RECOMMENDATION

Adopt a Resolution authorizing the City Manager or her designee to execute a contract amendment with vendor Building Opportunities for Self-Sufficiency (BOSS) to provide Representative Payee services. The amendment will add \$100,000 to the current contract and extend it through June 30, 2021 for a total contract not to exceed amount of \$200,000.

FISCAL IMPACTS OF RECOMMENDATION

Funds for the scope of work in the amount of \$100,000 will be provided from ERMA GL Code 315-51-503-526-2017-000-451-636110.

CURRENT SITUATION AND ITS EFFECTS

Berkeley Mental Health (BMH) issued a Request for Proposals for Representative Payee services on June 14, 2018, and BOSS was selected as the most responsive responsible bidder. They have provided Representative Payee services for BMH clients since March 1, 2019, and have acted in a satisfactory capacity. Before the current contract began, BMH provided representative payee services to approximately 90 clients through the Alameda County Substitute Payee Program (ACSPP). Although ACSPP acted as payee, they did not have direct contact with clients, with BMH staff acting as intermediaries. Providing these services detracted from BMH's core mission of providing outpatient mental health services which emphasize client needs, strengths, choices and empowerment. Moreover, providing these services altered the relationship between clients and clinicians, introducing angst and potentially damaging the rapport and trust necessary to produce healthy outcomes.

This recommendation entails extending the term of the current contract for one year and increasing the contract limit to reflect the additional time added. Current Contract No. 31900132 ends on June 30, 2020, and the requested amendment would extend the term through June 30, 2021, adding \$100,000 for a total Not to Exceed (NTE) amount of \$200,000. The current payment terms and scope of work would not change.

BACKGROUND

On May 26, 2015, City Council approved the MHSA FY14/15-16/17 Three Year Program and Expenditure Plan. In this Plan, the Division proposed to use a portion of CSS System Development Funds to provide Sub-Representative Payee Services, to be acquired through a competitive Request for Proposal (RFP) process. On January 21, 2020 by Resolution No. 69,249-N.S., the City Council authorized the City Manager to amend contract No. 31900132 to increase the contract limit to \$100,000 and extend the term through 06/30/2020.

The State of California MHSA provides funding for local mental health services and supports. City of Berkeley MHSA Three Year Program and Expenditure Plans (Three Year Plans) and Annual Updates, details the uses of local MHSA funds. Development of local MHSA Three Year Plans and Annual Updates require community program planning, writing a draft plan, providing a 30-day public review, and conducting a public hearing at the Mental Health Commission.

The development of the MHSA FY20/21 – 22/23 Three Year Plan is currently underway and will be on the City Council Agenda in October 2020. The proposed Three Year Plan will include continued funding to BOSS for Representative Payee Services.

Given unforeseen delays due to Covid-19, that have occurred (and may likely continue to occur in the near future), we are requesting the approval of these contract amendments prior to the approval of the MHSA FY20/21 – 22/23 Three Year Plan to prevent disruption to these important services and delays in paying contractors.. This will assist Contractors who may be experiencing financial hardships during this time as a result of Covid-19. Funding for these services and supports has been included in the FY21 Budget.

A representative payee is a person or organization appointed by the Social Security Administration to receive the Social Security or Supplemental Security Income benefits for anyone who is unable to manage or direct the management of his or her benefits. A payee’s main duties are to use the benefits to pay for the current and future needs of the beneficiary, and properly save any benefits not needed to meet current needs. A payee must also keep records of expenses. When a regulatory agency requests a report, a payee must provide an accounting of how he or she used or saved the benefits.

ENVIRONMENTAL SUSTAINABILITY

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

RATIONALE FOR RECOMMENDATION

BOSS has additional capacity and specialized practices in administering a representative payee program, not only providing an enhanced level of service to

consumers, but also permitting BMH clinicians to focus exclusively on their clients' other mental health needs.

ALTERNATIVE ACTIONS CONSIDERED

As an alternative action, Council could instead direct staff to circulate a new RFI or formal Request for Proposals to competitively solicit a different vendor.

CONTACT PERSON

Conor Murphy, Assistant Management Analyst, HHCS, 510-981-7611

Steven Grolnic-McClurg, Manager of Mental Health Services, HHCS, 510-981-5249

Attachments:

1: Resolution:

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

CONTRACT AMENDMENT WITH BUILDING OPPORTUNITIES FOR SELF-SUFFICIENCY FOR REPRESENTATIVE PAYEE SERVICES

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

WHEREAS, on May 26, 2015 by Resolution No. 67,026-N.S., the City Council authorized the City Manager to approve the MHSA Fiscal Years 2015 through 2017 Three Year Program and Expenditure Plan; and

WHEREAS, within the City Council approved MHSA Fiscal Years 2015 through 2017 Three Year Program and Expenditure Plan was the goal of contracting with a community based organization to provide Representative Payee Services; and

WHEREAS, on May 29, 2018 City Council approved the Finance Department's request to issue a Request for Proposals for Representative Payee Services; and

WHEREAS, the City of Berkeley's Mental Health Division issued a Request for Proposals for Representative Payee Services, and selected Building Opportunities for Self-Sufficiency as the vendor; and

WHEREAS, on February 26, 2019 by Resolution No. 68,768-N.S., the City Council authorized the City Manager to execute contract No. 31900132 with Building Opportunities for Self Sufficiency for Representative Payee services; and

WHEREAS, on January 21, 2020 by Resolution No. 69,249-N.S., the City Council authorized the City Manager to amend contract No. 31900132 with Building Opportunities for Self Sufficiency for Representative Payee services; and

WHEREAS, Building Opportunities for Self-Sufficiency has been the vendor for Representative Payee services for the City of Berkeley since March 1, 2019, and has acted in a satisfactory capacity; and

WHEREAS, funds are available in the current budget year in ERMA GL Code 315-51-503-526-2017-000-451-636110-.

NOW THEREFORE, BE IT RESOLVED that the Council of the City of Berkeley that the City Manager or her designee is authorized to execute a contract amendment with Building Opportunities for Self-Sufficiency for Representative Payee services through June 30, 2021 in an amount not to exceed \$200,000. A record signature copy of said contract and any amendments to be on file in the City Clerk Department.



Office of the City Manager

24

CONSENT CALENDAR  
June 30, 2020

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Andrew Greenwood, Chief of Police

Subject: Reimbursement agreement with the City of San Jose and the City of Berkeley Police Department for training related to the Internet Crimes Against Children (ICAC) Task Force

RECOMMENDATION

Adopt a Resolution approving the Agreement of Reimbursement between the City of San Jose and the City of Berkeley Police Department (Internet Crimes Against Children Training Costs) to provide for training reimbursement of Internet Crimes Against Children federal grant-related training costs to the City of Berkeley.

FISCAL IMPACT OF RECOMMENDATION

The ICAC Task Force will reimburse the City of Berkeley for costs associated with investigators attending ICAC training events. The Berkeley Police Department could receive as much as \$25,000 of specialized training annually. The training reimbursement is comprehensive (travel, rental cars, lodging, tuition, & meals). The City of Berkeley will not incur additional costs associated with attending these trainings.

CURRENT SITUATION AND ITS EFFECTS

The Berkeley Police Department has an existing memorandum of understanding with the ICAC Task Force and the San Jose Police Department, which administers the federal grant and operates the Task Force under MOU 1.15, first approved by Council September 18, 2012. Federal Grant money has been made available to fund training for investigators who are members of the task force. This MOU is required for the City of Berkeley Police Department to allow investigators to attend specialized trainings and receive reimbursement. This Grant will make multiple specialized trainings available each year for Berkeley investigators who investigate Internet Crimes Against Children.

BACKGROUND

The Berkeley Police Department participates in the Silicon Valley Internet Crimes Against Children ("SVICAC") Task Force. The Task Force is Federally and State funded and is geared towards combatting the exploitation of children using the Internet. The Task Force is a nationwide effort with 61 Task Forces in the Country. The SVICAC Task Force covers from Sonoma County to Monterey County with over 104 agencies. The relationship has been

effective in holding those who would use the internet to victimize children accountable and prevent further abuses. The Department partners with the Task Force and investigates dozens of cases each year. The Task Force provides expertise and training to the department and maintains a clearing house for reported abuses. The Task Force is administered at the San Jose Police Department and has regional, State and Federal Partners.

The Berkeley Police Department's involvement in the Task Force has and will continue to conform to all Berkeley Police Department Policies.

ENVIRONMENTAL SUSTAINABILITY

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

RATIONALE FOR RECOMMENDATION

The Berkeley Police Department has an ongoing and effective relationship with the Silicon Valley Internet Crimes Against Children Task Force that impacts the victimization of children in our community. This enforcement is highly specialized and technical as it requires forensic investigation of a crime committed in the digital world. The training funding made available to the Berkeley Police Department through this Memorandum of Understanding will serve to educate investigators in making children safer in our community.

CONTACT PERSON

Andrew Greenwood, Chief of Police, (510) 981-5900

ATTACHMENTS

1. Resolution
2. Agreement of Reimbursement between the City of San Jose and the City of Berkeley Police Department (Internet Crimes Against Children Training Costs)

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

TRAINING MEMORANDUM OF UNDERSTANDING: SILICON VALLEY INTERNET CRIMES  
AGAINST CHILDREN TASK FORCE

WHEREAS, The Silicon Valley Internet Crimes Against Children Task Force (SVICAC) is committed to the protection of children from sexually-oriented dangers posed by the internet; and

WHEREAS, The SVICAC works to maintain a networking group focused on internet crimes against children, and to work in concert with regional community law enforcement agencies; and

WHEREAS, The Berkeley Police Department has been a contributing member of the Task Force since approved by Council in 2012, and the Department has received information, advice and training from the Task Force that has helped to protect children in Berkeley from sexual exploitation via the internet; and

WHEREAS, the mission of the SVICAC Task Force is to identify, apprehend and prosecute internet sexual predators who exploit children through the use of computers, and to sponsor community education efforts regarding the prevention of Internet crimes against children, and the SVICAC Task Force further seeks to enhance the effectiveness of participating agencies by providing investigative training to participants; and

WHEREAS, the City of San Jose has been awarded the Internet Crimes Against Children Grant from the Office of Justice Programs and will reimburse approved travel and training costs associated with the SVICAC in accordance with all provisions of the Grant; and

WHEREAS, training provided to Berkeley PD investigators has proven invaluable in the investigation of crimes perpetrated on children using the internet, and ongoing specialized training for investigators offered and funded under the Grant will enhance Berkeley Police Department's capability to investigate and impact criminal exploitation and crimes against children;

NOW THEREFORE, BE IT RESOLVED by the City Council of Berkeley that the City Manager is authorized to enter into and execute the Memorandum of Understanding "Agreement of Reimbursement between the City of San Jose and the City of Berkeley Police Department (Internet Crimes Against Children Training Costs)"

**AGREEMENT OF REIMBURSEMENT  
BETWEEN  
THE CITY OF SAN JOSE  
AND  
CITY OF BERKELEY POLICE DEPARTMENT**

**(INTERNET CRIMES AGAINST CHILDREN TRAINING COSTS)**

This AGREEMENT is entered into on this \_\_\_\_ day of \_\_\_\_\_ 2020 by and between the City of San Jose (“CITY”) and City of Berkeley Police Department (“AGENCY”) for the purpose of defining the terms and conditions of the reimbursement of Internet Crimes Against Children Federal grant-related expenses by the CITY for the AGENCY to attend Silicon Valley Internet Crimes Against Children (“SVICAC”) Task Force training events.

**RECITALS**

**WHEREAS**, the mission of the SVICAC Task Force is to identify, apprehend and prosecute Internet sexual predators who exploit children through the use of computers, and to sponsor community education efforts regarding the prevention of Internet crimes against children. The SVICAC Task Force seeks to enhance the effectiveness of participating agencies by providing investigative training to participants; and

**WHEREAS**, the CITY is the lead agency in the SVICAC Task Force. The SVICAC Task Force includes investigators, supervisors, or prosecutors from various local, state, and federal law enforcement agencies who act as partners. All participants acknowledge that the SVICAC Task Force is a joint operation in which all agencies act as partners in joint efforts to address Internet crimes against children. The chain of command and supervision of the San Jose Police Department is responsible for the policy and general direction of the SVICAC Task Force. The SVICAC Task Force coordinator will periodically contact supervisors, investigators, and prosecutors from other participating agencies to keep them informed of training opportunities, unusual circumstances, problems and successes of the SVICAC Task Force; and

**WHEREAS**, the CITY has been awarded the Internet Crimes Against Children Grant from the United States Department of Justice, Office of Justice Programs, and will reimburse approved travel and training costs associated with the SVICAC in accordance with all provisions of the Grant.

**NOW THEREFORE**, the AGENCY and the CITY agree as follows:

**SECTION 1. TERM**

This AGREEMENT shall become effective \_\_\_\_\_, 2020 (“Effective Date”), and shall remain in effect, subject to funding availability and the provisions of Section 4 of this



AGREEMENT. Regardless of the date of execution of the AGREEMENT, this AGREEMENT will be effective as of the Effective Date.

**SECTION 2. AGENCY RESPONSIBILITIES**

The AGENCY Agrees to:

1. Within fifteen (15) days of written notification to the AGENCY's Programmatic Contact as specified in Section 6 of this AGREEMENT, from the SVICAC Task Force of an upcoming training event, the AGENCY agrees to notify the SVICAC Task Force coordinator of their intent to attend the training session by completing and submitting the attached Training Request Form (Exhibit B).
2. For all training approved by the SVICAC Task Force coordinator, the AGENCY shall pay all approved expenditures for training events attended by AGENCY personnel, as noted in the Allowable Costs section of the Training Request Form (Exhibit B).
3. Comply with all provisions of the CITY's travel policy as attached in Exhibit A.
4. Upon completion of travel, submit the attached Reimbursement Request Form (Exhibit C) within thirty (30) days to the CITY's Fiscal Contact; as specified in Section 6 of this AGREEMENT, for the purpose of obtaining reimbursement of travel expenses. This submittal shall include an invoice, itemized receipts, all supporting documentation, and proof of AGENCY payment.

**SECTION 3. CITY RESPONSIBILITIES**

The CITY agrees to:

1. Notify in writing each participating AGENCY Programmatic Contact, as specified in Section 6 of this AGREEMENT, of the details regarding training events for the year. This notification will take place at least forty-five (45) days prior to the training event whenever possible.
2. Upon receipt of the completed Training Request Form (Exhibit B), the CITY will notify the AGENCY within fifteen (15) days acknowledging receipt of the request and whether or not the request is approved or disapproved. If training is approved, the CITY will provide the AGENCY with a signed copy of the Training Request Form (Exhibit B). Approval of the training request will be subject to and dependent upon availability of funds and CITY approval of the appropriateness of the training.
3. Upon receipt of the completed Reimbursement Request Form (Exhibit C), and all appropriate attachments and supporting documentation, the CITY will process

the reimbursement within forty-five (45) days of receipt and mail payment to the address indicated on the Reimbursement Request Form.

**SECTION 4.            TERMINATION**

CITY shall have the right to terminate this AGREEMENT, without cause, by giving not less than seven (7) days' written notice of termination. CITY's Police Chief is empowered to terminate this AGREEMENT on behalf of CITY. In the event of a termination, CITY shall process reimbursement payments for any completed Reimbursement Request Forms received for training requests approved by the SVICAC Task Force Coordinator prior to the delivery of written notice of termination pursuant to Section 6 of this AGREEMENT.

**SECTION 5.            AMENDMENTS**

No amendment or change to the provisions of this AGREEMENT shall be valid or binding unless reduced to writing and signed by duly authorized representative(s) of the parties.

**SECTION 6.            NOTICES**

All notices required by this AGREEMENT will be deemed given when in writing and delivered personally or deposited in the United States mail, postage prepaid, return receipt requested, addressed to the other party at the address set forth below or at such other address as the party may designate in writing:

**CITY:**

Programmatic Contact:

Sgt. Sean Pierce  
SVICAC Task Force Coordinator  
San Jose Police Department  
Sexual Assaults Investigation Unit/  
Child Exploitation Detail  
201 W. Mission St.  
San Jose CA 95110

Phone: 408-537-1397  
Fax: 408-971-8031  
Email: [sean.pierce@sanjoseca.gov](mailto:sean.pierce@sanjoseca.gov)

Fiscal Contact:

Linda Chan  
Grants Analyst  
San Jose Police Department  
Fiscal Unit  
201 W. Mission St.  
San Jose, CA 95110

Phone: 408- 537-1626  
Fax: 408- 286-1174  
Email: [linda.chan@sanjoseca.gov](mailto:linda.chan@sanjoseca.gov)

**AGENCY:**

Programmatic Contact:

Lt. Dan Montgomery  
Phone: (510) 981-5733  
Email: [dmontgomery@cityofberkeley.info](mailto:dmontgomery@cityofberkeley.info)

Fiscal Contact:

Chuck Gunter  
Phone: (510) 981-5976  
Email: [cgunter@cityofberkeley.info](mailto:cgunter@cityofberkeley.info)

**SECTION 7. GOVERNING LAW**

This AGREEMENT has been executed and delivered in, and will be construed and enforced in accordance with, the laws of the State of California.

**SECTION 8. INDEPENDENT CONTRACTOR**

AGENCY, in attending any training reimbursed under this AGREEMENT, shall act as and be an independent contractor and not an agent or employee of CITY, and as an independent contractor, AGENCY shall obtain no rights to retirement benefits or other benefits which accrue to CITY's employees, and AGENCY hereby expressly waives any claim it may have to any such rights.

**SECTION 9. COMPLIANCE WITH LAWS**

AGENCY shall comply with all applicable laws, ordinances, codes and regulation of the federal, state, and local governments.

**SECTION 10. ASSIGNMENT**

The parties may not assign this AGREEMENT or the rights and obligations hereunder without the specific written consent of the other.

**SECTION 11. ENTIRE AGREEMENT**

This document, including Exhibits A through C, represents the entire Agreement between the parties with respect to the subject matter hereof. All prior negotiations and written and/or oral agreements between the parties with respect to the subject matter of the AGREEMENT are merged into the AGREEMENT.

**SECTION 12. SEVERABILITY**

If any provision of this AGREEMENT is found by a court of competent jurisdiction to be void, invalid, or unenforceable, the same will either be reformed to comply with

applicable law or stricken if not so conformable, so as not to affect the validity or enforceability of this AGREEMENT.

**SECTION 13. WAIVER**

No delay or failure to require performance of any provision of this AGREEMENT shall constitute a waiver of that provision as to that or any other instance. Any waiver granted by a party must be in writing, and shall apply to the specific instance expressly stated.

**SECTION 14. AUTHORITY/AUTHORIZED REPRESENTATIVES**

AGENCY represents and warrants that it has the authority to enter into the AGREEMENT. AGENCY further represents and warrants that its signatory to this AGREEMENT is authorized under California law to execute this AGREEMENT on AGENCY's behalf.

**WITNESS THE EXECUTION HEREOF** on the day and year hereinabove written.

CITY:

APPROVED AS TO FORM:

CITY OF SAN JOSE,  
A municipal corporation

By \_\_\_\_\_  
CARL B. MITCHELL  
Senior Deputy City Attorney

By \_\_\_\_\_  
LELAND WILCOX  
Chief of Staff, City Manager's Office

APPROVED AS TO FORM AND  
LEGALITY:

AGENCY:  
City of Berkeley Police Department

By \_\_\_\_\_  
Dee Williams-Ridley, City Manager

By \_\_\_\_\_  
Andrew R. Greenwood, Chief of Police

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

## Exhibit A

### City of San Jose Travel Policy

**(Selected relevant portions thereto for the sole purpose of providing informational guidance for this Memorandum of Understanding)**

#### DEFINITIONS OF TRAVEL

In-State Travel: Travel within the State of California that requires airfare and/or an overnight stay.

Out-of-state Travel: Any travel outside of the State of California within the continental United States.

#### 4.2 Environmentally Preferable Travel Requirements

Travelers shall attempt to reduce the environmental impact of their travel through the following actions:

4.2.1 Transportation shall be by commercial airline or public transit whenever appropriate. Use of the most fuel efficient and lowest emission vehicle available.

4.2.2 Travelers are encouraged to carpool with others attending the same event and shall consider the use of public transit or shuttle buses.

#### 5.5 Reimbursable Travel Expenses

##### 5.5.1 Ground Transportation

Travelers are strongly encouraged to choose the lowest cost for ground transportation taking into consideration reasonable travel time and other related cost factors such as parking. Carpooling is encouraged for all group travel.

##### 5.5.1.3 Rental Cars

Rental cars are only allowed for business reasons in the situation when the hotel location is not within walking distance of the event location and a shuttle service is not available. All rental car requests will have prior approval by the Approving Official. Rental cars shall only be approved, if other ground transportation, such as shuttles or taxis, is more expensive during the stay at the destination. Documentation of cost savings must be attached to the Travel Request Form. The following restrictions apply to all cars rented by a Traveler:

## Exhibit A (Continued)

5.5.1.3.1 Only compact cars or equivalent may be rented for individuals. Rental car levels above compact require prior approval by the Approving Official and is only authorized for Group Travel.

5.5.1.3.2 Traveler will refuel the rental car prior to returning the car to avoid refueling charges

5.5.1.3.3 Rental car options are not eligible for reimbursement including items such as car insurance, GPS devices, and pre-paid gas.

### 5.5.2 Airfare

The City will pay only the costs for the most direct route necessary to accomplish the purpose of the City travel. Travelers shall comply with the following restrictions when utilizing airfare for travel:

5.5.2.2.1 Travelers shall fly coach class on the lowest cost flight(s) available. Upgrades of any kind shall not be reimbursed, including early boarding.

5.5.2.2.3 Costs incurred from personal travel will not be reimbursed, unless incurred for the benefit of the City, as determined by the Approving Official.

5.5.2.2.5 Excess baggage charges shall not be reimbursed. The City will cover the cost of one checked baggage only.

5.5.2.2.6 Airfare tickets purchased with a personal credit card must provide a valid receipt for reimbursement purposes and a copy of the boarding pass.

### 5.5.3 Lodging

Travelers shall seek lodging options that provide safety and convenience to the traveler, at the lowest possible cost. The following restrictions apply to lodging options:

5.5.3.1 Travelers shall stay at a conference hotel at the negotiated conference rate.

5.5.3.2 If the conference hotel is not available, the traveler shall stay at an alternate hotel with the most economical rate, which shall be the applicable CONUS rate for lodging.

5.5.3.5 Travelers must submit an itemized check-out receipt. Booking receipts are not acceptable forms of documentation.

## Exhibit A (Continued)

### 5.5.4 Meals

All meal and incidental expenses are reimbursed on a per diem basis. Per diem meal expenses are determined by the applicable CONUS (Continental United States) rates established by the United States General Services Administration for meals and incidental expenses unless traveling to a non-standard area. The Domestic Per Diem Rates Schedule (<http://www.gsa.gov/>) shall be used to determine if a travel destination is listed as a non-standard area and to determine the appropriate per diem rate. Traveler must comply with the following restrictions for meal and incidental reimbursement:

5.5.4.1 For the first and last day of travel, a traveler is limited to 75% of the applicable per diem rate for meals and incidental expenses.

5.5.4.2 In cases where breakfast is included in the room price it must be stated and deducted from the per diem reimbursement.

5.5.4.3 Breakfast and dinner expenses are only reimbursed in the event of overnight travel.

5.5.4.6 Event brochures/agendas are a required documentation to accompany the Travel Request. They will be used to determine what meals are provided as part of the event (included in the registration fee). When meals are provided as part of the cost of an event or included in the cost of the hotel fee, travelers will not be provided per diem for these meals. When the traveler can justify a legitimate business or personal, or medical reason and there are no accommodations available to not participate in the provided meal, the traveler must submit written justification to receive per diem for that meal.

### 5.6 Non-reimbursable Travel Expenses

#### 5.6.1 Alcoholic Beverages

Alcoholic beverages will not be reimbursed by the City, except as permitted in the Food and Beverage Policy (see City Policy Manual Section 5.1.5 Food and Beverage Expenditure Policy).

#### 5.6.2 Personal Expenses

Personal expenses for entertainment costs such as in-room movies or games are not eligible for reimbursement.

**Exhibit A (Continued)**

5.6.3 Laundry and Dry Cleaning

Laundry services and dry cleaning are generally not eligible for reimbursement.

5.7 Reimbursement for Travel Expenses

5.7.1 Submission Deadline

Within 45 days after completion of travel, an approved Reimbursement of Travel Statement shall be submitted to Finance for processing. Statements that are not turned in within 45 days from the Return Date will be considered delinquent.





# Silicon Valley Internet Crimes Against Children Task Force Training Request (ICAC Grant)

**THE TERMS AND CONDITIONS DETERMINING REIMBURSABLE TRAVEL AND TRAINING COSTS ARE OUTLINED IN THE AGREEMENT FOR REIMBURSEMENT SIGNED BY EACH PARTICIPATING AGENCY**  
**COMPLETE AND SUBMIT ONE TRAINING REQUEST FORM FOR EACH INDIVIDUAL ATTENDING TRAINING**

|                                                                           |                     |                       |                        |
|---------------------------------------------------------------------------|---------------------|-----------------------|------------------------|
| <b>Course Name</b>                                                        |                     | <b>Date of Course</b> |                        |
|                                                                           |                     | Start                 | End                    |
| <b>Course Location</b>                                                    |                     |                       |                        |
|                                                                           |                     |                       |                        |
| <b>Participant Name</b>                                                   | <b>Rank / Title</b> | <b>Phone</b>          | <b>Email Address</b>   |
|                                                                           |                     |                       |                        |
| <b>Allowable Costs</b>                                                    |                     |                       | <b>Estimated Costs</b> |
| Registration                                                              |                     |                       |                        |
| Airfare                                                                   | Date of Departure   | Date of Return        |                        |
| Meals (75% of GSA rate on first and last day of travel) GSA Rate \$ _____ |                     |                       |                        |
| Lodging (# of Nights ___ ) X (GSA Rate \$ _____) plus taxes               |                     |                       |                        |
| Airport Shuttle / Uber / Lyft / Taxi                                      |                     |                       |                        |
|                                                                           |                     |                       |                        |
|                                                                           |                     |                       |                        |
| <b>Total Estimated Cost</b>                                               |                     |                       | <b>\$0.00</b>          |

**By signing below, the undersigned:**

- a) Acknowledges that prior approval of the Silicon Valley Internet Crimes Against Children SVICAC Task Force coordinator is required for the expenditure of ICAC grant funds associated with the delivery of ICAC training.
- b) Acknowledges that this form will be completed and submitted to the SVICAC Task Force coordinator within 15 days of notification of an upcoming training event.
- c) Acknowledges that participating agencies receiving ICAC grant funds for the reimbursement of operating expenses must comply with the provisions of CITY's travel policy (see Exhibit A of the AGREEMENT FOR REIMBURSEMENT signed by each participating agency).
- d) Acknowledges that the Department of Justice may conduct a randomized review/audit of all expenditures. If the review/audit reveals that expenditures are outside the scope of ICAC grant guidelines, the agency agrees to repay all reimbursed costs.

**Your Agency / Department Approval**

\_\_\_\_\_  
Agency Submitting Request & Date

\_\_\_\_\_  
Agency Coordinator Name & Phone Number

\_\_\_\_\_  
Agency / Dept. Head Authorized to Expend Grant Funds

\_\_\_\_\_  
Agency Coordinator E-mail

Notes / Comments:  
 \_\_\_\_\_  
 \_\_\_\_\_

\*\*\* Email completed form to the San Jose Police Department SVICAC Task Force Commander [3415@sanjoseca.gov](mailto:3415@sanjoseca.gov) \*\*\*

**SJPD Office Use Only**

|                 |                               |                                  |
|-----------------|-------------------------------|----------------------------------|
| Initial & Date: | Initial & Date:               |                                  |
| Received:       | Participant Notified:         | Grant Source: Federal ICAC Grant |
| Approved:       | Copy to Grants Administrator: | Grant #: 2017-MC-FX-K020         |
| Denied:         |                               |                                  |



# Silicon Valley Internet Crimes Against Children Task Force Reimbursement Request (ICAC Grant)

Mail this form along with your agency invoice, itemized receipts, proof of agency payment, and supporting documentation to:  
San Jose Police Department, Grants Administrator, Fiscal Unit, 201 W. Mission St., San Jose, CA 95110

**THE TERMS AND CONDITIONS DETERMINING REIMBURSABLE TRAVEL AND TRAINING COSTS ARE OUTLINED IN THE AGREEMENT FOR REIMBURSEMENT SIGNED BY EACH PARTICIPATING AGENCY**

ITEMIZED RECEIPTS AND ALL APPLICABLE SUPPORTING DOCUMENTATION ARE REQUIRED FOR ALL REIMBURSEMENT REQUESTS

COMPLETE AND SUBMIT ONE REIMBURSEMENT REQUEST FORM FOR EACH INDIVIDUAL ATTENDING TRAINING

**THE TERMS AND CONDITIONS DETERMINING REIMBURSABLE TRAVEL AND TRAINING COSTS ARE OUTLINED IN THE AGREEMENT FOR REIMBURSEMENT SIGNED BY EACH PARTICIPATING AGENCY**

|                                        |                                         |                  |               |
|----------------------------------------|-----------------------------------------|------------------|---------------|
| PARTICIPANT NAME:                      |                                         | COURSE NAME:     |               |
| COURSE DATE:                           | Start                      End          | COURSE LOCATION: |               |
|                                        |                                         |                  | <b>COSTS:</b> |
| Registration                           |                                         |                  |               |
| Airfare                                | Date of Departure:                      | Date of Return:  |               |
| Lodging                                | ( # of Nights) X (GSA Rate \$ ) + Taxes |                  |               |
| Meals (75% of GSA rate on Travel days) |                                         |                  |               |
| Airport Shuttle / Taxi / Uber / Lyft   |                                         |                  |               |
|                                        |                                         |                  |               |
|                                        |                                         |                  |               |
|                                        |                                         |                  |               |

|               |               |
|---------------|---------------|
| <b>TOTAL:</b> | <b>\$0.00</b> |
|---------------|---------------|

\_\_\_\_\_

**AGENCY NAME**

\_\_\_\_\_

**AGENCY ADDRESS (Remittance)**

\_\_\_\_\_

**Date of Request**

**By signing below, the undersigned:**

- a) Acknowledges that prior approval of the Silicon Valley Internet Crimes Against Children SVICAC Task Force coordinator is required for the expenditure of ICAC grant funds associated with the delivery of ICAC training.
- b) Acknowledges that this form will be completed and mailed to the Grants Administrator within 30 days of completion of travel.
- c) Affirms that the attached itemized receipts are true and accurate original documents or photocopies of original documents kept on-file with the undersigned's agency and that this reimbursement request is a true and accurate account of costs expended solely as a result of the listed person's participation in the training course noted above.
- d) Acknowledges that participating agencies receiving ICAC grant funds for the reimbursement of operating expenses must comply with the provisions of CITY's travel policy (see Exhibit A of the Agreement for Reimbursement signed by each participating agency).
- e) Acknowledges that the Department of Justice may conduct a randomized review/audit of all expenditures. If the review/audit reveals that expenditures are outside the scope of ICAC grant guidelines, the agency making this reimbursement request agrees to repay all reimbursed costs.

Notes / Comments:

\_\_\_\_\_

**SIGNATURE of Agency Chief Executive**

\_\_\_\_\_

**(PRINT NAME)**

|  |
|--|
|  |
|  |

**SJPD Fiscal Office Use Only**

Received: \_\_\_\_\_

Processed: \_\_\_\_\_

Initials: \_\_\_\_\_

Grant # \_\_\_\_\_

Grant Source: \_\_\_\_\_

Visible Code: \_\_\_\_\_

**INSTRUCTIONS FOR EXECUTION OF AGREEMENTS WITH  
CITY OF SAN JOSE FOR INTERNET CRIMES AGAINST CHILDREN  
TRAINING COSTS  
(PLEASE READ THIS PAGE BEFORE SIGNING SIGNATURE PAGE)**

**1. AGREEMENT DATE:**

DO NOT place a date in the date fields throughout the agreement. We will add the date when the agreement is fully executed. Also, DO NOT print the agreement pages or exhibit pages doubled sided, must be single sheets.

**2. SIGNATURE PAGE:**

- Section 14 of the agreement must be executed by two officials: (1) the Agency's approving official who is authorized to lawfully enter into a binding agreement on behalf of the Agency, and the Agency Attorney who approves the form of the agreement (e.g., the City Attorney or County Counsel for the Agency). The Agency official who approves and executes the agreement must be authorized either by Charter, ordinance, or resolution of the Agency's governing body to execute an agreement on behalf of the Agency. Please note that we have had problems with officials, from both general law and charter agencies, signing the agreement who are not authorized under California law to execute a binding agreement on behalf of the Agency. Please consult with your Agency Attorney to determine which Agency official is lawfully authorized to execute an agreement on behalf of the Agency.
- Make sure that the approving official signs and dates the agreement on the RIGHT side and the attorney approving the form of the agreement signs and dates on the LEFT side.
- The signatures on the signature page **MUST BE ORIGINAL SIGNATURES ONLY.**

**3. Exhibit A**

- Please review the San José Travel Policy.

**4. Exhibit B**

- Please review Exhibit B. This is a Training Request Form to submit prior to making any travel arrangements. The following documents are required when submitting a travel request:
  - Training brochure or agenda, if available
  - Airfare cost estimate, e.g., copy of the airfare estimate before payment
  - Lodging cost estimate, e.g., copy of the hotel reservation before payment

**5. Exhibit C**

- Please review Exhibit C. This is a Reimbursement Request Form to submit after travel.
- The following documents are required when submitting a travel request:

|                       |                                                                                                  |
|-----------------------|--------------------------------------------------------------------------------------------------|
| Airfare               | Valid purchase receipt and <b>boarding passes</b> required                                       |
| Ground Transportation | Valid receipt required<br><br>Uber/Lift Receipts should show, date of travel, route, and fare    |
| Hotel                 | Valid itemized receipt required                                                                  |
| Per Diem              | Any meals provided by the training will be deducted from this amount. Meal receipts not required |
| Invoice               | <b>Agency Invoice</b> required for reimbursement                                                 |

**6. Mailing the signed agreement**

After the agreement has been reviewed and signed, please mail the original to the following address:

San José Police Department, Fiscal Unit  
 Attn: Linda Chan / Grants Team  
 201 W. Mission St., San José, CA 95110



Office of the City Manager

CONSENT CALENDAR  
June 30, 2020

To: Honorable Mayor and Members of the City Council  
From: Dee Williams-Ridley, City Manager  
Submitted by: Phillip L. Harrington, Director, Department of Public Works  
Subject: Grant Applications: Active Transportation Program Cycle 5

RECOMMENDATION

Adopt three Resolutions authorizing the City Manager to submit grant applications to the Caltrans Active Transportation Program for the following projects: 1) Washington Elementary and Berkeley High Safe Routes to School for up to \$2 million; 2) Martin Luther King Jr. Way Vision Zero Phase I Quick Build for up to \$600,000; and 3) Addison Street Bicycle Boulevard Phase II for up to \$2 million; and accept the grants awarded, and execute any resultant agreements and amendments.

FISCAL IMPACTS OF RECOMMENDATION

If awarded, these grants would provide a total of up to \$4,600,000 of competitive grant revenue to the City's State Capital Grants Fund (Fund 306) for traffic safety improvements around two Berkeley public schools and along two major transportation corridors, starting in FY 2022. City matching funds are not required by the Active Transportation Program (ATP), but could enhance competitiveness of the applications.

The total estimated cost of the projects is up to \$4,700,000. The \$100,000 difference represents City matching funds for the Martin Luther King Jr. Way Vision Zero Phase I project. This local match is needed to augment the small grant amount that would be provided to the project under the ATP "Quick Build" category. The \$100,000 proposed City matching funds is subject to appropriation in FY 2022 from a May 28, 2019 Berkeley City Council budget referral for traffic safety improvements at the intersection of Martin Luther King Jr. Way and Stuart Street.

ATP Cycle 5 Grant Funding Requests

|                                                            |             |
|------------------------------------------------------------|-------------|
| Washington Elementary and Berkeley High SR2S <sup>1</sup>  | \$2,000,000 |
| Martin Luther King Jr. Way Vision Zero Phase I Quick Build | \$ 600,000  |
| Addison Street Bicycle Boulevard Phase II                  | \$2,000,000 |
| Total ATP Grant Funding Request                            | \$4,600,000 |
| City Matching Funds                                        | \$ 100,000  |

<sup>1</sup> SR2S - Safe Routes to School

### CURRENT SITUATION AND ITS EFFECTS

Students walking and biking to Washington Elementary and Berkeley High School encounter challenging traffic conditions. Many students must cross heavily-trafficked Martin Luther King Jr. Way, navigating busy intersections on foot or by bicycle while avoiding the path of turning vehicles. Congested passenger pick-up/drop-off areas pose challenges for students travelling on foot or by bike, as well as for those who have just been dropped off. These concerns have been documented in School Safety Assessments (SSAs) conducted at Washington Elementary and Berkeley High through the Alameda County Safe Routes to School (Alameda County SR2S) Program as well as in the Berkeley Vision Zero Action Plan and the Draft 2020 Berkeley Pedestrian Plan, where Martin Luther King Jr. Way has been identified as a high-injury street for severe and fatal traffic crashes involving pedestrians. These plans propose signal modifications to eliminate conflicts between left-turning vehicles and pedestrians crossing the street, leading pedestrian intervals with right turn on red prohibition at traffic signals, sidewalk corner “bulbouts”, a traffic circle, high visibility pavement markings, and new signs. Changes to student pick-up/drop-off zones and school bus locations will help to better organize morning drop-offs and afternoon pick-ups. The City currently lacks sufficient funding to provide these traffic safety treatments. The upcoming Milvia Street Bikeway project will partially address the need for safe bicycle access to Berkeley High, as well as improve the pick-up/drop-off and school bus loading areas on Milvia Street. But other elements of the Berkeley High and Washington Elementary SSAs have remained unfunded for more than a decade. The proposed ATP application, if successful, would provide the funding to implement these elements.

Residents of South Berkeley crossing Martin Luther King Jr. Way on foot encounter traffic safety issues such as fast-moving, heavy vehicle traffic, trucks, buses, and lack of gaps in traffic to safely cross the street. Currently the pedestrian crossings of Martin Luther King Jr. Way from Dwight Way to Russell Street have pedestrian signal heads at traffic signals and marked crosswalks throughout, but would benefit from additional infrastructure to assist people in crossing the street on foot. These issues have been documented in both the Berkeley Vision Zero Action Plan and the Draft 2020 Berkeley Pedestrian Plan, where Martin Luther King Jr Way is identified a high-injury street for severe and fatal traffic crashes involving pedestrians. In response to these issues, on May 28, 2019 the Berkeley City Council referred to the budget process a request for funding of traffic safety improvements at the intersection of Martin Luther King Jr. Way and Stuart Street. Proposed improvements along Martin Luther King Jr Way from the Draft 2020 Berkeley Pedestrian Plan include signal modifications to eliminate conflicts between left turning vehicles and pedestrians crossing the street, installing new pedestrian crossing Rectangular Rapid-flashing Beacons, improving pedestrian visibility using red curbs, night lighting, constructing corner sidewalk “bulbouts”, and median islands.

Berkeley residents and others riding bicycles along the University Avenue corridor experience safety issues in the form of heavy, fast-moving vehicle traffic, buses, and large trucks. Currently the nearest east-west bikeway alternative south of University Avenue is Channing Way, four blocks to the south. These safety issues were documented in the 2017 Berkeley Bicycle Plan, which proposed a new Bicycle Boulevard on Addison

Street as an alternate route to University Avenue, to close this gap in the bikeway network and connect the San Francisco Bay Shoreline, the Bay Trail, West Berkeley, Downtown Berkeley, and the University of California Berkeley Campus. The City has secured funding for the Addison Boulevard Phase I project (from Milvia Street to Sacramento Street) as part of the Affordable Housing and Sustainable Communities (AHSC) grant-funded Berkeley Way Housing project. The remaining Addison Bicycle Boulevard Phase II segments connecting to the UC Berkeley campus (Milvia Street to Oxford Street) and to West Berkeley (Sacramento Street to Bolivar Drive) remain unfunded. The proposed ATP application would fund the installation of these two remaining segments, including pavement markings, signage, and treatments for crossing major streets recommended in the 2017 Berkeley Bicycle Plan, such as beacons at Sacramento Street and 6<sup>th</sup> Street and a two-way cycle track connection and intersection improvements at San Pablo Avenue.

This recommendations supports the City's Strategic Plan Goals of creating a resilient, safe, connected, and prepared City, and being a global leader in addressing climate change, advancing environmental justice, and protecting the environment.

#### BACKGROUND

ATP is a State program managed by Caltrans, which consolidates previous federal and state transportation programs, including the Transportation Alternatives Program, Bicycle Transportation Account, and State Safe Routes to School, into a single program with a focus to make California a national leader in active transportation. The current ATP Cycle 5 includes about \$440M of available grant funding made up of Federal, State SB1, and State Highway Account (SHA) funding. The funding/programming years include the 21/22, 22/23, 23/24 and 24/25 fiscal years. ATP accepts applications in three different categories: conventional capital projects; Safe Routes to School projects; and Quick Build projects. The Quick Build project category is a new funding pilot program for ATP Cycle 5, and allows for local agencies to apply for funds to speedily implement traffic safety interventions using less costly and less permanent materials. City of Berkeley is submitting one application in each category for ATP Cycle 5.

#### ENVIRONMENTAL SUSTAINABILITY

The projects in these grant applications are designed to improve traffic safety for people walking and riding bicycles for transportation, consistent with the 2009 Berkeley Climate Action Plan Policy 5.a that calls for expanding and improving Berkeley's bicycle and pedestrian infrastructure. The Plan sets targets of reducing transportation emissions 33% below year 2000 levels by 2020, and 80% below year 2000 levels by 2050. The Plan further states that transportation modes, such as public transit, walking, and bicycling, must become the primary means of fulfilling the City's mobility needs in order to meet these targets.

#### RATIONALE FOR RECOMMENDATION

ATP funding allows the City to address traffic safety issues around Berkeley public schools and along major transportation corridors. The need for the projects in these applications has been identified in 2015 and 2017 SR2S School Safety Assessments, in the Council-approved 2017 Berkeley Bicycle Plan (Resolution No. 67,945-N.S.) and 2019 Berkeley Vision Zero Action Plan (Resolution No. 69,324-N.S.), as well as in the Draft

2020 Berkeley Pedestrian Plan. These documents were the result of robust public engagement processes involving Alameda County SR2S Program staff; SR2S students, parents, and staff at each school; Transportation Commissioners; and numerous other members of the Berkeley community. Not applying would mean foregoing up to \$4,600,000 in potential grant funding.

ALTERNATIVE ACTIONS CONSIDERED

The City could choose not to apply for these funds. However, no alternative funding source has been identified to complete these traffic safety projects.

CONTACT PERSON

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

Attachments:

- 1: Resolutions



RESOLUTION NO. -N.S.

GRANT APPLICATION: ACTIVE TRANSPORTATION PROGRAM FOR  
WASHINGTON ELEMENTARY AND BERKELEY HIGH SCHOOL  
SAFE ROUTES TO SCHOOL

WHEREAS, students, faculty, and staff travelling to Washington Elementary and Berkeley High School experience traffic safety issues which discourage walking and biking to school; and

WHEREAS, these traffic safety concerns have been documented in School Safety Assessments conducted in 2015 at Washington Elementary and in 2017 at Berkeley High School through the Alameda County Safe Routes to School Program; and

WHEREAS, Martin Luther King Jr. Way has been identified as a high-injury street for severe and fatal traffic crashes involving pedestrians in the 2020 Berkeley Vision Zero Action Plan (Resolution No. 69,324-N.S.) and the Draft 2020 Berkeley Pedestrian Plan; and

WHEREAS, signal modifications to eliminate conflicts between left-turning traffic and pedestrians, leading pedestrian intervals with right turn on red prohibition at traffic signals, sidewalk corner “bulbouts”, a traffic circle, high visibility pavement markings, and new signs are among the potential safety improvement measures proposed in the School Safety Assessments and the Draft 2020 Berkeley Pedestrian Plan; and

WHEREAS, California Active Transportation Program Safe Routes to School funds can be used to make traffic safety improvements to bicycle and pedestrian routes to schools; and

WHEREAS, if awarded, the grant funds will be placed in the City’s State Capital Grants Fund (Fund 306) starting in FY 2022.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to submit a grant application to the California Active Transportation Program for Safe Routes to School traffic safety improvements around Washington Elementary and Berkeley High School for the amount of up to \$2 million; and accept the grants awarded, and execute any resultant agreements and amendments.

RESOLUTION NO. -N.S.

GRANT APPLICATION: ACTIVE TRANSPORTATION PROGRAM FOR  
MARTIN LUTHER KING JR. WAY VISION ZERO PHASE I QUICK BUILD

WHEREAS, residents of South Berkeley crossing Martin Luther King Jr. Way on foot encounter traffic safety issues such as fast-moving, heavy vehicle traffic, trucks, buses, and lack of gaps in traffic to safely cross the street; and

WHEREAS, these traffic safety concerns have been documented in both the 2020 Berkeley Vision Zero Action Plan (Resolution No. 69,324-N.S.) and the Draft 2020 Berkeley Pedestrian Plan, wherein Martin Luther King Jr. Way has been identified as a high-injury street for severe and fatal traffic crashes involving pedestrians; and

WHEREAS, the Berkeley City Council approved a Budget Referral for \$100,000 on May 28, 2019 calling for street lighting and traffic safety improvements at the intersection of Martin Luther King Jr. Way and Stuart Street;

WHEREAS, signal modifications to eliminate conflicts between left-turning traffic and pedestrians, Rectangular Rapid-flashing Beacons, red curbs approaching crosswalks, night lighting, corner “bulbouts”, and median islands are among the traffic safety improvements proposed in the Draft 2020 Berkeley Pedestrian Plan update; and

WHEREAS, California Active Transportation Program Quick Build funds can be used to make pedestrian and bicycle traffic safety improvements; and

WHEREAS, if awarded, the grant funds will be placed in the City’s State Capital Grants Fund (Fund 306) and the City will provide matching funds up to the amount of \$100,000, which will be subject to appropriation, starting in FY 2022.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to submit a grant application to the California Active Transportation Program for Martin Luther King Jr. Way Vision Zero Phase I Quick Build for the amount of up to \$600,000; and accept the grants awarded, and execute any resultant agreements and amendments.

RESOLUTION NO. -N.S.

GRANT APPLICATION: ACTIVE TRANSPORTATION PROGRAM FOR  
ADDISON STREET BICYCLE BOULEVARD PHASE II

WHEREAS, Berkeley residents and others riding bicycles along the University Avenue corridor experience traffic safety issues in the form of heavy, fast-moving vehicle traffic, buses and large trucks due to a lack of a nearby alternate east-west bicycle route; and

WHEREAS, these traffic safety concerns have been documented in the 2017 Berkeley Bicycle Plan (Resolution No. 67,945-N.S.); and

WHEREAS, the 2017 Berkeley Bicycle Plan proposed a new Bicycle Boulevard on Addison Street as an alternate route to University Avenue, to close this gap in the bikeway network and connect the San Francisco Bay Shoreline, the Bay Trail, West Berkeley, Downtown Berkeley, and the University of California Berkeley Campus; and

WHEREAS, the City of Berkeley has already secured funding for the Addison Boulevard Phase I project from Milvia Street to Sacramento Street as part of the Affordable Housing and Sustainable Communities grant-funded Berkeley Way project.; and

WHEREAS, as a mitigation measure for the Pyramid Hotel project, the City of Berkeley has negotiated with the project developer to install a new traffic signal at the intersection of Oxford Street and Addison Street, improving the bicycle connection to the UC Berkeley Campus; and

WHEREAS, street crossing beacons, a 2-way cycle track connection, a median island, pavement markings, and signage are among the potential safety improvements proposed to close the remaining gap in the Addison Street Bicycle Boulevard; and

WHEREAS, California Active Transportation Program capital project funds can be used to make bicycle traffic safety improvements and close the remaining gaps in the Addison Street Bicycle Boulevard; and

WHEREAS, if awarded, the grant funds will be placed in the City's State Capital Grants Fund (Fund 306) starting in FY 2022.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to submit a grant application to the California Active Transportation Program for Addison Street Bicycle Boulevard Phase II for the amount of up to \$2 million; and accept the grants awarded, and execute any resultant agreements and amendments.





Office of the City Manager

CONSENT CALENDAR  
June 30, 2020

To: Honorable Mayor and Members of the City Council  
From: Dee Williams-Ridley, City Manager  
Submitted by: Phillip L. Harrington, Director, Department of Public Works  
Subject: Contract No. 31900035 Amendment: Ghilotti Construction Company for Shattuck Reconfiguration and Pedestrian Safety Project

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 31900035 with Ghilotti Construction Company for work on the Shattuck Reconfiguration and Pedestrian Safety Project (“Project”), Specification No. 17-11090-C, increasing the contract amount by up to \$300,000 for an amended total not to exceed \$8,286,960.

FISCAL IMPACTS OF RECOMMENDATION

Funding for this Ghilotti Construction Company contract amendment is subject to appropriation in the FY 2021 budget in the Capital Improvement Fund (Fund 501).

Funding for this construction contract amendment is available through realignment of the budget for other elements of the Shattuck Reconfiguration and Pedestrian Safety Project. Therefore, the amendment will not result in an overall project budget increase and no other projects will be delayed due to this contract amendment.

|                                           |                   |
|-------------------------------------------|-------------------|
| Original Authorized Contract Amount (NTE) | \$7,986,960       |
| This Amendment Amount                     | <u>\$ 300,000</u> |
| Amended Contract Amount (New NTE)         | \$8,286,960       |

CURRENT SITUATION AND ITS EFFECTS

The Project construction, which began in January 2019, is currently about 75 percent complete but has encountered significant unforeseen conditions and design alterations which only became apparent during the construction phase.

Prior to construction, the design team conducted extensive due-diligence activities to characterize the Project site, including verifying the presence of existing underground utilities and structures. Despite these efforts, many of these subsurface elements were encountered during construction due to a lack of accurate records.

Development of the downtown area has occurred for over a century, and cycles of development, demolition, and redevelopment have occurred. Old building foundations, utility lines, and other remnants were often left buried with no records of their locations. The results are complex, often unknown subsurface conditions that could not be accurately assessed during the design phase and which were only discovered and addressed during the construction phase.

The Project also underwent several design alterations that were focused on enhancing the design and improving the quality of life. These project enhancements were executed in response to comments from the public and include the following:

- Median and curb modifications at the Shattuck Avenue/Center Street intersection to provide a smoother driving experience and improved traffic flow for motor vehicles including buses.
- Additional pedestrian-scale lighting along the sidewalks of Shattuck Avenue to enhance safety and visibility of businesses.
- Construction phasing modifications to minimize construction-related impacts on adjacent businesses.

Although the contract included a conservative contingency of \$1,352,096 (20 percent), the project management staff anticipates depleting the contingency by July 2020. Due to the history, size, location, and complexity of the Project, along with the long history of development at the Project site, further unforeseen conditions are likely. Potential future change orders could include subgrade repairs of roadway pavements, additional quantities of asphalt concrete pavement, and City- and/or community-requested adjustments.

Currently about 90 percent of the contingency funds have been encumbered, and the remaining is expected to be consumed by additional changes or unforeseen conditions. Staff is requesting \$300,000 in additional funds to cover (a) recently-identified unforeseen underground utility work and median and curb modifications at the Shattuck Avenue/Center Street intersection and (b) potential future change orders through the remainder of the Project.

Staff intends to minimize the potential construction impact on adjacent businesses and residents by performing the additional work promptly, taking advantage of the current reduction in motor vehicle and pedestrian traffic due to the current public health pandemic. Therefore, an extension to the construction contract duration is not needed.

The provided services will support the Strategic Plan goals of creating a resilient, safe, connected, and prepared city and providing state-of-the-art, well-maintained facilities.

## BACKGROUND

On October 16, 2018, Council authorized the City Manager to execute a \$7,986,960 contract with Ghilotti Construction Company, the lowest of five bidders in a competitive public bid process, to construct the Project.

Prior to this Project, Shattuck Avenue between University Avenue and Center Street was divided into two one-way segments, with northbound traffic on the east segment and southbound traffic on the west segment. This configuration contributed to high auto/pedestrian collision rates at the University/Shattuck intersection, which the 2010 Pedestrian Master Plan<sup>1</sup> identified as the second-highest priority location for safety improvements.

This Project is reconfiguring this section of Shattuck Avenue so that the west side operates as a two-way through street, with prohibited left turn movements at University Avenue, and the east side functions as the primary way to turn onto University Avenue. In particular, making the west side of Shattuck Avenue a through street for northbound traffic has eliminated the former “dogleg” movement for through traffic on Shattuck and has reduced the turning movements from westbound University to northbound Shattuck. This is a major component of the Project which is intended to reduce auto/pedestrian conflicts at this intersection.

## ENVIRONMENTAL SUSTAINABILITY

The Project improvements are intended to make Shattuck Avenue in downtown Berkeley more accessible for walking, bicycling, and riding transit, thereby reducing emissions from trips made via single occupancy vehicles. The Project improvements are also expected to reduce collisions between motor vehicles, pedestrians, and bicyclists.

## RATIONALE FOR RECOMMENDATION

Ghilotti Construction Company is currently the construction contractor for the Project, and City staff recommends retaining them to perform the additional work. This is due to Ghilotti Construction Company’s in-depth knowledge of the site conditions, established working relationships with City staff, and ability to perform immediately and integrate and coordinate the work into the overall Project schedule, resulting in the most cost-effective and schedule-conducive means of performing the work.

## ALTERNATIVE ACTIONS CONSIDERED

If the proposed contract amendment is not approved, the Project may exhaust its budget prior to completion, requiring all work to stop. The project could then only be completed by contracting with a different contractor to perform the additional work, or embarking on a contract amendment while suspending the project, which would result in increased costs and significant schedule impacts. This would delay Ghilotti Construction

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<sup>1</sup> See Pedestrian Master Plan, available online at <https://bit.ly/2jOo2y9>; see pages 6-18 and 6-19.

Company's remaining work on the Project, which includes repaving streets and installing pavement markings, likely resulting in further additional costs.

CONTACT PERSON

Farid Javandel, Transportation Manager, Public Works Department, (510) 981-7061  
Kenneth Jung, Associate Civil Engineer, Public Works Department, (510) 981-7028

Attachments:

1: Resolution



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

CONTRACT NO. 31900035 AMENDMENT: GHILOTTI CONSTRUCTION FOR SHATTUCK RECONFIGURATION AND PEDESTRIAN SAFETY PROJECT

WHEREAS, Council authorized the City Manager to enter into a contract with Ghilotti Construction Company for construction of the Shattuck Reconfiguration and Pedestrian Safety Project in the amount of \$7,986,960 on October 16, 2018 (Resolution No. 68,634-N.S.); and

WHEREAS, unanticipated conditions were recently encountered during construction, resulting in additional work to complete the Project; and

WHEREAS, project enhancements were performed in response to community input during construction, with the intent to enhance the design and improve the quality of life; and

WHEREAS, potential further additional work and/or project enhancements may need to be performed during the remainder of the project construction; and

WHEREAS, this Contract has insufficient budget to complete the aforementioned additional work, project enhancements, and potential further additional work and/or project enhancements; and

WHEREAS, the City has neither the staff nor the equipment needed to undertake the additional work; and

WHEREAS, the Project has been identified as a priority by the City of Berkeley; and

WHEREAS, Ghilotti Construction Company, as the construction contractor, has the requisite knowledge, background, and expertise to perform the additional work, which are necessary in order for the City to efficiently complete the Project; and

WHEREAS, funding of \$300,000 is subject to appropriation in the FY 2021 budget from the Capital Improvement fund (Fund 501).

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. 31900035 with Ghilotti Construction Company for work on the Shattuck Reconfiguration and Pedestrian Safety Project, Specification No. 17-11090-C, increasing the contract amount by up to \$300,000 for an amended total not to exceed \$8,286,960.





Office of the City Manager

CONSENT CALENDAR  
June 30, 2020

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: Phillip L. Harrington, Director, Department of Public Works  
 Subject: Approval and Levy of 2018 Clean Stormwater Fee in FY 2021

RECOMMENDATION

Adopt a Resolution approving the proposed adjusted fees for the 2018 Clean Stormwater Fee and ordering the levy of the fees in Fiscal Year 2021.

FISCAL IMPACTS OF RECOMMENDATION

The Resolution would approve and order the levy of the 2018 Clean Stormwater Fee in Fiscal Year (FY) 2021. The fees are to be filed with the Alameda County Auditor and included on the County’s assessment roll. After collection by the County the total amount of the assessment minus a collection fee is paid to the City of Berkeley. The revenue is posted in the Clean Storm Water Fund (Fund 616). Approximately \$2.6 million are expected to be collected from the 2018 Clean Stormwater Fee in FY 2021. A summary of the total FY 2021 revenue and expenditures for Fund 616 is shown in the table below.

**Table 1 - FY 2021 Fund 616 Forecast**

|                                               |                       |
|-----------------------------------------------|-----------------------|
| <b>Estimated Beginning Balance (Fund 616)</b> | <b>\$ 2,783,879</b>   |
| <b>Clean Stormwater Program Expenditures</b>  | <b>\$ 5,832,415</b>   |
| <b>Revenue</b>                                |                       |
| Clean Stormwater Fee (1991)                   | \$ 1,918,304          |
| 2018 Clean Stormwater Fee                     | \$ 2,603,043          |
| University in Lieu (KRPD)                     | \$ 302,519            |
| <b>Total Revenue</b>                          | <b>\$ 4,823,866</b>   |
| <b>Deficit</b>                                | <b>\$ (1,008,549)</b> |
| <b>Estimated End Balance (Fund 616)</b>       | <b>\$ 1,775,330</b>   |

CURRENT SITUATION AND ITS EFFECTS

The 2018 Clean Stormwater Fee (“2018 Fee”) is subject to an annual adjustment tied to the Consumer Price Index - U for the San Francisco Bay Area as of December of each succeeding year (the “CPI”), with a maximum annual adjustment not to exceed 3%. Per the voter approved measure any increase in the CPI in excess of 3% shall be

cumulatively reserved as “Unused CPI” and shall be used to increase the maximum authorized rate in years in which the CPI is less than 3%. To date there is a current “Unused CPI” balance of 1.5%. For the period beginning in December 2018 and ending in December 2019, the CPI increased by 2.45%<sup>1</sup>. Using “Unused CPI” balance, the proposed annual adjustment can be increased to the maximum allowable 3%.<sup>2</sup>

As approved by voters, the annual adjustment may be calculated by taking the sum of the 1991 Clean Stormwater Fee (“1991 Fee”) and the 2018 Clean Stormwater Fee, and multiplying the sum by the allowable CPI increase. Calculating the adjustment in this manner allows for the inclusion of a 1991 Fee adjustment as part of the annual 2018 Fee increase. The cumulative adjustment of the 1991 Fee and the 2018 Fee, result in 2018 Fee increases of approximately 5.5%.

Proposed rate increases and the methodology used in the calculation of these rates are in accordance with the voter approved measure. Therefore, the proposed adjustments are exempt from the notice, protest, and hearing requirements of State Proposition 218 as set forth in Government Code Section 53753.5 (Article XIII D, Sec. 5). The table below details prior year and proposed FY 2021 rates for the property-related fee.

**Table 2 - 2018 Clean Stormwater Fee Rate Summary**

| Rate Category                          | FY 2020<br>Fee | Proposed<br>FY 2021 Fee | Unit   |
|----------------------------------------|----------------|-------------------------|--------|
| <b>Single-Family Residential</b>       |                |                         |        |
| Small                                  | \$ 36.24       | \$ 38.06                | parcel |
| Medium                                 | \$ 45.30       | \$ 47.58                | parcel |
| Large                                  | \$ 54.78       | \$ 57.54                | parcel |
| Condominium                            | \$ 36.24       | \$ 38.06                | parcel |
| <b>Non-Single-Family Residential**</b> |                |                         |        |
| Multi-Family Residential               | \$ 790.19      | \$ 830.04               | acre   |
| Comm / Industrial / Parking            | \$ 882.07      | \$ 926.56               | acre   |
| Office                                 | \$ 826.94      | \$ 868.66               | acre   |
| Institutional / Church                 | \$ 753.43      | \$ 791.44               | acre   |
| School / Hospital                      | \$ 689.12      | \$ 723.88               | acre   |
| Recreational                           | \$ 532.92      | \$ 559.80               | acre   |
| Vacant (developed)                     | \$ 45.94       | \$ 48.26                | acre   |
| Open Space / Agricultural              |                | exempt                  |        |

\* Single-Family Residential category also includes duplex, triplex and four-plex units.

\*\* Non-Single-Family Residential parcel size is calculated to the tenth of an acre or portion thereof

Detailed calculations of the annual adjustment and the corresponding rate increases are included in the 2018 Clean Stormwater Fee - Fiscal Year 2021 Adjustment Report (Attachment 2). Adoption of the Resolution would approve and order the levy of the 2018 Fee in FY 2021 at the rates described in this report. Following adoption, the fees will be filed with the Alameda County Auditor and included on the County’s assessment roll for collection. Revenue from the Fee will provide needed funding for the Stormwater

<sup>1</sup> Bureau of Labor Statistics, Data Series CUUSS49BSA0

<sup>2</sup> The remaining 0.95% “Unused CPI” balance shall be reserved to be used in future years in which the CPI increase is less than 3%.

Program which includes flood management, compliance with clean water requirements, operations and maintenance, and major capital improvements, all of which advance the strategic goals of: 1.) Providing state-of-the-art, well-maintained infrastructure, amenities, and facilities; and 2.) Being a global leader in addressing climate change, advancing environmental justice, and protecting the environment.

**BACKGROUND**

In 1991, the City was required to obtain a National Pollutant Discharge Elimination System (NPDES) permit from the San Francisco Bay Regional Water Quality Control Board to improve the water quality of urban runoff and discharge storm water runoff to the City’s waterways. The permit requires that the City implement a stormwater control program and best management practices.

To meet the NPDES permit requirements, the City implemented a Clean Storm Water Fee in 1991 for all residences and businesses in the City. The City has been collecting approximately \$2 million annually for this fee and rates have not been increased since the fee was established in 1991. In addition, the City receives an annual allocation from UC Berkeley’s long-range development plan of approximately \$300,000 that is used toward the operations and maintenance of the City’s stormwater infrastructure. Initially, collected revenues were sufficient to fund ongoing maintenance, operations, and capital improvements. However, beginning in Fiscal Year 2014, the program began operating at a deficit. In 2018, in an effort to increase revenues for the program, the City introduced the 2018 Clean Stormwater Initiative to establish a new property-related fee to be assessed separately and in addition to the existing 1991 Fee. Following a Proposition 218 process the initiative was approved by voters and the City Council adopted Resolution No. 68,483-N.S., ordering the levy. The assessment has been levied for the 2019 and 2020 fiscal years.

**ENVIRONMENTAL SUSTAINABILITY**

The 2018 Clean Stormwater Fee provides a secure funding source for environmental protection related to the impacts of stormwater on creeks and the San Francisco Bay. The fee maintains operations and maintenance activities and reduces environmental impacts of flooding, sink holes, trash, and debris.

**RATIONALE FOR RECOMMENDATION**

The additional funding will allow the City to fund the operating deficit, continue maintenance service levels, meet clean water regulatory requirements, and develop a long-term financial plan for capital projects, to continue improving water quality and minimizing the impacts of flooding in local areas.

**CONTACT PERSON**

Andrew Brozyna, Deputy Director, Department of Public Works, (510) 981-6396  
Nisha Patel, Manager of Engineering/City Engineer, (510) 981-6406  
Ricardo Salcedo, Associate Civil Engineer, Public Works, (510) 981-6407

**Attachments:**

- 1: Resolution – Ordering the Levy of 2018 Clean Stormwater Fee in Fiscal Year 2021
- 2: 2018 Clean Stormwater Fee – Fiscal Year 2021 Adjustment Report

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

APPROVING THE LEVY AND COLLECTION OF THE CITY OF BERKELEY 2018  
CLEAN STORMWATER FEE IN FISCAL YEAR 2021

WHEREAS, on February 13, 2018, the Council adopted Resolutions No. 68,334-N.S. and No. 68,335-N.S., to initiate the property related fee process and establish the balloting procedures for the 2018 Clean Stormwater Initiative consistent with California Constitution Article XIII D; and

WHEREAS, on April 3, 2018, the council conducted a public hearing at which a majority protest was not achieved, and subsequently adopted Resolution No. 68,831-N.S. directing the mailing of fee ballots to all property owners of properties within the City subject to the fee; and

WHEREAS, on May 29, 2018, following tabulations of fee ballots and confirming voter approval of the 2018 Clean Stormwater Initiative, Council adopted Resolution No. 68,483-N.S. accepting the ballot tabulations and ordering the levy of the 2018 Clean Stormwater Fee; and

WHEREAS, pursuant to the authority granted by voters, the 2018 Clean Stormwater Fee is subject to an annual increase based on the San Francisco - U Consumer Price Index (CPI), not to exceed 3% per year; and any increase in excess of 3% shall be cumulatively reserved as "Unused CPI" and shall be used to increase the maximum authorized rate in years in which the CPI is less than 3%. The maximum annual CPI adjustment for each property shall be calculated based upon the sum of the 1991 Clean Stormwater Fee and the 2018 Clean Stormwater Fee, and multiplying the sum by the CPI or 3% whichever is lower; and

WHEREAS, for the annual period ending in December 2019 the CPI increased by 2.45%. Using "Unused CPI" balance of 1.5%, the proposed annual adjustment can be increased to the maximum allowable 3%; and

WHEREAS, the proposed fee rate for FY 2021 of FORTY-SEVEN DOLLARS AND FIFTY EIGHT CENTS (\$47.58) per single-family equivalent unit is in accordance with a City staff authored report dated May 2020 and titled "2018 Clean Stormwater Fee – Fiscal Year 2021 Fee Adjustment Report" ("Report"); and

WHEREAS, the rate increases and the methodology used in the calculation of the rates are described in the Report and are in accordance with the voter approved measure. Therefore, the proposed adjustments are exempt from the notice, protest, and hearing requirements of State Proposition 218 as set forth in Government Code Section 53753.5 (Article XIII D, Section. 5).

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Berkeley authorizes the levy and collection of fees for FY 2021 at the rates specified in the Report.

BE IT FURTHER RESOLVED that shortly after the adoption of this Resolution, but in no event later than August 10th following such adoption, the City Clerk shall file a certified copy of this Resolution and a fee levy roll with the Auditor of Alameda County (“County Auditor”). Upon such filing, the County Auditor shall enter on the County’s assessment roll opposite each lot or parcel of land the amount of fee thereupon as shown in the levy roll.





Cheryl Davila  
Councilmember  
District 2

CONSENT CALENDAR  
June 30, 2020

To: Honorable Mayor and Members of the City Council

From: Councilmembers Cheryl Davila (Author), Ben Bartlett (Co-Sponsor), and Mayor Arreguin (Co-Sponsor)

Subject: Support United States Congresswoman Barbara Lee's legislation to establish a United States Commission on Truth, Racial Healing, and Transformation.

RECOMMENDATION

1. Adopt a resolution supporting United States Congresswoman Barbara Lee's legislation to establish a United States Commission on Truth, Racial Healing, and Transformation.
2. Send copies of this resolution to United States Congresswoman Barbara Lee.

BACKGROUND

In the wake of the COVID-19 public health crisis and killing of George Floyd in Minneapolis, Congresswoman Barbara Lee recently submitted legislation to establish a United States Commission on Truth, Racial Healing, and Transformation.

"The murder of George Floyd and the current COVID-19 crisis illustrates once again the painful and dangerous legacy that white supremacy has had in our country, and the desperate need to fully acknowledge and understand how our history of inequality continues today," Congresswoman Lee said. "This inequality is at the heart of every crisis we're dealing with right now – the crises of police brutality and mass incarceration, the COVID-19 public health crisis which is disproportionately affecting communities of color, and the crisis of poverty excluding so many minority families from the American Dream. This is a matter of survival for countless Americans. Only by understanding our past, and confronting the errors that still haunt us today, can we truly move forward as a people and a country."<sup>1</sup>

Congresswoman Lee's proposal to establish the Commission is to examine the effects of slavery, institutional racism, and discrimination against people of color, and how history impacts laws and policies today.

The purpose of the commission is to properly acknowledge, memorialize, and be a catalyst for progress toward jettisoning the belief in a hierarchy of human value based on race, embracing our common humanity, and permanently eliminating persistent racial inequities.

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<sup>1</sup> <https://lee.house.gov/news/press-releases/in-the-wake-of-covid-19-and-murder-of-george-floyd-congresswoman-barbara-lee-calls-for-formation-of-truth-racial-healing-and-transformation-commission>

The roots of racism, bias, and centuries of socioeconomic inequality are deep and require a thoughtful, inclusive, and comprehensive effort.

All levels of government play a critical role in establishing a model and process to explore, expose, confront, and reconcile the truths of our past to create a more just, equitable future for all, not just a select few.

We must recognize that together we wield tremendous power to specifically improve black lives and the lives of other communities of color.

The City Council as its elected representatives of the people and its management have a special responsibility not to stay silent in the face of hate, discrimination, and racism against any of our community members or employees.

#### FINANCIAL IMPLICATIONS

None.

#### ENVIRONMENTAL SUSTAINABILITY

Protecting our communities during this climate and health crisis is an act of environmental sustainability.

#### CONTACT PERSON

Cheryl Davila  
Councilmember District 2  
510.981.7120  
cdavila@cityofberkeley.info

#### ATTACHMENTS:

1. Resolution
2. Congresswoman Barbara Lee's legislation

#### LINKS TO LEGISLATION

1. Congresswoman Barbara Lee's legislation:  
<https://lee.house.gov/imo/media/doc/TRHT%20Resolution%20Final.pdf>

### RESOLUTION NO. XXXX

A RESOLUTION OF THE CITY COUNCIL FOR THE CITY OF BERKELEY IN SUPPORT OF UNITED STATES CONGRESSWOMAN BARBARA LEE'S LEGISLATION TO ESTABLISH A UNITED STATES COMMISSION ON TRUTH, RACIAL HEALING AND TRANSFORMATION.

WHEREAS, in the wake of the COVID-19 public health crisis and killing of George Floyd in Minneapolis, Congresswoman Barbara Lee recently submitted legislation to establish a United States Commission on Truth, Racial Healing, and Transformation; and

WHEREAS, Congresswoman Lee's proposal to establish the Commission is to examine the effects of slavery, institutional racism, and discrimination against people of color, and how history impacts laws and policies today; and

WHEREAS, The purpose of the commission is to properly acknowledge, memorialize, and be a catalyst for progress toward jettisoning the belief in a hierarchy of human value based on race, embracing our common humanity, and permanently eliminating persistent racial inequities; and

WHEREAS, The roots of racism, bias, and centuries of Socioeconomic inequality are deep and require a thoughtful, inclusive, and comprehensive effort; and

WHEREAS, All levels of government play a critical role in establishing a model and process to explore, expose, confront, and reconcile the truths of our past to create a more just, equitable future for all, not just a select few; and

WHEREAS, We must recognize that together we wield tremendous power to specifically improve black lives and the lives of other communities of color; and

WHEREAS, The City Council as its elected representatives of the people and its management have a special responsibility not to stay silent in the face of hate, discrimination, and racism against any of our community members or employees; and

NOW, THEREFORE, BE IT RESOLVED that the City Council for the City of Berkeley Support United States Congresswoman Barbara Lee's legislation to establish a United States Commission on Truth, Racial Healing, and Transformation; and

BE, IT FURTHER RESOLVED, that copies of this resolution be sent to United States Congresswoman Barbara Lee.

.....  
(Original Signature of Member)

116TH CONGRESS  
2D SESSION

# H. CON. RES. \_\_\_\_\_

Urging the establishment of a United States Commission on Truth, Racial Healing, and Transformation.

\_\_\_\_\_  
IN THE HOUSE OF REPRESENTATIVES

Ms. LEE of California submitted the following concurrent resolution; which was referred to the Committee on \_\_\_\_\_

\_\_\_\_\_  
**CONCURRENT RESOLUTION**

Urging the establishment of a United States Commission on Truth, Racial Healing, and Transformation.

Whereas the first ship carrying enslaved Africans to what is now known as the United States of America arrived in 1619;

Whereas this event 400 years ago was significant not only because it ushered in the institution of chattel slavery of African Americans, but also because it facilitated the systematic oppression of all people of color that has been a devastating and insufficiently understood and acknowledged aspect of our history over these past 400 years, and that has left a legacy of this oppression that haunts us to this day;

Whereas the institution of American chattel slavery subjugated African Americans for nearly 250 years, fractured our Nation, and made a mockery of its founding principle that “all men are created equal”;

Whereas our Constitution failed to end slavery and oppressions against African Americans and other people of color, thus embedding in our society the belief in the myth of a hierarchy of human value based on superficial physical characteristics such as skin color and facial features, and resulting in purposeful and persistent racial and gender inequities in education, health care, employment, Social Security and veteran benefits, land ownership, financial assistance, food security, wages, voting rights, and the justice system;

Whereas these oppressions denied opportunity and mobility to African Americans and other people of color within the United States, resulting in stolen labor worth billions of dollars while ultimately forestalling landmark contributions that African Americans and other people of color would make in science, arts, commerce, and public service;

Whereas Reconstruction represented a significant but constrained moment of advances for Black rights as epitomized by the Freedman’s Bureau, which negotiated labor contracts for ex-enslaved people but failed to secure them their own land;

Whereas the brutal overthrow of Reconstruction failed all Americans by failing to ensure the safety and security of African Americans and by emboldening States and municipalities in both the North and South to enact numerous laws and policies to stymie the socioeconomic mobility

and political voice of freed Blacks, thus maintaining their subservience to Whites;

Whereas Reconstruction, the civil rights movement, and other efforts to redress the grievances of marginalized people were sabotaged, both intentionally and unintentionally, by those in power, thus rendering the accomplishments of these efforts transitory and unsustainable, and further embedding the racial hierarchy in our society;

Whereas examples of government actions directed against populations of color include—

(1) the creation of the Federal Housing Administration, which adopted specific policies designed to incentivize residential segregation;

(2) the enactment of legislation creating the Social Security program, for which most African Americans were purposely rendered ineligible during its first two decades;

(3) the GI bill, which left administration of its programs to the States, thus enabling blatant discrimination against African American GIs;

(4) the Fair Labor Standards Act of 1938, which allowed labor unions to discriminate based on race;

(5) subprime lending aimed purposefully at families of color;

(6) disenfranchisement of Native Americans, who, until 1924, were denied citizenship on land they had occupied for millennia;

(7) Federal Indian Boarding School policy during the 19th and 20th centuries, the purpose of which was to “civilize” Native children through methods intended to eradicate Native cultures, traditions, and languages;

(8) land policies toward Indian Tribes, such as the allotment policy, which caused the loss of over 90 million acres of Tribal lands, two-thirds of which were guaranteed to Tribes by treaties and other Federal laws, and similar unjustified land grabs from Tribes that occurred regionally throughout the late 1800s and into the Termination Era in the 1950s and 1960s;

(9) the involuntary removal of Mexicans and United States citizens of Mexican descent through large-scale discriminatory deportation programs in the 1930s and 1950s;

(10) the United States annexation of Puerto Rico, which made Puerto Ricans citizens of the United States without affording them voting rights;

(11) racial discrimination against Latino Americans, which has forced them to fight continuously for equal access to employment, housing, health, financial services, and education;

(12) the Chinese Exclusion Act of 1882, which effectively halted immigration from China and barred Chinese immigrants from becoming citizens of the United States, and which was the first instance of xenophobic legislation signed into law specifically targeting a specific group of people based on ethnicity;

(13) the treatment of Japanese Americans, despite no evidence of disloyalty, as suspect and traitorous in the very country they helped to build, leading most notably to the mass internment of Japanese Americans beginning in 1942;

(14) the conspiracy to overthrow the Kingdom of Hawaii and annex the land of the Kingdom of Hawaii, without the consent of or compensation to the Native Hawaiian people of Hawaii; and

(15) the United States history of colonialism in the Pacific, which has resulted in economic, health, and educational disparities among other inequities, for people in United States territories, as well as independent nations with which it has treaty obligations;

Whereas these governmental actions, among other government policies that have had racially disparate impacts, have disproportionately barred African Americans and other people of color from building wealth, thus limiting potential capital and exacerbating the racial wealth gap;

Whereas research has shown that this persistent wealth gap has had a significant negative impact on other racial disparities, such as the achievement gap, school dropout rates, income gaps, home ownership rates, health outcome disparities, and incarceration rates;

Whereas American civic leaders and foundations have spearheaded critical efforts to advance racial healing, understanding, and transformation within the United States, recognizing that it is in our collective national interest to urgently address the unhealed, entrenched divisions that will severely undermine our democracy if they are allowed to continue to exist;

Whereas many of the most far-reaching victories for racial healing in the United States have been greatly enhanced by the involvement, support, and dedication of individuals from any and all racial groups;

Whereas at the same time, much of the progress toward racial healing and racial equity in the United States has been limited or reversed by our failure to address the root cause of racism, the belief in the myth of a hierarchy



of human value based on superficial physical characteristics such as skin color and facial features;

Whereas the American institution of slavery, as well as other examples enumerated in this resolution, represents intentional and blatant violations of every American's most basic right to a free and decent life;

Whereas the consequences of these oppressions have cascaded for centuries, across generations, beyond the era of active enslavement, imperiling for descendants of slaves and other targets of oppression what should have otherwise been every American's right to life, liberty, and the pursuit of happiness;

Whereas more than 40 countries have reckoned with historical injustice and its aftermath through forming Truth and Reconciliation Commissions to move toward restorative justice and to return dignity to its citizens; and

Whereas contemporary social science, medical science, and the rapidly expanding use of artificial intelligence and social media reveal the costs and potential threats to our democracy if we continue to allow unhealed, entrenched divisions to be ignored and exploited: Now, therefore, be it

1        *Resolved by the House of Representatives (the Senate*  
2 *concurring)*, That the Congress—

3            (1) affirms on the 400th anniversary of the ar-  
4            rival of the first slave ship, the United States long-  
5            overdue debt of remembrance to not only those who  
6            lived through the egregious injustices enumerated  
7            above, but also to their descendants; and

7

1           (2) proposes a United States Commission on  
2           Truth, Racial Healing, and Transformation to prop-  
3           erly acknowledge, memorialize, and be a catalyst for  
4           progress toward jettisoning the belief in a hierarchy  
5           of human value, embracing our common humanity,  
6           and permanently eliminating persistent racial inequi-  
7           ties.



Kate Harrison  
Councilmember District 4

CONSENT CALENDAR

June 30, 2020

To: Honorable Mayor and Members of the City Council  
 From: Councilmember Kate Harrison (Author) and Councilmember Cheryl Davila (Co-Sponsor)  
 Subject: Resolution Urging Members Of Our State Legislature And Governor To Explore New Revenue Generating Options, Including A Millionaire Tax To Ensure Safety Net Programs Are Not Cut Due To An Unprecedented Statewide Deficit

RECOMMENDATION

Adopt a resolution encouraging State Legislators and the Governor to explore revenue options, including an additional tax on the highest earning Californians, to address the significant state budget shortfall following the impact of COVID-19.

FISCAL IMPACTS OF RECOMMENDATION

None to City of Berkeley

BACKGROUND

The COVID-19 pandemic has deeply impacted California's economy as U.S. Department of Labor data shows California's pandemic-related unemployment claims reached to 4.9 million, or an estimated 25% of California's workforce. As a result of this and the general economic downturn, California now faces an unprecedented \$54.3 billion deficit, which is an estimated 37% of the state's current general fund budget due to a loss of revenue, according to the state Department of Finance. While the Governor's May budget revise proposal includes \$4.4 billion in new revenues, it still largely predicated on borrowing and deferrals and an even greater federal bailout that includes \$14.0 billion in triggered cuts absent further federal action.

The deficit is not only at the state level but locally, as Resolution No. 69,400-N.S. states that the "City of Berkeley has incurred significant unbudgeted costs and anticipates additional costs" due to COVID-19. Deficits in Berkeley and across California raise fears about cuts to safety net programs used to stabilize and support families out of poverty in a state which where there is already growing income inequality As is the case with many crisis events, this is an impact that will fall disproportionately on low-income people and solutions to the budget shortfall must take this into account by focusing on progressive rather than regressive

solutions to generating revenue. During a time of hardship, our most vulnerable residents in Berkeley and statewide will rely more heavily on safety net services to survive and these programs will require additional financial investments as demand for them grows.

The proposed State-level “Millionaire tax” -- to be on the ballot in the fall -- would add a slight 2% increase on taxable personal income for our wealthiest Californians, those whose take-home salary is over a million dollars a year, and whose top marginal income tax rate currently stands at 13.3. The support for such a measure is very strong throughout the state. Polling by Binder Research Associates for Build Affordable Faster CA shows that 70% of California voters support a Millionaire’s Tax -- which would raise \$6 billion annually -- to protect vital public and community services.

Council of the City of Berkeley should urge members of our State Assembly and Governor to explore new revenue generating options, including a millionaire tax to ensure safety net programs are not cut due to an unprecedented deficit.

#### ENVIRONMENTAL SUSTAINABILITY

There are no identifiable environmental effects associated with the proposed recommendation.

#### RATIONALE FOR RECOMMENDATION

This action to pass this resolution is necessary to help address the oncoming State budgetary shortfalls brought on by COVID-19.

#### ALTERNATIVE ACTIONS CONSIDERED

None.

#### CONTACT PERSON

J.T. Harechmak, [jtharechmak@cityofberkeley.info](mailto:jtharechmak@cityofberkeley.info)

Councilmember Kate Harrison  
[kharrison@cityofberkeley.info](mailto:kharrison@cityofberkeley.info) | 510-981-7140

#### Attachments:

1: Resolution

RESOLUTION NO. N.S.

RESOLUTION URGING MEMBERS OF OUR STATE LEGISLATURE AND GOVERNOR TO EXPLORE NEW REVENUE GENERATING OPTIONS, INCLUDING A MILLIONAIRE TAX TO ENSURE SAFETY NET PROGRAMS ARE NOT CUT DUE TO AN UNPRECEDENTED STATEWIDE DEFICIT

WHEREAS, according to the Center for Disease Control, COVID-19, a respiratory disease, is a serious global health threat, with over 7 million cases of infection and 404,000 deaths globally; and

WHEREAS, in response to the COVID-19 pandemic, on March 3, 2020, the City Manager, in her capacity as Director of Emergency Services, proclaimed an emergency in the City of Berkeley due to the conditions of extreme peril to the safety of persons as a consequence of the global spread of COVID-19 and on March 4, 2020, the Governor of California ordered a statewide State of Emergency in response to COVID-19; and

WHEREAS, the Berkeley City Council adopted a resolution on March 10<sup>th</sup> ratifying the March 3<sup>rd</sup> Proclamation of a Local Emergency; and

WHEREAS, the pandemic has deeply impacted California's economy as U.S. Department of Labor data shows California's pandemic-related unemployment claims reached to 4.9 million, or an estimated 25% of California's workforce; and

WHEREAS, in statewide polling of likely voters in May 2020 by Binder Research Associates for Build Affordable Faster CA, 40% of those polled had lost their jobs or had hours or wages reduced at work due the COVID-19 pandemic; and

WHEREAS, in the polling by Binder Research Associates for Build Affordable Faster CA, a near-unanimous 93% of Californians expressed strong concern about the impact of the Coronavirus epidemic on the California economy, and 70% were concerned that vital these programs and services, such as our public schools and fire departments, will be cut in the next year because of reduced tax revenues; and

WHEREAS, California now faces an unprecedented \$54.3 billion deficit, which is an estimated 37% of the state's current general fund budget due to a loss of revenue, according to the state Department of Finance; and

WHEREAS, while the Governor's May budget revise proposal includes \$4.4 billion in new revenues, it still largely predicated on borrowing and deferrals and an even greater federal bailout that includes \$14.0 billion in triggered cuts absent further federal action; and

WHEREAS, while borrowing/deferrals and a federal bailout are part of the solution, borrowed money will need to be repaid (it took over a decade to repay many of the debt obligations from the 2008 Recession) and federal reliance is tenuous given that the White House and Senate are both controlled by fiscal conservatives; and

WHEREAS, the deficit is not only at the state level but locally, as Resolution No. 69,400-N.S. states that the "City of Berkeley has incurred significant unbudgeted costs and anticipates additional costs" due to COVID-19; and

WHEREAS, deficits across California raise fears about cuts to safety net programs used to stabilize and support families out of poverty in a state which where there is already growing income inequality; and

WHEREAS, even before the pandemic, there was great income inequality in California where according to Public Policy Institute of California (PPIC), “the large gap between the state’s top earners and others has grown substantially over the past four decades,” where top income earners in the Bay Area make 12.2 times as much as those in the lowest income bracket; and

WHEREAS, according to the Public Policy Institute of California, in California, 20% of all net worth is concentrated in the 30 wealthiest zip codes, home to just 2% of Californians and African American and Latino families have much lower wealth levels compared white families; and

WHEREAS, according to PPIC, in their California Poverty Measure report, major tax and safety net programs reduce this inequality by 48%; and

WHEREAS, Berkeley ranked 10th for income inequality among U.S. cities over 100,000 people where the lowest quintile in Berkeley had only 1.42% of the city’s total household income compared to the top quintile that had 55.42% of the total household income, according to a 2014 report by Bloomberg; and

WHEREAS, during a time of hardship, our most vulnerable residents in Berkeley and statewide will rely more heavily on safety net services to survive and these programs will require additional financial investments as demand for them grows; and

WHEREAS, making cuts to public education and state programs will have dire consequences for our most vulnerable residents, it is imperative for our state legislators to explore additional revenue options; and

WHEREAS, in the United States, as of 2013, the top 1% of households owned 36.7% of all privately held wealth according to a study by Americans for Tax Fairness; and

WHEREAS, some U.S. billionaires gained \$434 billion during the COVID-19 pandemic according to Americans for Tax Fairness and the Institute for Policy Studies’ Program for Inequality; and

WHEREAS, in the 1950s and 1960s, the wealthiest Americans paid a top income tax rate of 91%, compared to 43.4% in reviewing Tax Rate Schedules from the U.S. Department of the Treasury; and

WHEREAS, polling by Binder Research Associates for Build Affordable Faster CA shows that 70% of California voters support a Millionaire’s Tax -- which would raise \$6 billion annually -- to protect vital public and community services; and

WHEREAS, the proposed Millionaire tax would add a slight 2% increase on taxable personal income for our wealthiest Californians, those whose take-home salary is over a million dollars a year, and whose top marginal income tax rate currently stands at 13.3%;

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley hereby supports and urges members of our State Assembly and Governor to explore new revenue generating options, including a millionaire tax to ensure safety net programs are not cut due to an unprecedented deficit; and

BE IT FURTHER RESOLVED, That the City Clerk is authorized to transmit copies of this Resolution to Governor Newsom, State Senator Nancy Skinner, Assemblymembers Buffy Wicks and Rob Bonta, Senate President pro Tempore Toni Atkins and Speaker of the California State Assembly Anthony Rendon.



Susan Wengraf  
Councilmember District 6

CONSENT CALENDAR  
June 30, 2020

To: Honorable Mayor and Members of the City Council  
From: Councilmember Wengraf  
Subject: Support for AB-3256: Economic Recovery and Climate Resiliency Bond

#### RECOMMENDATION

Adopt a Resolution in support of AB-3256: Economic Recovery, Wildfire Prevention, Safe Drinking Water, Drought Preparation, and Flood Protection Bond Act of 2020 (E. Garcia, Bloom, Bonta, Friedman, C. Garcia, Mullin, Reyes and Wood).

Send a copy of the Resolution to Assemblymembers Eduardo Garcia and Buffy Wicks, Senator Nancy Skinner and Governor Newsom.

#### FINANCIAL IMPLICATIONS

None

#### BACKGROUND

The global pandemic has slashed government funding along with Californians' jobs and paychecks. Funds once committed to protecting communities from climate change crises, such as increasingly severe wildfires and mega droughts, have been redirected to help with the pandemic and make up for lost revenue.

AB-3256, the State Assembly's proposed infrastructure bond supports a long-term, large-scale capital infrastructure investment plan to assist in economic recovery and protect California from near-term climate disasters.

The Bay Area Council Economic Institute notes that a resilient infrastructure bond like AB-3256 would create over 100,000 jobs statewide and generate nearly \$15 billion in total economic activity. It is critical that we pivot through this global pandemic with a bold bond to create the kind of durable employment demand we need to fully recover, while building infrastructure that protects Californians from climate change's disastrous impacts.

#### ENVIRONMENTAL SUSTAINABILITY

Should the bill pass, new infrastructure will mitigate impacts of climate change.

#### CONTACT PERSON

Councilmember Wengraf                      Council District 6                      510-981-7160

Attachments: 1: Resolution    2: [AB-3256](#)

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

CITY OF BERKELEY SUPPORTS AB-3256

WHEREAS, The Global Pandemic has slashed government funding for climate change mitigation efforts; and

WHEREAS, Covid-19 has left over 4 million Californians unemployed seemingly overnight; and

WHEREAS, The proposed infrastructure bond of AB-3256 would put an estimated 100,000 people back to work building infrastructure to mitigate climate change disasters; and

WHEREAS, California, and the City of Berkeley, require an infrastructure plan as bold as AB-3256 to recover from this global pandemic and invest in infrastructure to lessen the blows of near-term climate disasters.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that it enthusiastically supports AB-3256.



**AMENDED IN ASSEMBLY JUNE 4, 2020**  
**AMENDED IN ASSEMBLY MAY 18, 2020**  
**AMENDED IN ASSEMBLY MAY 4, 2020**

california legislature—2019–20 regular session

A\_S\_S\_E\_M\_B\_L\_Y\_\_B\_I\_L\_L\_\_N\_o.\_.\_3\_2\_5\_6\_\_

I\_n\_t\_r\_o\_d\_u\_c\_e\_d\_\_b\_y\_\_A\_s\_s\_e\_m\_b\_l\_y\_\_M\_e\_m\_b\_e\_r\_s\_\_E\_d\_u\_a\_r\_d\_o\_\_  
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R\_o\_b\_e\_r\_t\_\_R\_i\_v\_a\_s\_)\_\_

February 21, 2020

An act to add Division 47 (commencing with Section 80200) to the Public Resources Code, relating to an economic recovery, wildfire prevention, safe drinking water, drought preparation, and flood protection program, by providing the funds necessary therefor through an election of the issuance and sale of bonds of the State of California and for the handling and disposition of those funds. *funds, and declaring the urgency thereof, to take effect immediately.*

legislative counsel's digest

AB 3256, as amended, Eduardo Garcia. Economic Recovery, Wildfire Prevention, Safe Drinking Water, Drought Preparation, and Flood Protection Bond Act of 2020.

The California Drought, Water, Parks, Climate, Coastal Protection, and Outdoor Access For All Act of 2018, approved by the voters as Proposition 68 at the June 5, 2018, statewide direct primary election, authorizes the issuance of bonds in the amount of \$4,000,000,000 pursuant to the State General Obligation Bond Law to finance a drought, water, parks, climate, coastal protection, and outdoor access for all program.

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This bill would enact the Economic Recovery, Wildfire Prevention, Safe Drinking Water, Drought Preparation, and Flood Protection Bond Act of 2020, which, if approved by the voters, would authorize the issuance of bonds in the amount of \$6,980,000,000 pursuant to the State General Obligation Bond Law to finance projects for an economic recovery, wildfire prevention, safe drinking water, drought preparation, and flood protection program.

This bill would provide for the submission of these provisions to the voters at the November 3, 2020, statewide general election.

*This bill would declare that it is to take effect immediately as an urgency statute.*

Vote: 2/3. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

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

1 SECTION 1. The people of California find and declare all of line 2 the following:

3 (a) The climate crisis presents a significant threat to the health, 4 safety, and prosperity of  
the people of California. The changing 5 climate increases the risk of extreme weather events,  
biodiversity 6 loss, catastrophic wildfire, and sea level rise, resulting in harm to 7  
California’s agricultural industry, water supply, unique ecosystems, 8 and economy.

9 (b) According to the state’s Fourth Climate Change Assessment, 10 “[e]merging findings  
for California show that costs associated with 11 direct climate impacts by 2050 are dominated  
by human mortality, 12 damages to coastal properties, and the potential for droughts and 13  
mega-floods.”

14 (c) Improving climate resiliency will require investments in 15 planning and both capital-  
and non-capital costs.

16 (d) Strategic restoration and stewardship of California’s natural 17 infrastructure will  
increase the state’s resilience to the changing 18 climate and can prevent or reduce many of the  
forecasted impacts 19 of climate change.

20 (e) State investments to improve climate resiliency must reflect 21 the varying type and  
severity of climate impacts across the state. 22 Already vulnerable communities often face  
greater risks from 23 climate change.

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1 (f) Planning, investment, and action to address current and future 2 climate change impacts must be guided by the best available 3 science, including local and traditional knowledge.

4 (g) Investment in transformative, cost-effective, and 5 evidence-based projects that increase the state’s resilience to 6 climate change will protect the lives of all Californians, conserve 7 our unique ecosystems, and save billions of dollars by preventing 8 or reducing damage that may otherwise occur.

9 (h) Climate risks and impacts vary by region and can overwhelm 10 the resources of local governments and communities that must 11 cope with changing conditions and severe climate change-related 12 events.

13 (i) An integrated statewide investment that prevents wildfires 14 and other natural disasters, reduces near-term climate change risks, 15 and increases long-term resilience to climate change will save local 16 and state agencies and California residents billions of dollars by 17 preventing or reducing the amount of damage that would otherwise 18 occur.

19 (j) The investment of public funds pursuant to Division 47 20 (commencing with Section 80200) of the Public Resources Code 21 will result in public benefits that will address the most critical 22 statewide needs and priorities for public funding while saving local 23 and state agencies billions of dollars.

24 SEC. 2. Division 47 (commencing with Section 80200) is added line 25 to the Public Resources Code, to read:

26 27 DIVISION 47. ECONOMIC RECOVERY, WILDFIRE 28 PREVENTION,  
SAFE DRINKING WATER, DROUGHT 29 PREPARATION, AND FLOOD PROTECTION  
BOND ACT OF 30 2020

31 32 Chapter 1. General Provisions

33 34 80200. This division shall be known, and may be cited, as the line 35 Economic Recovery, Wildfire Prevention, Safe Drinking Water, line 36 Drought Preparation, and Flood Protection Bond Act of 2020.

37 80201. (a) In expending funds pursuant to this division, an line 38 administering state agency shall give priority to projects that line 39 leverage private, federal, and local funding or produce the greatest line 40 public benefit.

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1 (b) A project funded pursuant to this division shall include 2 signage informing the public  
that the project received funding from 3 the Economic Recovery, Wildfire Prevention, Safe  
Drinking Water, 4 Drought Preparation, and Flood Protection Bond Act of 2020.

5 80202. For purposes of this division, the following definitions line 6 apply:

7 (a) "Air board" means the State Air Resources Board.

8 (b) "Committee" means the Economic Recovery, Wildfire 9 Prevention, Safe Drinking  
Water, Drought Preparation, and Flood 10 Protection Bond Finance Committee created pursuant  
to Section 11 80282.

12 (c) "Fund" means the Economic Recovery, Wildfire Prevention, 13 Safe Drinking Water,  
Drought Preparation, and Flood Protection 14 Fund created pursuant to Section 80209.

15 (d) "Groundwater sustainability agency" has the same meaning 16 as defined in Section  
10721 of the Water Code.

17 (e) "Interpretation" includes, but is not limited to, a 18 visitor-serving amenity that  
enhances the ability to understand and 19 appreciate the significance and value of natural,  
historical, and 20 cultural resources and that may use educational materials in 21 multiple  
languages, digital information in multiple languages, and 22 the expertise of a naturalist or other  
skilled specialist.

23 (f) "Natural infrastructure" means natural ecological systems 24 or processes that reduce  
vulnerability to climate change-related 25 hazards, or other related climate change effects, while  
increasing 26 the long-term adaptive capacity of coastal and inland areas by 27 perpetuating  
or restoring ecosystem services. "Natural 28 infrastructure" includes, but is not limited to, the  
conservation, 29 preservation, or sustainable management of any form of aquatic 30 or  
terrestrial vegetated open space, such as beaches, dunes, tidal 31 marshes, reefs, seagrass, parks,  
rain gardens, and urban tree 32 canopies. "Natural infrastructure" also includes systems and  
33 practices that use or mimic natural processes, such as permeable 34 pavements, bioswales,  
and other engineered systems, such as levees 35 that are combined with restored natural systems,  
to provide clean 36 water, conserve ecosystem values and functions, and provide a 37 wide  
array of benefits to people and wildlife.

38 (g) "Nonprofit organization" means a nonprofit corporation 39 qualified to do business in  
California and qualified under Section 40 501(c)(3) of the Internal Revenue Code.

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1 (h) “Socially disadvantaged farmers and ranchers” has the same 2 meaning as defined in  
Section 512 of the Food and Agricultural 3 Code.

4 (i) “Tribe” means a California native American tribe that appears 5 on the California  
Tribal Consultation List maintained by the Native 6 American Heritage Commission.

7 (j) “Water board” means the State Water Resources Control 8 Board.

9 (k) “Water Resilience Portfolio” means a suite of recommended 10 actions by the Natural  
Resources Agency, the California 11 Environmental Protection Agency, and the Department of  
Food 12 and Agriculture to help the state cope with more extreme droughts 13 and floods,  
rising temperatures, declining fish populations, aging 14 infrastructure, and other challenges.

15 80203. An amount that equals not more than 5 percent of the line 16 funds allocated for a  
program funded pursuant to this division may line 17 be used to pay the administrative costs of that  
program.

18 80204. (a) The Department of Finance shall provide for an line 19 independent audit of  
expenditures pursuant to this division. The line 20 Secretary of the Natural Resources Agency shall  
publish a list of line 21 all program and project expenditures pursuant to this division not line 22 less  
than annually, in written form, and shall post an electronic line 23 form of the list on the agency’s  
internet website in a downloadable line 24 spreadsheet format. The spreadsheet shall include  
information line 25 about the location and footprint of each funded project, the line 26 project’s  
objectives, the status of the project, anticipated outcomes, line 27 any matching moneys provided for  
the project by the grant line 28 recipient, and the applicable chapter of this division pursuant to line  
29 which the grant recipient received moneys.

30 (b) If an audit, required by statute, of any entity that receives 31 funding authorized by  
this division is conducted pursuant to state 32 law and reveals any impropriety, the California  
State Auditor or 33 the Controller may conduct a full audit of any or all of the activities 34  
of that entity.

35 (c) The state agency issuing any grant with funding authorized 36 by this division shall  
require adequate reporting of the expenditures 37 of the funding from the grant.

38 (d) The costs associated with the publications, audits, statewide 39 bond tracking, cash  
management, and related oversight activities 40 provided for in this section shall be funded from  
this division.

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1 These costs shall be shared proportionally by each program through 2 this division. Actual costs incurred to administer nongrant programs 3 authorized by this division shall be paid from the funds authorized 4 in this division.

5 80205. If any moneys allocated pursuant to this division are line 6 not encumbered or expended by the recipient entity within the time line 7 period specified by the administering state agency, the unexpended line 8 moneys shall revert to the administering state agency for allocation line 9 consistent with the applicable chapter.

10 80206. A state agency that receives funding to administer a line 11 grant program under this division shall report to the Legislature line 12 annually in the budget on its expenditures pursuant to this division line 13 and the public benefits received from those expenditures.

14 80207. Funds provided pursuant to this division, and any line 15 appropriation or transfer of those funds, shall not be deemed to be line 16 a transfer of funds for the purposes of Chapter 9 (commencing line 17 with Section 2780) of Division 3 of the Fish and Game Code.

18 80208. For grants awarded for projects under this division, the line 19 administering state agency may provide advanced payments in the line 20 amount of 25 percent of the grant award to the recipient, including line 21 state-related entities, to initiate the project in a timely manner. The line 22 administering state agency shall adopt additional requirements for line 23 the recipient of the grant regarding the use of the advanced line 24 payments to ensure that the moneys are used properly.

25 80209. (a) The proceeds of bonds issued and sold pursuant to line 26 this division, exclusive of refunding bonds issued and sold pursuant line 27 to Section 80292, shall be deposited in the Economic Recovery, line 28 Wildfire Prevention, Safe Drinking Water, Drought Preparation, line 29 and Flood Protection Fund, which is hereby created in the State line 30 Treasury. Moneys in the fund shall be available, upon appropriation line 31 by the Legislature, for purposes of this division.

32 (b) Proceeds of bonds issued and sold pursuant to this division 33 shall be allocated according to the following schedule:

34 (1) One billion six hundred twenty-five million dollars 35 (\$1,625,000,000) for wildfire prevention and climate risk reduction, 36 in accordance with Chapter 2 (commencing with Section 80220).

37 (2) One billion one hundred million dollars (\$1,100,000,000) 38 for the protection of coastal lands, bays, and oceans from climate 39 risks, in accordance with Chapter 3 (commencing with Section 40 80230).

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1 (3) One billion three hundred fifty-five million dollars 2 (\$1,355,000,000) for the protection of California’s water supplies 3 from multiyear droughts, reducing flood risk from extreme events, 4 and providing safe drinking water, in accordance with Chapter 4 5 (commencing with Section 80240).

6 (4) One billion three hundred million dollars (\$1,300,000,000) 7 for the protection of California’s wildlife, biodiversity, fisheries, 8 and working and agricultural lands from climate risks, in 9 accordance with Chapter 5 (commencing with Section 80260).

10 (5) One billion six hundred million dollars (\$1,600,000,000) 11 for regional climate resilience projects that address multiple risks, 12 in accordance with Chapter 6 (commencing with Section 80270).

13 80210. The Legislature may enact legislation necessary to line 14 implement programs funded by this division.

15 16 Chapter 2. 17 Reduction Wildfire Prevention and Climate Risk

18 19 80220. For purposes of this chapter, the following definitions line 20 apply:

21 (a) “Risk reduction buffer” means community design measures 22 that integrate greenspaces or open spaces that are managed to 23 reduce the spread of wildfires, and are located either between the 24 structures and the wildlands or are strategically interspersed among 25 the structures in a community to reduce structure vulnerability to 26 wildfire risks. Risk reduction buffers shall be designed to provide 27 additional benefits that may include shelter from natural disasters, 28 recreation, habitat, storm water capture, and active transportation.

29 (b) “Structure hardening” means the installation, replacement, 30 or retrofitting of building materials, systems, or assemblies used 31 in the exterior design and construction of existing nonconforming 32 structures with features that are in compliance with Chapter 7A 33 (commencing with Section 701A.1) of Title 24 of the California 34 Code of Regulations, or any appropriate successor regulatory code 35 with the primary purpose of reducing risk to structures from 36 wildfire or conforming to the low-cost retrofit list, and updates to 37 that list, developed pursuant to paragraph (1) of subdivision (c) of 38 Section 51189 of the Government Code.

39 80220.5. The sum of one billion six hundred twenty-five line 40 million dollars (\$1,625,000,000) shall be available, upon

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4 (a) The creation of risk reduction buffer between communities 5 and the wildland.

6 (b) The creation of strong local fire safe planning and risk 7 reduction work to improve community fire resilience.

8 (c) The improvement of forest and other habitat health to reduce 9 the risk of fire, reduce fire intensity, and restore historic ecosystem 10 function while improving water supply and water quality.

11 (d) The creation of cost-effective efforts to complete community 12 and structure hardening projects that target entire neighborhoods 13 or communities.

14 80221. (a) Of the funds made available by Section 80220.5, line 15 five hundred million dollars (\$500,000,000) shall be available to line 16 the Office of Emergency Services, in coordination and conjunction line 17 with the Department of Forestry and Fire Protection, for a line 18 prehazard mitigation grant program. The grant program shall be line 19 allocated to assist local and state agencies to leverage additional line 20 funds, including matching grants from federal agencies. The grant line 21 program shall fund efforts that include providing loans, rebates, line 22 direct assistance, and matching funds that prevent wildfires and line 23 reduce the risk of wildfires to communities, increasing community line 24 hardening. Eligible projects include, but are not limited to, the line 25 following:

26 (1) Grants to local agencies, state agencies, joint powers 27 authorities, and tribes for projects that reduce wildfire risks to 28 people and property consistent with an approved community 29 wildfire protection plan.

30 (2) Grants to local agencies, state agencies, joint power 31 authorities, tribes, resource conservation districts, fire safe councils, 32 and nonprofit organizations for hardening of critical community 33 infrastructure, evacuation centers, hardening projects that reduce 34 the risk of wildfire for entire neighborhoods and communities, risk 35 reduction buffers, and incentives to remove structures that 36 significantly increase hazard risk.

37 (b) The Office of Emergency Services and the Department of 38 Forestry and Fire Protection shall prioritize prehazard mitigation 39 grant funding applications from local agencies based on the "Fire

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1 Risk Reduction Community” list, upon development of that list, 2 pursuant to Section 4290.1.

3 (c) The Office of Emergency Services and the Department of 4 Forestry and Fire Protection shall provide technical assistance to 5 disadvantaged communities, vulnerable populations, including 6 those with access and functional needs, at-risk infrastructure, 7 socially disadvantaged farmers or ranchers, and economically 8 distressed areas to ensure the grant program reduces the 9 vulnerability of those most in need.

10 80222. Of the funds made available by Section 80220.5, one line 11 billion twenty-five million dollars (\$1,025,000,000) shall be made line 12 available to the Natural Resources Agency and to its departments, line 13 boards, and conservancies for projects and grants to improve local line 14 fire prevention capacity, improve forest health and resiliency, and line 15 reduce the risk of wildfire spreading into populated areas from line 16 wildlands. Where appropriate, projects may include activities on line 17 lands owned by the United States. The funding made available by line 18 this section shall be allocated as follows:

19 (a) Three hundred million dollars (\$300,000,000) shall be made 20 available to the Regional Fire and Forest Capacity Program to 21 increase regional capacity to prioritize, develop, and implement 22 projects that improve forest health and fire resilience, facilitate 23 greenhouse gas emissions reductions, and increase carbon 24 sequestration in forests throughout California. The funding shall 25 be allocated based, to the extent feasible, on the findings of the 26 review of the regional capacity required by Section 4123.7.

27 (b) Three hundred million dollars (\$300,000,000) shall be made 28 available to the Department of Forestry and Fire Protection to 29 support various long-term forest health projects, including 30 reforestation; conservation easements; activities that promote 31 long-term carbon storage; and upper watershed, riparian, mountain 32 meadow, and inland wetland restoration. Projects shall reflect the 33 concurrence of the Department of Fish and Wildlife and the water 34 board, respectively, when a project may affect their statutory 35 jurisdiction and shall be consistent with Section 4799.05.

36 (c) Three hundred million dollars (\$300,000,000) shall be made 37 available to forests and other habitats, including, but not limited 38 to, redwoods, conifers, oak woodlands, chaparral, deserts, and 39 coastal forest watershed improvement projects that include the use 40 of prescribed fire and improve water supply or water quality.

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1 Projects shall include the restoration of natural ecosystem functions 2 in high fire hazard areas and provide multiple benefits including, 3 but not be limited to, habitat protection, science-based fuel 4 reduction, watershed protection, carbon sequestration, protection 5 of older fire-resistant trees, and improved forest health. The Natural 6 Resources Agency shall require a contribution of matching funds 7 or in-kind work, as determined appropriate, from beneficiaries of 8 the watershed, which may include, but not limited to, water 9 districts, public utilities, local agencies, or private users. As a 10 condition of funds granted pursuant to this section, the Natural 11 Resources Agency shall ensure long-term benefits for projects 12 funded pursuant to this subdivision, including an ongoing 13 commitment to future maintenance and a commitment to long-term 14 increases in carbon sequestration.

15 (d) Fifty million dollars (\$50,000,000) shall be made available 16 to the Department of Forestry and Fire Protection to provide 17 funding to fire safe councils, nongovernmental organizations with 18 demonstrated expertise, and resource conservation districts for the 19 purchase of large equipment necessary to conduct fuel reduction 20 and forest health projects. The department shall develop funding 21 guidelines to ensure the equipment purchased receives necessary 22 maintenance by the owner, is used appropriately by trained 23 operators, provides public benefits, and is made available for fuel 24 reduction and forest health projects in a cost-effective manner. 25 Eligible equipment may include equipment for biomass utilization 26 and shall have a durability suitable for capital expenditure.

27 (e) Seventy-five million dollars (\$75,000,000) shall be made 28 available to the Sierra Nevada Conservancy for purposes of 29 watershed improvement, forest health, biomass utilization, and 30 forest restoration workforce development. Seventy percent of the 31 funds made available by this subdivision shall be made available 32 to the Sierra Nevada Watershed Improvement Program created by 33 Section 33345.1.

34 80223. Of the funds made available by Section 80220.5, not line 35 less than fifty million dollars (\$50,000,000) shall be allocated to line 36 the air board, in consultation with the Natural Resources Agency line 37 and the Department of Forestry and Fire Protection, to incentivize line 38 new projects in California that provide long-term capital line 39 infrastructure to convert forest and other vegetation waste removed line 40 for wildfire mitigation to beneficial uses that maximize reductions

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4 80224. Of the funds made available by Section 80220.5, fifty line 5 million dollars (\$50,000,000) shall be available to the Department line 6 of Parks and Recreation to plan for and implement projects to line 7 reduce the risks of fire and for the fire hardening of infrastructure line 8 for units of the state park system.

9 80225. To the extent feasible, a project whose application line 10 includes the use of services of the California Conservation Corps line 11 or certified community conservation corps, as defined in Section line 12 14507.5, shall be given preference for receipt of a grant under this line 13 division.

14 15 Chapter 3. 16 from Sea Level Rise and Other Climate Risks Protecting Coastal Lands, Bays, and Oceans

17 18 80230. The sum of one billion one hundred million dollars line 19 (\$1,100,000,000) shall be available, upon appropriation by the line 20 Legislature, for the protection and restoration of coastal and ocean line 21 resources from sea level rise, ocean acidification, and other impacts line 22 of climate change. The goal of this chapter is to provide funding line 23 for projects that slow the impacts of sea level rise, especially in line 24 combination with storm surges, with nature-based solutions; line 25 increase the ability of the ocean and coastal systems to capture line 26 and store carbon dioxide; and support sustainable fisheries.

27 80231. (a) Eligible projects under this chapter include, but are line 28 not limited to, projects to protect, restore, and increase the line 29 resilience of coastal and ocean ecosystems, such as beaches, bluffs, line 30 grasslands, chaparral, shrublands, forests, waters, coastal line 31 watersheds, wetlands, natural resources, fisheries, estuarine habitat, line 32 kelp forests, seagrass and eelgrass habitat, and wildlife in coastal line 33 areas. Projects may address the protection and resilience of public line 34 recreation and public access facilities.

35 (b) The following criteria shall be used for projects under this 36 chapter:

37 (1) Projects shall leverage local, nonbond state, federal, or 38 private funding of at least 50 percent for infrastructure projects.

39 (2) Projects should prioritize natural infrastructure. For projects 40 with multiple benefits to water supply, water quality, wildlife, and

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1 biodiversity, a match of at least 25 percent from local, state, federal, 2 or private funding is required.

3 (3) Projects leveraging ongoing state funding for carbon 4 sequestration, transportation, general funds shall be given priority.

5 (4) Up to 10 percent of project costs may be used for project 6 planning.

7 (5) Projects are required to demonstrate ongoing monitoring 8 and scientific review. Up to 5 percent of project funds may be used 9 for this purpose.

10 80232. (a) Of the funds made available by Section 80230, the line 11 sum of six hundred million dollars (\$600,000,000) shall be line 12 available to the State Coastal Conservancy, the California Coastal line 13 Commission, and the San Francisco Bay Conservation and line 14 Development Commission.

15 (b) Of the funds made available by subdivision (a), three 16 hundred million dollars (\$300,000,000) shall be available to the 17 State Coastal Conservancy for projects to protect, restore, and 18 increase the resilience of beaches, bays, coastal dunes, wetlands, 19 coastal forests, and coastal watershed resources pursuant to 20 Division 21 (commencing with Section 31000), including land 21 acquisition, or conservation easements on, land in or adjacent to 22 the California coastal zone with open space, recreational, 23 biological, cultural, scenic, or agricultural values, or lands adjacent 24 to marine protected areas, including marine conservation areas, 25 whose preservation will contribute to the ecological quality of 26 those marine protected areas.

27 (c) Of the funds made available by subdivision (a), one hundred 28 fifty million dollars (\$150,000,000) shall be available to the State 29 Coastal Conservancy for competitive grants for demonstration and 30 pilot projects that use natural infrastructure to protect critical 31 infrastructure that is vulnerable to sea level rise and flooding.

32 (d) Of the funds made available by subdivision (a), one hundred 33 million dollars (\$100,000,000) shall be available to the State 34 Coastal Conservancy for grants to remove outdated or obsolete 35 dams and water infrastructure. Up to 25 percent of the funds made 36 available in this subdivision may be awarded for the public benefits 37 associated with updating outdated dams and water infrastructure.

38 (e) Of the funds made available by subdivision (a), the sum of 39 thirty million dollars (\$30,000,000) shall be available to the 40 California Coastal Commission for grants for local adaptation

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1 planning and updating local coastal programs and twenty million 2 dollars (\$20,000,000) shall be available to the San Francisco Bay 3 Conservation and Development Commission for coastal planning 4 and projects within its jurisdiction.

5 80233. (a) Of the funds made available by Section 80230, the line 6 sum of two hundred million dollars (\$200,000,000) shall be line 7 available to the Ocean Protection Council.

8 (b) Of the amount made available by subdivision (a), one 9 hundred million dollars (\$100,000,000) shall be available for 10 deposit into the California Ocean Protection Trust Fund for 11 competitive grants consistent with Section 35650. Priority shall 12 be given to projects that assist coastal communities, including 13 those reliant on commercial fisheries, with adaptation to climate 14 change, including projects that address ocean acidification, 15 increasing ocean temperatures, sea level rise, and habitat restoration 16 and protection.

17 (c) Of the funds made available by subdivision (a), fifty million 18 dollars (\$50,000,000) shall be available for projects that increase 19 the ability of the ocean and coastal ecosystems to capture, 20 sequester, and store carbon dioxide.

21 80234. Of the funds made available by Section 80230, two line 22 hundred fifty million dollars (\$250,000,000) shall be available to line 23 the Natural Resources Agency and its departments, boards, and line 24 conservancies or the Ocean Protection Council for competitive line 25 grants to restore or enhance coastal and ocean ecosystems. No less line 26 than 50 percent of the funds allocated by this subdivision shall be line 27 for competitive grants for projects that use nature-based solutions line 28 to address climate change impacts to California's ocean and coastal line 29 ecosystems, including, but not limited to, wetlands, estuarine line 30 habitat, kelp forests, seagrass habitat, eelgrass beds, and the state's line 31 system of marine protected areas. Grant programs may be line 32 administered by the State Coastal Conservancy, the Department line 33 of Fish and Wildlife, the water board, or the Ocean Protection line 34 Council. The administering agency shall coordinate with all line 35 relevant state agencies, and relevant local, regional, and state line 36 conservancies.

37 80235. Of the funds made available by Section 80230, fifty line 38 million dollars (\$50,000,000) shall be available to the Department line 39 of Parks and Recreation to plan for and implement projects to line 40 reduce the risks of sea level rise for units of the state park system.

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1 80236. Projects funded pursuant to this chapter shall be line 2 consistent with climate and sea  
level rise policies and guidelines line 3 established by the California Coastal Commission, the Ocean  
line 4 Protection Council, the San Francisco Bay Conservation and line 5 Development Commission,  
and the State Coastal Conservancy, if line 6 applicable.

7 8 Chapter 4. 9 During Drought, Enhancing the State's Flood Protection, 10  
and Ensuring Safe Drinking Water Protecting California's Water Supply

11 12 80240. The sum of one billion three hundred fifty-five million line 13 dollars  
(\$1,355,000,000) shall be available, upon appropriation by line 14 the Legislature, for climate  
resilience related to the delivery of line 15 water.

16 80241. Projects funded under this chapter shall ensure access line 17 to safe drinking water  
and water supply in multiyear droughts, and line 18 provide for protection from flood risks,  
especially risks that are line 19 magnified by sea level rise, storm surges, and increased intensity line  
20 atmospheric rivers.

21 80242. (a) Before disbursing grants under this chapter, each line 22 state agency that receives  
funding to administer a competitive grant line 23 program under this division shall develop and adopt  
project line 24 solicitation and evaluation guidelines. The guidelines shall include line 25 monitoring  
and reporting requirements and may include a limitation line 26 on the dollar amount of grants to be  
awarded. If the state agency line 27 has previously developed and adopted project solicitation and  
line 28 evaluation guidelines that comply with the requirements of this line 29 section, it may use  
those guidelines.

30 (b) Guidelines adopted pursuant to subdivision (a) shall 31 encourage, where feasible, the  
inclusion of the following project 32 components:

33 (1) Efficient use and conservation of water supplies.

34 (2) The capture of stormwater to reduce stormwater runoff, 35 reduce water pollution, or  
recharge groundwater supplies, or a 36 combination thereof.

37 (3) Provision of safe and reliable drinking water supplies to 38 park and open-space  
visitors, and state fairgrounds that serve as 39 emergency evacuation facilities.

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1 (4) Support to groundwater sustainability agencies for regional 2 ground water sustainability.

3 (5) Increased climate resilience for wildlife and fish species.

4 80243. (a) Nothing in this chapter determines or alters water line 5 rights or water right priorities.

6 (b) Funds provided by this chapter shall not be used to acquire 7 land via eminent domain.

8 80244. An eligible applicant under this chapter is a public line 9 agency, joint powers authority, nonprofit organization, public line 10 utility, tribe, or mutual water company. To be eligible for funding line 11 under this chapter, a project proposed by a public utility that is line 12 regulated by the Public Utilities Commission or a mutual water line 13 company shall have a clear and definite public purpose and shall line 14 benefit the customers of the water system and not the investors.

15 80245. Of the funds made available by Section 80240, three line 16 hundred ninety-five million dollars (\$395,000,000) shall be line 17 available to the Department of Water Resources in collaboration line 18 with the water board, upon appropriation by the Legislature, for line 19 competitive grants for projects that support sustainable groundwater line 20 management implementation. These funds are dedicated to line 21 supporting local groundwater sustainability agencies implementing line 22 projects and programs related to the groundwater sustainability line 23 plans for critically overdrafted basins. This includes projects with line 24 multiple benefits that encourage redundancy in the regional water line 25 system, groundwater recharge, including infrastructure projects, line 26 and interties. Funding allocated pursuant to this section shall line 27 support the regional approach identified in the Water Resilience line 28 Portfolio and shall be used for comprehensive regional projects line 29 that include water efficiency, water infrastructure, flood control, line 30 and groundwater recharge. Projects shall demonstrate multiple line 31 water resilience benefits.

32 80246. Of the funds made available by Section 80240, three line 33 hundred sixty million dollars (\$360,000,000) shall be available to line 34 the water board, upon appropriation by the Legislature, for line 35 competitive grants or loans for the purposes described in Chapter line 36 5 (commencing with Section 79720) of Division 26.7 of the Water line 37 Code to help provide clean, safe, and reliable drinking water to all line 38 Californians.

39 80247. Of the funds made available by Section 80240, four line 40 hundred million dollars (\$400,000,000) shall be available to the

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7 (a) Multiple benefit river and urban stream parkway projects 8 that protect and restore riparian habitats, improve climate resilience, 9 enhance natural drainages, protect and restore watersheds, and 10 provide urban access, including for statewide obligations involving 11 multistate agreements.

12 (b) At least 60 percent of the funds shall be available to the 13 Natural Resources Agency for capital outlay projects that provide 14 air quality and habitat benefits and that implement state obligations 15 in arid, desert areas of the state.

16 80248. (a) Of the funds made available by Section 80240, one line 17 hundred fifty million dollars (\$150,000,000) shall be available for line 18 flood management projects that are components of multiple benefit line 19 flood management system improvements that reduce risks to public line 20 safety and provide improvement to wildlife habitat. Eligible project line 21 types include, but are not limited to, levee setbacks, projects line 22 connecting rivers with flood plains, enhancement of flood plains line 23 and bypasses, offstream groundwater recharge, and land line 24 acquisitions and easements necessary for these project types. To line 25 the extent feasible, project selection shall be guided by approved line 26 local hazard mitigation plans and preference shall be given to line 27 natural infrastructure projects. Eligible projects include any of the line 28 following:

29 (1) Multiple benefit flood management projects that reduce the 30 impacts of climate change on inland or coastal infrastructure, 31 communities, or ecosystems, and provide ecosystem, wildlife, or 32 groundwater recharge benefits.

33 (2) Natural infrastructure projects to reduce flood intensity and 34 slow watershed runoff.

35 (3) Projects that capture, clean, or otherwise productively use 36 stormwater.

37 (4) Projects that provide matching grants for, or otherwise 38 leverage funding from, the Federal Emergency Management 39 Agency, the United States Army Corps of Engineers, or other 40 federal mitigation and resilience funding.

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1 (5) Projects that provide benefits to fish, waterfowl, wildlife, 2 and anadromous and other  
native fish species along migratory 3 corridors.

4 (6) Projects that restore streams to a more natural state by 5 removing drainage  
obstructions, culverts, and paved channels to 6 enable more stormwater to be absorbed and  
gradually released by 7 soil and plants.

8 (b) Of the funds made available pursuant to this section, at least 9 fifty million dollars  
(\$50,000,000) shall be allocated for multiple 10 benefit flood management projects in urban  
coastal watersheds.

11 80249. Of the funds made available by Section 80240, fifty line 12 million dollars  
(\$50,000,000) shall be available to the Central line 13 Valley Flood Protection Board for further  
development of the State line 14 Plan of Flood Control, including the San Joaquin River and line 15  
Sacramento Valley flood risk management plans. The Central line 16 Valley Flood Protection Board  
shall ensure equitable distribution line 17 of funds.

18 80250. To the extent feasible, a project that includes water line 19 efficiencies, stormwater  
capture for infiltration or reuse, or carbon line 20 sequestration features in the project design may be  
given priority line 21 for grant funding under this chapter.

22 80251. Moneys allocated by this chapter shall not be used to line 23 fulfill any environmental  
mitigation requirements imposed by law, line 24 including paying for the costs of the design,  
construction, operation, line 25 mitigation, or maintenance of Delta conveyance facilities. Those line  
26 costs shall be the responsibility of the water agencies that benefit line 27 from the design,  
construction, mitigation, or maintenance of those line 28 facilities.

29 80252. To the extent feasible, a project whose application line 30 includes the use of services  
of the California Conservation Corps line 31 or certified community conservation corps, as defined in  
Section line 32 14507.5, and resource conservation districts, shall be given line 33 preference for  
receipt of a grant under this chapter.

34 35 Chapter 5. 36 Working Lands, and Agriculture from Climate Risks Protecting  
Fish, Wildlife, Natural Areas,

37 38 80260. The sum of one billion three hundred million dollars line 39 (\$1,300,000,000)  
shall be available, upon appropriation by the

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3 (a) Restore natural lands to better maintain ecosystem benefits 4 as climate conditions change.

5 (b) Enhance fish and wildlife corridors and habitat linkages to 6 enhance the ability of wildlife to adapt to changing climate 7 conditions.

8 (c) Protect our farms, ranches, and working lands from changing 9 climate conditions.

10 80261. (a) Of the funds made available by Section 80260, four line 11 hundred million dollars (\$400,000,000) shall be available to the line 12 Wildlife Conservation Board for the protection of California's fish line 13 and wildlife resources in response to changing climate conditions, line 14 as well as for restoration and stewardship projects that restore or line 15 manage land or habitat to improve its resilience to climate impacts line 16 and natural disasters. Eligible projects include, but are not limited line 17 to, the following:

18 (1) Salmon and other fishery preservation, enhancement, and 19 habitat restoration projects.

20 (2) Projects to protect and restore wetlands and other fish and 21 wildlife habitat, including, but not limited to, habitat used by 22 migratory birds.

23 (3) Projects for the protection and restoration of fish and wildlife 24 corridors and habitat linkages, the construction or repair of 25 corridors, and the removal or modification of barriers. Projects 26 may include planning, monitoring, and data collection necessary 27 to track movement of wildlife around and across transportation 28 facilities and to establish the best locations to construct wildlife 29 crossing features, including fish passage improvements.

30 (4) Land acquisition projects, including, but not limited to, those 31 that protect land from development or prevent the conversion of 32 rangeland, grazing land, or grassland to nonagricultural uses.

33 (5) Projects for conservation actions on private lands, including, 34 but not limited to, incentives, matching grants, and technical 35 assistance for private landowners to implement conservation 36 actions.

37 (6) Projects for the protection of threatened and endangered 38 species, including projects within natural community conservation 39 plans adopted pursuant to the Natural Community Conservation 40 Planning Act (Chapter 10 (commencing with Section 2800) of

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1 Division 3 of the Fish and Game Code) or habitat conservation 2 plans. Projects may include land acquisition through either 3 easement or fee title.

4 (7) Projects that include acquisition of water or water rights 5 from willing sellers, acquisition of land that includes water rights 6 or contractual rights to water, and other projects that provide water 7 for fish and wildlife or improve aquatic or riparian habitat 8 conditions.

9 (8) Projects for the development and implementation of regional 10 conservation investment strategies that include climate resilience 11 elements and are not otherwise funded by the state pursuant to 12 Section 800 of the Streets and Highways Code.

13 (9) Restoration activities to control or eradicate invasive plants 14 or insects that degrade wildlife corridors or habitat linkages, inhibit 15 the recovery of threatened or endangered species, or reduce the 16 climate resilience of a natural system and its species.

17 (10) Protection and restoration of redwood forests in order to 18 accelerate old growth characteristics, maximize carbon 19 sequestration, improve water quality, and build climate resilience.

20 (11) Protection and restoration of oak woodlands pursuant to 21 Section 1363 of the Fish and Game Code and grasslands pursuant 22 to Section 10330 of the Public Resources Code.

23 (b) Funding made available by subdivision (a) shall not be used 24 to offset mitigation obligations otherwise required, but may be 25 used as part of a funding partnership to enhance, expand, or 26 augment conservation efforts required by mitigation.

27 80262. Of the funds made available by Section 80260, one line 28 hundred million dollars (\$100,000,000) shall be available to the line 29 Wildlife Conservation Board for groundwater sustainability line 30 projects that provide wildlife habitat. Projects may support line 31 implementation of the Sustainable Groundwater Management Act line 32 (Part 2.74 (commencing with Section 10720) of Division 6 of the line 33 Water Code). Eligible projects include, but are not limited to, the line 34 following:

35 (a) Projects that create, protect, or restore permanent wildlife 36 habitat.

37 (b) Projects that permanently create, protect, or restore seasonal 38 wetland habitat that provides aquifer replenishment.

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1 (c) Projects that improve groundwater supply, including 2 groundwater recharge, improved baseflows in rivers and streams, 3 and groundwater supply improvement for fish and wildlife habitat.

4 (d) (1) Projects that convert land to lesser water use while 5 maintaining natural and working lands.

6 (2) Any groundwater recharge achieved under this section shall 7 remain in the basin to improve groundwater conditions. Payments 8 shall be linked to achievement and delivery of defined conservation 9 outcomes, the duration of those outcomes, and the commitment 10 of matching funds.

11 80263. Of the funds made available by Section 80260, one line 12 hundred million dollars (\$100,000,000) shall be available to the line 13 Department of Fish and Wildlife to improve the climate resilience line 14 of fish and wildlife habitat. Eligible projects include, but are not line 15 limited to, the following:

16 (a) Projects on lands managed by the Department of Fish and 17 Wildlife to reduce the risks of fire, flood, inundation, sea level 18 rise, and other risks associated with climate change and for the 19 protection and restoration of infrastructure and natural resources.

20 (b) Competitive grants for projects that enhance or restore inland 21 or diadromous native fish species habitat. Projects include, but are 22 not limited to, enhanced stream flows, improved fish passage, 23 reconnection of riverine and floodplain habitat, and other actions 24 to help fish adapt to climate change.

25 80264. To the extent feasible in implementing this chapter, a line 26 state agency receiving funding under this chapter shall seek to line 27 achieve wildlife conservation objectives through projects on public line 28 lands or voluntary projects on private lands. Projects on private line 29 lands shall be evaluated based on the durability of the benefits line 30 created by the investment. Funds may be used for payments for line 31 the protection or creation of measurable habitat improvements or line 32 other improvements to the condition of endangered or threatened line 33 species, including through the development and implementation line 34 of habitat credit exchanges.

35 80265. (a) Of the funds made available pursuant to Section line 36 80260, the sum of five hundred million dollars (\$500,000,000) line 37 shall be available to the Natural Resources Agency for line 38 conservancies specified in subdivision (b). The Natural Resources line 39 Agency shall allocate funds according to each conservancy's line 40 governing statutes and funds shall be for climate resilience and

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3 (b) The conservancy that are eligible for these funds include 4 Baldwin Hills Conservancy, State Coastal Conservancy, California 5 Tahoe Conservancy, Coachella Valley Mountains Conservancy, 6 Sacramento-San Joaquin Delta Conservancy, San Diego River 7 Conservancy, San Gabriel and Lower Los Angeles Rivers and 8 Mountains Conservancy, San Joaquin River Conservancy, Santa 9 Monica Mountains Conservancy, Sierra Nevada Conservancy, and 10 any subsequent conservancies approved by the Legislature, 11 including changes to those conservancies. The State Coastal 12 Conservancy's allocation shall include projects for its San 13 Francisco Bay Area Conservancy Program and the Santa Ana 14 River Conservancy programs.

15 (c) The Natural Resources Agency, in consultation with the 16 Wildlife Conservation Board, shall allocate funds based on a review 17 of the strength of the information outlined in each conservancy's 18 climate resiliency plan required pursuant to Section 80266. The 19 Natural Resources Agency shall allocate no less than ten million 20 dollars (\$10,000,000) of the funds made available pursuant to this 21 section to each conservancy.

22 (d) When allocating funds pursuant to this section, the Natural 23 Resources Agency shall give preference to all of the following:

24 (1) Projects that use natural infrastructure.

25 (2) Projects done jointly by more than one conservancy.

26 (3) Projects that maximize greenhouse gas reductions.

27 (4) Conservancies that provide technical assistance to 28 disadvantaged communities, vulnerable populations, including 29 those with access and functional needs, at-risk infrastructure, 30 socially disadvantaged farmers or ranchers, and economically 31 distressed areas.

32 (e) On or before March 1, 2021, the Natural Resources Agency 33 shall develop and provide guidelines for climate resiliency plans 34 to each conservancy.

35 (f) The Natural Resources Agency shall hold at least one public 36 workshop before allocating the funds made available pursuant to 37 this section and shall make information describing the final 38 allocation publicly available on its internet website.

39 80266. (a) On or before January 1, 2022, the Baldwin Hills line 40 Conservancy, State Coastal Conservancy, California Tahoe

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9 (1) Describe how the impacts of climate change relate to the 10 conservancy’s mission and how they will affect the lands within 11 its jurisdiction.

12 (2) Describe the conservancy’s past investment and work 13 addressing the impacts of climate change, reducing greenhouse 14 gas emissions, and improving climate resiliency.

15 (3) Outline a list of all projects or programs that the conservancy 16 would propose to fund with an allocation by the Natural Resources 17 Agency pursuant to Section 80265.

18 (4) Describe the potential benefits of each project or program 19 in increasing climate resilience and reducing the risks of climate 20 change impacts upon communities, fish and wildlife, and natural 21 resources.

22 (b) Each conservancy shall make the climate resiliency plan 23 available on its internet website and provide the climate resiliency 24 plan to the Natural Resources Agency.

25 80267. (a) For purposes of this section, “small- and line 26 medium-sized farms” means farms and ranches of 500 acres or line 27 less.

28 (b) Of the funds made available by Section 80260, two hundred 29 million dollars (\$200,000,000) shall be available, upon 30 appropriation by the Legislature, for purposes of protecting 31 California’s agricultural resources, open spaces, and lands from 32 climate resiliency. Projects pursuant to this chapter shall have 33 climate resiliency goals including:

34 (1) Improving soil health to allow for better water retention, 35 carbon sequestration, and reduced soil erosion to improve resiliency 36 from droughts and floods while improving water quality.

37 (2) Improve on-farm water efficiency to improve resiliency 38 from multiyear droughts.

39 (3) Improve the state’s ability to respond to risks from invasive 40 species.

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1 (c) Of the funds made available by subdivision (b), one hundred 2 fifty million dollars (\$150,000,000) shall be available to the 3 Department of Food and Agriculture for improvements in climate 4 resilience of agricultural lands and ecosystem health and allocated 5 to eligible projects as follows:

6 (1) (A) Fifty million dollars (\$50,000,000) for grants to promote 7 practices on farms and ranches that improve soil health, accelerate 8 atmospheric carbon removal or soil carbon sequestration, improve 9 water quality, enhance groundwater recharge and surface water 10 supplies, or improve fish or wildlife habitat.

11 (B) At least 35 percent of the funds allocated pursuant to this 12 paragraph shall be allocated to projects that provide direct and 13 meaningful benefits to farmers and ranchers in disadvantaged 14 communities.

15 (C) Priority shall be given to small- and medium-sized farms 16 and socially disadvantaged farmers and ranchers.

17 (2) (A) Forty million dollars (\$40,000,000) for grants to 18 promote on-farm water use efficiency with a focus on multiple 19 benefit projects that improve groundwater management, climate 20 resiliency, water quality, surface water use efficiency, drought and 21 flood tolerance, or water supply and water quality conditions for 22 fish and wildlife.

23 (B) At least 35 percent of the funds allocated pursuant to this 24 paragraph shall be allocated to projects that provide direct and 25 meaningful benefits to farmers and ranchers in disadvantaged 26 communities.

27 (C) Priority shall be given to small- and medium-sized farms 28 and socially disadvantaged farmers and ranchers.

29 (3) Forty million dollars (\$40,000,000) for projects that promote 30 the reduction of methane emissions from dairy and livestock 31 operations and improved water quality through alternative manure 32 management and handling, including, but not limited to, the 33 creation of composted manure products. Projects shall not include 34 the funding of anaerobic digesters.

35 (4) Twenty million dollars (\$20,000,000) to be deposited in the 36 Invasive Species Account established pursuant to Section 7706 of 37 the Food and Agricultural Code for purposes of funding invasive 38 species projects and activities recommended by the Invasive 39 Species Council of California. Priority shall be given to projects 40 that restore and protect ecosystem health.

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1 (d) Of the funds made available by subdivision (b), fifty million 2 dollars (\$50,000,000) shall be available to the Department of 3 Conservation for projects for the protection, restoration, and 4 enhancement of farmland and rangeland, including, but not limited 5 to, the acquisition of fee titles or easements, that improve climate 6 resilience, open-space soil health, atmospheric carbon removal, 7 soil carbon sequestration, erosion control, watershed restoration, 8 conservation projects, water quality, water retention, and provide 9 multiple benefits. In awarding funds for farmland and rangeland 10 projects pursuant to this section, the Department of Conservation 11 shall give preference to projects for small- and medium-sized farms 12 At least 35 percent of the funds allocated pursuant to this section 13 shall be allocated to projects that provide direct and meaningful 14 benefits to farmers and ranchers in severely disadvantaged 15 communities.

16 80268. Funds provided by this chapter shall not be expended line 17 to pay the costs of the design, construction, operation, mitigation, line 18 or maintenance of Delta conveyance facilities. Those costs shall line 19 be the responsibility of the water agencies that benefit from the line 20 design, construction, operation, mitigation, or maintenance of those line 21 facilities.

22 23 Chapter 6. 24 Resilience Strengthening California's Regional Climate

25 26 80270. The sum of one billion six hundred million dollars line 27 (\$1,600,000,000) shall be made available, upon appropriation by line 28 the Legislature, for the purposes of strengthening California's line 29 climate resilience based on projects tailored to its unique regions.

30 80271. (a) Of the funds made available by Section 80270, one line 31 billion three hundred million dollars (\$1,300,000,000) shall be line 32 available to the Strategic Growth Council for the reduction in the line 33 risk of climate impacts to communities, including, but not limited line 34 to, wildfire, sea level rise, and extreme heat events. The goal of line 35 these funds is to encourage the development and implementation line 36 of multiple-benefit, cross-sector projects that respond to the line 37 region's greatest climate vulnerabilities.

38 (b) Funds made available by this section shall be available to 39 regional climate networks to implement the highest priority projects 40 identified in approved regional climate adaptation action plans.

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1 (c) Funds made available by this section shall be for public 2 benefits associated with  
climate resiliency projects that reduce 3 climate vulnerabilities.

4 (d) Funds made available *available* by this section shall be 5 allocated to regional climate  
networks, as follows:

6 (1) At least 60 percent of funds shall be available to regional 7 climate networks based on  
the percentage of the state's population 8 included in the jurisdiction of the network's regional  
climate 9 adaptation action plan, but not less than two million dollars 10 (\$2,000,000) per  
network.

11 (2) The remaining funds may be provided to increase the size 12 of the awards under  
paragraph (1) to the extent the approved 13 regional climate adaptation action plan does any of  
the following:

14 (A) Protects vulnerable populations.

15 (B) Protects natural resources prioritized by the state.

16 (C) Enhances statewide climate adaptation strategies, as 17 identified by the most recent  
update of the Safeguarding California 18 Plan developed by the Natural Resources Agency.

19 (D) Reduces or sequesters carbon emissions.

20 (E) Scales to maximize effectiveness of response.

21 (F) Includes information regarding the regional climate 22 network's ability to secure  
matching funds for projects identified 23 within the plan.

24 80272. Of the funds made available by Section 80270, two line 25 hundred million dollars  
(\$200,000,000) shall be available to the line 26 Strategic Growth Council for a competitive grant  
program to reduce line 27 the urban heat island effect. Priority shall be given to projects that line 28  
provide multiple benefits, including rainwater capture, reduction line 29 of stormwater pollution, and  
increased use of natural spaces for line 30 urban vegetation and forestry.

31 80273. Of the funds made available by Section 80270, one line 32 hundred million dollars  
(\$100,000,000) shall be available, upon line 33 appropriation by the Legislature, to the Department  
of Food and line 34 Agriculture for grants to fairgrounds operated by the network of line 35  
California fairs for modifications or upgrades that do either or both line 36 of the following activities:

37 (a) Enhance the ability of those facilities to serve as multirole 38 community, staging,  
and evacuation centers to provide community 39 resilience benefits during a disaster, state of  
emergency, local 40 emergency, or public safety power shutoff event.

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1 (b) Deploy communications and broadband infrastructure at 2 those facilities to improve  
their capability to serve as a multirole 3 community, staging, and evacuation centers and enhance  
local 4 telecommunications service.

5 6 Chapter 7. Fiscal Provisions

7 8 80280. (a) Bonds in the total amount of six billion nine line 9 hundred eighty million  
dollars (\$6,980,000,000), not including the line 10 amount of any refunding bonds issued in  
accordance with Section line 11 80292, may be issued and sold to provide a fund to be used for line  
12 carrying out the purposes expressed in this division and to line 13 reimburse the General  
Obligation Bond Expense Revolving Fund line 14 pursuant to Section 16724.5 of the Government  
Code. The bonds, line 15 when sold, issued, and delivered, shall be and constitute a valid line 16 and  
binding obligation of the State of California, and the full faith line 17 and credit of the State of  
California is hereby pledged for the line 18 punctual payment of both the principal of, and interest  
on, the line 19 bonds as the principal and interest become due and payable.

20 (b) The Treasurer shall cause the issuance and sell the bonds 21 authorized by the  
committee pursuant to this section. The bonds 22 shall be issued and sold upon the terms and  
conditions specified 23 in a resolution to be adopted by the committee pursuant to Section  
24 16731 of the Government Code.

25 80281. The bonds authorized by this division shall be prepared, line 26 executed, issued, sold,  
paid, and redeemed as provided in the State line 27 General Obligation Bond Law (Chapter 4  
(commencing with line 28 Section 16720) of Part 3 of Division 4 of Title 2 of the Government line  
29 Code), as amended from time to time, and all of the provisions of line 30 that law, except  
subdivisions (a) and (b) of Section 16727 of the line 31 Government Code, apply to the bonds and to  
this division and are line 32 hereby incorporated in this division as though set forth in full in line 33  
this division.

34 80282. (a) Solely for the purpose of authorizing the issuance line 35 and sale, pursuant to the  
State General Obligation Bond Law line 36 (Chapter 4 (commencing with Section 16720) of Part 3  
of Division line 37 4 of Title 2 of the Government Code), of the bonds authorized by line 38 this  
division, the Economic Recovery, Wildfire Prevention, Safe line 39 Drinking Water, Drought  
Preparation, and Flood Protection Bond line 40 Finance Committee is hereby created. For purposes  
of this division,

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5 (b) The committee consists of the Director of Finance, the 6 Treasurer, the Controller, and the Secretary of the Natural 7 Resources Agency. Notwithstanding any other law, any member 8 may designate a representative to act as that member in that 9 member’s place for all purposes, as though the member were 10 personally present.

11 (c) The Treasurer shall serve as the chairperson of the 12 committee.

13 (d) A majority of the committee may act for the committee.

14 80283. The committee shall determine whether or not it is line 15 necessary or desirable to issue bonds authorized by this division line 16 in order to carry out the actions specified in this division and, if line 17 so, the amount of bonds to be issued and sold. Successive issues line 18 of bonds may be authorized and sold to carry out those actions line 19 progressively, and it is not necessary that all of the bonds line 20 authorized to be issued be sold at any one time.

21 80284. For purposes of the State General Obligation Bond Law line 22 (Chapter 4 (commencing with Section 16720) of Part 3 of Division line 23 4 of Title 2 of the Government Code), “board,” as defined in line 24 Section 16722 of the Government Code, means the Secretary of line 25 the Natural Resources Agency.

26 80285. There shall be collected each year and in the same line 27 manner and at the same time as other state revenue is collected, line 28 in addition to the ordinary revenues of the state, a sum in an amount line 29 required to pay the principal of, and interest on, the bonds each line 30 year. It is the duty of all officers charged by law with any duty line 31 regarding the collection of the revenue to do and perform each and line 32 every act that is necessary to collect that additional sum.

33 80286. Notwithstanding Section 13340 of the Government line 34 Code, there is hereby continuously appropriated from the General line 35 Fund in the State Treasury, for the purposes of this division, and line 36 without regard to fiscal years, an amount that will equal the total line 37 of the following:

38 (a) The sum annually necessary to pay the principal of, and 39 interest on, bonds issued and sold pursuant to this division, as the 40 principal and interest become due and payable.

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1 (b) The sum that is necessary to carry out Section 80289.

2 80287. The board may request the Pooled Money Investment line 3 Board to make a loan from  
the Pooled Money Investment Account, line 4 including other authorized forms of interim financing  
that include, line 5 but are not limited to, commercial paper, in accordance with line 6 Section 16312  
of the Government Code, for the purpose of carrying line 7 out this division. The amount of the  
request shall not exceed the line 8 amount of the unsold bonds that the committee has, by resolution,  
line 9 authorized to be sold for the purpose of carrying out this division, line 10 excluding any  
refunding bonds authorized pursuant to Section line 11 80292, less any amount loaned and not yet  
repaid pursuant to this line 12 section and withdrawn from the General Fund pursuant to Section line  
13 80289 and not yet returned to the General Fund. The board shall line 14 execute those documents  
required by the Pooled Money Investment line 15 Board to obtain and repay the loan. Any amounts  
loaned shall be line 16 deposited in the fund to be allocated in accordance with this line 17 division.

18 80288. Notwithstanding any other provision of this division, line 19 or of the State General  
Obligation Bond Law (Chapter 4 line 20 (commencing with Section 16720) of Part 3 of Division 4 of  
Title line 21 2 of the Government Code), if the Treasurer sells bonds pursuant line 22 to this chapter  
that include a bond counsel opinion to the effect line 23 that the interest on the bonds is excluded  
from gross income for line 24 federal tax purposes under designated conditions or is otherwise line  
25 entitled to any federal tax advantage, the Treasurer may maintain line 26 separate accounts for the  
bond proceeds invested and for the line 27 investment earnings on those proceeds and may use or  
direct the line 28 use of those proceeds or earnings to pay any rebate, penalty, or line 29 other  
payment required under federal law or take any other action line 30 with respect to the investment  
and use of those bond proceeds, as line 31 may be required or desirable under federal law in order to  
maintain line 32 the tax-exempt status of those bonds and to obtain any other line 33 advantage under  
federal law on behalf of the funds of this state.

34 80289. For purposes of carrying out this division, the Director line 35 of Finance may  
authorize the withdrawal from the General Fund line 36 of an amount or amounts not to exceed the  
amount of the unsold line 37 bonds that have been authorized by the committee to be sold for line 38  
the purpose of carrying out this division, excluding refunding line 39 bonds authorized pursuant to  
Section 80292, less any amount line 40 loaned pursuant to Section 80287 and not yet repaid and any  
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9 80290. All moneys deposited in the fund that are derived from line 10 premiums and accrued interest on bonds sold pursuant to this line 11 division shall be reserved in the fund and shall be available for line 12 transfer to the General Fund as a credit to expenditures for bond line 13 interest, except that amounts derived from premiums may be line 14 reserved and used to pay the cost of bond issuance before any line 15 transfer to the General Fund.

16 80291. Pursuant to the State General Obligation Bond Law line 17 (Chapter 4 (commencing with Section 16720) of Part 3 of Division line 18 4 of Title 2 of the Government Code), the cost of bond issuance line 19 shall be paid or reimbursed out of the bond proceeds, including line 20 premiums, if any. To the extent the cost of bond issuance is not line 21 paid from premiums received from the sale of bonds, these costs line 22 shall be allocated proportionally to each program funded through line 23 this division by the applicable bond sale.

24 80292. The bonds issued and sold pursuant to this division line 25 may be refunded in accordance with Article 6 (commencing with line 26 Section 16780) of Chapter 4 of Part 3 of Division 4 of Title 2 of line 27 the Government Code, which is a part of the State General line 28 Obligation Bond Law. Approval by the voters of the state for the line 29 issuance of the bonds under this division shall include approval line 30 of the issuance of any bonds issued to refund any bonds originally line 31 issued under this division or any previously issued refunding bonds. line 32 Any bond refunded with the proceeds of a refunding bond as line 33 authorized by this section may be legally defeased to the extent line 34 permitted by law in the manner and to the extent set forth in the line 35 resolution, as amended from time to time, authorizing that refunded line 36 bond.

37 80293. Notwithstanding Section 16727 of the Government line 38 Code, funds provided pursuant to this division may be used for line 39 grants and loans to nonprofit organizations to repay financing line 40 described in Section 22064 of the Financial Code related to projects

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3 80294. The proceeds from the sale of bonds authorized by this line 4 division are not “proceeds of taxes” as that term is used in Article line 5 XIII B of the California Constitution, and the disbursement of line 6 these proceeds is not subject to the limitations imposed by that line 7 article.

8 SEC. 3. Section 2 of this act shall take effect upon the approval line 9 by the voters of the Economic Recovery, Wildfire Prevention, Safe line 10 Drinking Water, Drought Preparation, and Flood Protection Bond line 11 Act of 2020, as set forth in Section 2 of this act.

12 SEC. 4. (a) (1) Notwithstanding Sections 9040, 9043, 9044, line 13 9061, and 9082 of the Elections Code, or any other law, Section line 14 2 of this act shall be submitted by the Secretary of State to the line 15 voters at the November 3, 2020, statewide general election.

16 (2) The requirement of Section 9040 of the Elections Code that 17 a measure submitted to the people by the Legislature appear on 18 the ballot of the November 3, 2020, statewide general election 19 occurring at least 131 days after the adoption of the proposal by 20 the Legislature shall not apply to Section 2 of this act.

21 (b) The Secretary of State shall include in the ballot pamphlets 22 mailed pursuant to Section 9094 of the Elections Code the 23 information specified in Section 9084 of the Elections Code 24 regarding Section 2 of this act. If that inclusion is not possible, the 25 Secretary of State shall publish a supplemental ballot pamphlet 26 regarding Section 2 of this act to be mailed with the ballot 27 pamphlet. If the supplemental ballot pamphlet cannot be mailed 28 with the ballot pamphlet, the supplemental ballot pamphlet shall 29 be mailed separately.

30 (c) Notwithstanding Section 9054 of the Elections Code or any 31 other law, the translations of the ballot title and the condensed 32 statement of the ballot title required pursuant to Section 9054 of 33 the Elections Code for Section 2 of this act may be made available 34 for public examination at a later date than the start of the public 35 examination period for the ballot pamphlet.

36 (d) Notwithstanding Sections 13115 and 13117 of the Elections 37 Code, Section 2 of this act and any other measure placed on the 38 ballot by the Legislature for the November 3, 2020, statewide 39 general election after the 131-day deadline set forth in Section 40 9040 of the Elections Code shall be placed on the ballot, following

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1 all other ballot measures, in the order in which they qualified as 2 determined by chapter number.

3 SEC. 5. The provisions of this act are severable. If any line 4 provision of this act or its application is held invalid, that invalidity line 5 shall not affect other provisions or applications that can be given line 6 effect without the invalid provision or application.

*This act is an urgency statute necessary for the line 8 immediate preservation of the public peace, health, or safety within line 9 the meaning of Article IV of the California Constitution and shall line 10 go into immediate effect. The facts constituting the necessity are:*

*In order to ensure that the Economic Recovery, Wildfire line 12 Prevention, Safe Drinking Water, Drought Preparation, and Flood line 13 Protection Bond Act of 2020 is placed on the ballot for the line 14 November 3, 2020, statewide general election and that revenues line 15 from the sale of bonds authorized under the Economic Recovery, line 16 Wildfire Prevention, Safe Drinking Water, Drought Preparation, line 17 and Flood Protection Bond Act of 2020, if approved by the voters, line 18 are available as soon as possible to fund programs for the line 19 economic recovery of the state, it is necessary for this act to take line 20 effect immediately.*

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Susan Wengraf  
Councilmember District 6

CONSENT CALENDAR  
June 30, 2020

To: Honorable Mayor and Members of the City Council  
From: Councilmember Susan Wengraf  
Subject: Support for AB-2501 COVID-19: Homeowner, Tenant, and Consumer relief

RECOMMENDATION

Adopt a Resolution in support of AB-2501: Homeowner, Tenant and Consumer Relief (Limón). Send a copy of the Resolution to Assemblymembers Limón, Skinner and Wicks and Governor Newsom.

AB-2501 provides for temporary forbearance and affordable post-forbearance repayment options for borrowers facing financial hardship during the COVID-19 emergency and 180 days thereafter, related to mortgages and vehicle financing. Tenants experiencing financial hardship would receive rent relief (deferment) and evictions would be prohibited, during the life of the mortgage forbearance.

FINANCIAL IMPLICATIONS

No financial implications to send resolution to Legislators.

BACKGROUND

The COVID-19 pandemic has severely shocked our state economy. Unemployment claims have reached unprecedented levels over the last three months, and the metric does not reflect the economic damage caused by salary and wage reductions that are not accounted for in unemployment data or the loss of income received by small business owners. This bill seeks to address the immediate threat to the financial well-being and health of California families.

AB-2501 (Limón) would provide a temporary reprieve from payment obligations related to mortgages, car loans, and payday loans. This bill does not cancel or forgive any scheduled payment obligation; rather, it provides a way for borrowers to defer payment to a later date when the immediate impacts of the pandemic have subsided. This bill would give California families a chance to weather the current storm without losing their homes and vehicles or ruining their financial well-being.

Specifically, AB-2501 would provide 18 months of forbearance, with possible extension, to homeowners and multifamily owners who are experiencing financial hardship due to COVID-19. The bill would require the multifamily borrower to provide rent relief (deferment) to tenants living on the property for the length of the forbearance. A

homeowner receiving forbearance would also be required to provide rent relief to tenants, if any, living in their home. Evictions would be prohibited during the forbearance period.

The bill also prohibits loan servicers of vehicle-secured credit from taking any action to repossess a mobile home or motor vehicle that secures a loan during the COVID-19 emergency and for 180 days after. It would require loan-servicers to provide 90 days forbearance to consumers who request it because they are experiencing financial hardship due to COVID-19. Servicers can apply up to 7% annual interest but cannot apply additional fees or penalties.

ENVIRONMENTAL SUSTAINABILITY

Keeping people housed in their homes is essential to the wellbeing of our environment

CONTACT PERSON

Councilmember Wengraf

Council District 6

510-981-7160

Attachments:

1: Resolution

2: [AB-2501](#)

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

CITY OF BERKELEY SUPPORTS AB-2501

WHEREAS, The City of Berkeley's Public Health Officer, along with six SF Bay Area Counties, issued a stay at home order beginning March 17, 2020 to protect residents from contracting and spreading COVID-19; and

WHEREAS, that effective and necessary action, also taken by the Governor two days later, devastated Berkeley residents', and all Californians', ability to work, resulting in greater than 20 percent unemployment in the state; and

WHEREAS, AB-2501 seeks to address the immediate threat to the financial well-being and health of California families; and

WHEREAS, AB-2501 would provide 18 months of mortgage forbearance, with possible extension, to homeowners and multifamily owners who are experiencing financial hardship due to COVID-19; and

WHEREAS, AB-2501 would require borrowers who receive forbearance to provide rent relief (deferment) to tenants living on the property, as well as prohibit evictions for the length of the forbearance; and

WHEREAS, AB-2501 also prohibits loan servicers of vehicle-secured credit from taking any action to repossess a mobile home or motor vehicle that secures a loan during the COVID-19 emergency and for 180 days after.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that it stands in full support of AB-2501 and commends Assemblymember Monique Limón for developing the legislation.

AMENDED IN ASSEMBLY JUNE 4,  
2020

AMENDED IN ASSEMBLY MAY 11,  
2020

california legislature—2019–20 regular session

**ASSEMBLY BILL**

**No. 2501**

Introduced by Assembly Member Limón

February 19, 2020

An act to add Title 19 (commencing with Section 3273.01) to Part 4 of Division 3 of the Civil Code, and to add Sections 22698 and Section 23039 to the Financial Code, relating to COVID-19 relief.

legislative counsel's digest

AB 2501, as amended, Limón. COVID-19: homeowner, tenant, and consumer relief.

(1) Existing law prescribes various requirements to be satisfied before the exercise of a power of sale under a mortgage or deed of trust. In this regard, existing law requires that a notice of default and a notice of sale be recorded and that specified periods of time elapse between the recording and the sale. Existing law establishes certain requirements in connection with foreclosures on mortgages and deeds of trust, including restrictions on the actions mortgage servicers while a borrower is attempting to secure a loan modification or has submitted a loan modification application. Existing law also imposes requirements on loans secured by liens on motor vehicles.

This bill would enact the COVID-19 Homeowner, Tenant, and Consumer Relief Law of 2020. The bill, with respect to residential mortgage loans, would prohibit a mortgage servicer, mortgagee, trustee, beneficiary, or authorized agent, as defined, from taking specified actions during the COVID-19 emergency and the 180-day period

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AB 2501

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following the emergency. The bill would prohibit the above persons from commencing or continuing any judicial foreclosure action, recording a notice of default, or taking any action to evict a person following a foreclosure. The bill would also require the above persons to stay all foreclosure proceedings and time limits in a judicial or nonjudicial

foreclosure on a property. The bill would not apply these provisions to a mortgage secured by a dwelling that any of the above persons has determined, after exercising reasonable diligence, is vacant or abandoned.

The bill, with respect to residential mortgage loans, would authorize a borrower experiencing a financial hardship during the COVID-19 emergency ~~or the 180 days thereafter~~, to seek *request* forbearance from any mortgage obligation by submitting a request to the borrower's mortgage servicer. The bill would require the mortgage servicer to provide the forbearance requested for 180 days and to extend that timeframe if the borrower affirms that they continue to experience hardship. The bill would prohibit a mortgage servicer from misleading or making misrepresentations to a borrower about forbearance and repayment options.

The bill would require a borrower receiving a forbearance with respect to a mortgage secured by a dwelling that has a tenant, regardless of whether the borrower also lives in the dwelling, to provide the tenant with rent relief for not less than the forbearance period. The bill would require a mortgage servicer, during the COVID-9 emergency, to automatically grant a delinquent borrower on a mortgage obligation a 180-day forbearance, subject to extension. The bill would require a mortgage servicer, upon placing a mortgage obligation in forbearance, to provide the borrower written notification of the forbearance terms, treatment of payments, and other options available to the borrower at the end of the forbearance period.

The bill would prohibit a mortgage servicer from assessing, accruing, or applying fees, penalties, or additional interest to the borrower's account beyond specified scheduled or calculated amounts. The bill would require the mortgage servicer, if the borrower in forbearance makes payments to an impound account, to pay or advance the disbursements on or before relevant deadlines to avoid a penalty and would authorize the mortgage servicer to collect any resulting shortage or deficiency on that account for the borrower after the forbearance period ends. The bill would also require the mortgage servicer to evaluate the borrower's ability to return to making regular mortgage

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payments, and to take various steps to allow for modification of the borrower's loan. The bill would require a mortgage servicer that claims investor guidelines or applicable law prohibit implementation of postforbearance reinstatement to

notify the Commissioner of Business Oversight, as specified, and to present documentation, in accordance with procedures developed by the commissioner, subject to judicial review. The bill would require the mortgage servicer, if the borrower is unable to return to making regular mortgage payments, to evaluate all loan modification options, and, if the borrower qualifies, to implement the option with no penalties, late fees, or additional interest beyond specified scheduled amounts. The bill would also require a mortgage servicer, if a borrower does not qualify for modification, to evaluate the borrower for all available nonhome retention loss mitigation options before considering any foreclosure acts. The bill would require any notices or agreements to be provided in specified languages.

The bill would provide that a mortgage servicer that violates any of the above requirements forfeits their rights to commence a foreclosure on a borrower that is harmed by the violation, subject to the right to cure a violation and reinstate their rights. The bill would also make a violation of the above provisions an unfair and deceptive business practice, as well as a violation of other specified laws. The bill would authorize a borrower, if a trustee's deed upon sale has not been recorded, to bring an action for injunctive relief, and would establish various other legal remedies, including treble damages and attorney's fees and costs.

The bill, with respect to multifamily mortgage loans, would authorize a borrower to submit a request for forbearance to the borrower's mortgage servicer, affirming that the multifamily borrower is experiencing hardship during the COVID-19 emergency. The bill would require a mortgage servicer, upon request from a multifamily borrower, to request documentation of the financial hardship, provide the forbearance for not less than 180 days, subject to extension. The bill would require a multifamily borrower, during the forbearance term, to provide rent relief to tenants living in the property secured by the mortgage and would prohibit eviction for a tenant's nonpayment of rent or application or accrual of fees or other penalties on renters for nonpayment of rent. The bill would require a multifamily borrower to bring a loan placed in forbearance under these provisions current within a specified timeframe.

This bill, with respect to vehicle-secured credit obligations, would prohibit a servicer of vehicle-secured credit from taking any action to

repossess a mobilehome or motor vehicle that secures a loan during the COVID-19 emergency and for the 180-day period thereafter. The bill would authorize a consumer experiencing a financial hardship during the COVID-19 emergency to request forbearance from any vehicle-secured credit obligation, ~~regardless of delinquency status, obligation~~ by submitting a request to the servicer of vehicle-secured credit, affirming that the ~~borrower-consumer~~ is experiencing hardship. The bill would require a servicer of vehicle-secured credit to provide the forbearance requested for a period of 90 days, and to extend the forbearance period upon request, if the ~~borrower-consumer~~ affirms that they continue to experience hardship. The bill would *authorize a servicer of vehicle-secured credit to assess, accrue, or apply to a consumer's account a rate of interest of up to 7% per annum, but would* prohibit a servicer of vehicle-secured credit from assessing, accruing, or applying *additional* fees, penalties, or other interest to a ~~borrower's-consumer's~~ account beyond the amounts scheduled or calculated, as specified.

The bill would require the holder of a vehicle-secured credit obligation to evaluate a consumer's ability return to making regular payments before the completion of a forbearance period, and if the consumer is able to return to making regular payments, modify the consumer's vehicle-secured credit obligation to extend the term, modify the obligation, notify the borrower, and take other specified actions, including proceeding with a written notice of intent to repossess the vehicle only after the expiration of the COVID-19 emergency and the 180-day period thereafter. ~~The bill would also provide that a deficiency judgment shall not lie after the sale or disposition of a mobilehome or motor vehicle for failure by a consumer to make a payment after the sale or other disposition of a mobilehome or motor vehicle for failure by a consumer to make a payment that was due during the COVID-19 emergency or the 180-day period following the emergency unless the servicer of the vehicle-secured credit obligation has complied with these provisions. The bill would provide that a repossession of a mobilehome or motor vehicle by a servicer of a vehicle-secured credit obligation that has failed to comply with all of these provisions constitutes an acceptance of the collateral in full satisfaction of the vehicle-secured credit obligation.~~

~~(2) Existing law, commonly known as the Property Assessed Clean Energy (PACE) program, authorizes public agency officials and property owners, as provided, to enter into voluntary contractual assessments, known as PACE assessments, to finance the installation of distributed~~

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~~generation renewable energy sources or energy or water efficiency improvements that are permanently fixed to real property.~~

~~Existing law, the California Financing Law (CFL), requires a program administrator who administers a PACE program on behalf of, and with the written consent of, a public agency to comply with specified requirements relating to the PACE program. Existing law requires a program administrator to be licensed by the Commissioner of Business Oversight under the CFL.~~

~~This bill would require a program administrator, during the COVID-19 emergency and the 180-day period thereafter, within 60 days after enactment of this bill, to notify each property owner with an outstanding assessment contract that the property owner is entitled to forbearance on the next annual PACE assessment owed pursuant to the assessment contract, if the property owner is facing a financial hardship due to the COVID-19 emergency. The bill would require the notification to specify how the property owner may elect to accept the offer of forbearance and would require a program administrator to provide forbearance on the next annual PACE assessment owed by a property owner that accepts such an offer. The bill would permit a program administrator under these circumstances to require the property owner to pay the amount of the forborne PACE assessment in the year following the scheduled end of the assessment contract and would prohibit a program administrator from charging additional fees or interest related to the forborne PACE assessment. The bill would also prohibit a program administrator from exercising any contractual rights of acceleration related to unpaid assessments during the COVID-19 emergency.~~

(3)

(2) The California Deferred Deposit Transaction Law provides for the licensure and regulation by the Commissioner of Business Oversight of persons engaged in the business of making or arranging deferred deposit transactions. A knowing and willful violation of the provisions of this law is a crime.

This bill, during the COVID-19 emergency and the 180-day period thereafter, would prohibit a fee for a deferred deposit transaction from exceeding 5% of the face amount of the check. The bill would require a licensee under that law to offer a customer the option to enter into a payment plan that provides an extension of time for repayment of an existing deferred deposit transaction in accordance with specified procedures. By expanding the scope of an existing crime, the bill would



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impose a state-mandated local program. The bill would also include related legislative findings.

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. The Legislature finds and declares the
- 2 following:
- 3 (a) In late December 2019, several cases of unusual
- 4 pneumonia
- 5 began to emerge in the Hubei province of China. On
- 6 January 7,
- 7 2020, a novel coronavirus, SARS-CoV-2, was identified as
- 8 the
- 9 likely source of the acute respiratory disease now
- 10 known as
- 11 COVID-19.
- 12 (b) Infections have rapidly spread to other countries
- 13 throughout
- 14 the world, including the United States.
- 15 (c) On January 30, 2020, the World Health Organization
- 16 (WHO)
- 17 declared COVID-19 a Public Health Emergency of
- 18 International
- 19 Concern, and on January 31, 2020, the United States
- 20 Secretary of
- 21 Health and Human Services declared a public health
- 22 emergency.
- 23 (d) On March 4, 2020, California Governor Gavin
- 24 Newsom
- 25 declared a state of emergency to make additional
- 26 resources
- 27 available, formalize emergency actions already underway
- 28 across
- 29 multiple state agencies and departments, and help the state
- 30 prepare

17 for a broader spread of COVID-19.  
18 (e) On March 19, 2020, California Governor Gavin  
Newsom  
19 issued a stay at home order to protect the health and well-  
being of  
20 all Californians and to establish consistency across the  
state in  
21 order to slow the spread of the virus.  
22 (f) Due to the voluntary and mandatory actions by  
Californians  
23 to slow the spread of COVID-19, economic activity in the  
state  
24 has fallen precipitously.  
25 (g) In the seven weeks prior to May 1, 2020,  
approximately  
26 3,900,000 California workers filed claims for  
unemployment  
27 benefits, which represents 20 percent of the state's workforce.

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1 (h) The economic hardships brought on by the  
COVID-19  
2 pandemic mean that many California individuals and  
households  
3 are likely to have difficulty remaining current on monthly  
debt  
4 obligations through no fault of their own.  
5 (i) Temporary forbearance benefits not only borrowers, but  
also  
6 other creditors by avoiding downward collateral price  
spirals  
7 triggered by an increase in foreclosure or repossession  
activity.  
8 (j) Without forbearance, many borrowers are unlikely to  
pay  
9 their obligations according to their original terms and are  
likely to  
10 default on obligations or file for bankruptcy, resulting in  
reduced  
11 recoveries for creditors, and in the case of bankruptcy, no  
recovery  
12 of unaccrued interest.  
13 (k) With forbearance, creditors are likely to realize  
greater  
14 long-term value because borrowers will be more likely to  
repay  
15 their obligations after the major disaster or emergency has  
subsided.

16 (l) Ensuring that homeowners and tenants are able to  
17 remain in  
18 their residences helps to minimize the spread of the  
19 novel  
20 coronavirus and protects the public health.

21 (m) Providing forbearance and an opportunity to repay  
22 amounts  
23 owed after the emergency subsidies will position  
24 California  
25 consumers, households, and businesses for a stronger  
26 economic  
27 recovery than the state would otherwise realize if no action  
28 were  
29 taken.

30 (n) Without emergency action to prevent it, delinquent  
31 loan  
32 payments will likely lead to mass foreclosures, evictions,  
33 and  
34 repossessions that will harm the health, safety, and  
welfare of  
Californians today and for years after the pandemic ends.

35 (o) The Legislature hereby finds and declares that  
36 there is a  
37 current and immediate threat to the public health,  
38 safety, and  
39 welfare and a need for immediate preservation of the public  
40 peace,  
41 health, or safety that warrants this urgency legislation,  
42 which  
43 finding is based upon the facts stated in the recitals above.

44 SEC. 2. Title 19 (commencing with Section 3273.01) is  
45 added  
46 to Part 4 of Division 3 of the Civil Code, to read:

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1 TITLE 19. COVID-19 HOMEOWNER, TENANT, AND  
2 CONSUMER RELIEF LAW OF 2020  
3

4 Chapter 1. Title and Definitions  
5

6 3273.01. This title is known and may be cited as  
7 the  
8 “COVID-19 Homeowner, Tenant, and Consumer Relief  
9 Law of 2020.”

9 3273.1. For purposes of this title, the following  
definitions

10 apply:

11 (a) "Borrower" means any natural person who is a mortgagor  
12 or trustor and who is potentially eligible for any federal, state, or  
13 proprietary foreclosure prevention alternative program offered by,  
14 or through, the borrower's mortgage servicer. "Borrower" shall  
15 not include any of the following:

16 (1) An individual who has surrendered the secured property as  
17 evidenced by either a letter confirming the surrender or delivery  
18 of the keys to the property to the mortgagee, trustee, beneficiary,  
19 or authorized agent.

20 (2) An individual who has contracted with an organization,  
21 person, or entity whose primary business is advising people who  
22 have decided to leave their homes on how to extend the foreclosure  
23 process and avoid their contractual obligations to mortgagees.

24 (b) "Consumer" means a person obligated to repay a  
25 vehicle-secured credit obligation.

26 (c) "COVID-19 emergency" means the period that begins upon  
27 the date of the enactment of this title and ends on the date that the  
28 state declares the emergency related to the COVID-19 disease has  
29 ended.

30 (d) "Impound account" means a type of account for payment  
31 of taxes on real property, insurance premiums, or other purposes  
32 relating to the property. Such an account may be structured as an  
33 impound, trust, or other type of account.

34 (e) "Mobilehome" means a structure designed for human  
35 habitation and for being moved on a street or highway under permit  
36 pursuant to Section 35790 of the Vehicle Code. Mobilehome  
37 includes a manufactured home, as defined in Section 18007 of the  
38 Health and Safety Code, and a mobilehome, as defined in Section  
39 18008 of the Health and Safety Code, but, except as provided in  
40 subdivision (b), does not include a recreational vehicle, as defined

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1 in Section 799.29 of this code and Section 18010 of the  
Health  
2 and Safety Code or a commercial coach as defined in  
Section  
3 18001.8 of the Health and Safety Code.

4 (f) "Mortgage servicer" means a person or entity who  
directly  
5 services a loan, or who is responsible for interacting with  
the  
6 borrower, managing the loan account on a daily basis  
including  
7 collecting and crediting periodic loan payments, managing

any  
 8 escrow account, or enforcing the note and security instrument,  
 9 either as the current owner of the promissory note or as the current  
 10 owner’s authorized agent. “Mortgage servicer” also means a  
 11 subservicing agent to a master servicer by contract. “Mortgage  
 12 servicer” shall not include a trustee, or a trustee’s authorized agent,  
 13 acting under a power of sale pursuant to a deed of trust.  
 14 (g) “Motor vehicle” means a vehicle required to be registered  
 15 under the Vehicle Code that is bought for use primarily for personal  
 16 or family purposes, and does not mean any vehicle that is bought  
 17 for use primarily for business or commercial purposes or a  
 18 mobilehome, as defined in Section 18008 of the Health and Safety  
 19 Code that is sold on or after July 1, 1981. “Motor vehicle” does  
 20 not include any trailer that is sold in conjunction with a vessel and  
 21 that comes within the definition of “goods” under Section 1802.1.  
 22 (h) “Multifamily borrower” means a borrower of a residential  
 23 mortgage loan that is secured by a lien against a property  
 24 comprising five or more dwelling units.  
 25 (i) “Servicer of vehicle-secured credit” means either:  
 26 (1) The entity that is servicing the vehicle-secured credit  
 27 obligation for the holder.  
 28 (2) The holder, if it is servicing the obligation.  
 29 (j) “Vehicle-secured credit obligation” means *a form of credit*  
 30 *owed by a natural person, not to include artificial entities, such*  
 31 *as partnerships, corporations, trusts, estates, cooperatives,*  
 32 *associations or entities created by statute, such as governmental*  
 33 *agencies, that is either:*  
 34 (1) A loan for ~~personal, family, or household purposes~~ that is  
 35 secured by a mobilehome or motor vehicle.  
 36 (2) A conditional sale contract as defined by subdivision (a) of  
 37 Section 2981.  
 38 3273.2. (a) The provisions of this title apply to specified  
 39 obligations, as follows:

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1 (1) Article 1 (commencing with Section 3273.10) of  
 2 Chapter 2  
 3 shall apply to a mortgage or deed of trust that is  
 4 secured by  
 5 residential property containing no more than four dwelling  
 6 units.  
 7 (2) Article 2 (commencing with Section 3273.20) of  
 8 Chapter 2  
 9 shall apply to a mortgage or deed of trust that is  
 10 secured by  
 11 residential property containing five or more dwelling units.

7     (3) Chapter 3 (commencing with Section 3273.30) shall  
       apply  
 8     to a vehicle-secured credit obligation that was outstanding  
       as of  
 9     the enactment of this title.  
 10    (b) Notwithstanding subdivision (a), Chapter 3 shall apply to  
 11    all nonpurchase money loans where the lender obtains a security  
 12    interest in a motor vehicle.  
 13    (b)  
 14    (c) The provisions of this title apply to the specified persons,  
 15    as follows:  
 16    (1) Chapter 2 (commencing with Section 3273.10) shall apply  
 17    to a depository institution chartered under federal or state law, a  
 18    person licensed pursuant to Division 9 (commencing with Section  
 19    22000) or Division 20 (commencing with Section 50000) of the  
 20    Financial Code, or a person licensed pursuant to Part 1  
 21    (commencing with Section 10000) of Division 4 of the Business  
 22    and Professions Code.  
 23    (2) Chapter 3 (commencing with Section 3273.30) shall apply  
 24    to a holder of a conditional sales contract as defined by the  
 25    Automobile Sales Finance Act (Chapter 2b (commencing with  
 26    Section 2981) of Title 14), ~~a person licensed pursuant to covered~~  
 27    ~~by the licensing requirements of~~ Division 9 (commencing with  
 28    Section 22000) of the Financial Code, or a depository institution  
 29    chartered under federal or state  
 law. 30

Chapter 2. Mortgages

32

Article 1. Residential Mortgage Loans

34

35    3273.10. (a) A mortgage servicer, mortgagee, trustee,  
 36    beneficiary, or authorized agent shall not do any of the following  
 37    during the COVID-19 emergency and the 180-day period following  
 38    that emergency:  
 39    (1) Commence or continue any judicial foreclosure action.  
 40    (2) Record a notice of default pursuant to Section 2924.

1     (3) Take any action to evict a person following a  
       foreclosure.  
 2     (b) A mortgage servicer, mortgagee, trustee,  
       beneficiary, or  
 3     authorized agent shall stay all foreclosure proceedings and  
       time

4 limits in a judicial or nonjudicial foreclosure on a property  
 5 during  
 6 the COVID-19 emergency and the 180-day period following  
 7 that  
 8 emergency. All time periods established under the state  
 9 foreclosure  
 10 law for a borrower to respond, cure a default, redeem, or  
 11 take any  
 12 action shall be stayed during the COVID-19 emergency and  
 13 the  
 14 180-day period following that emergency.

15 (c) This section does not apply to a mortgage that is  
 16 secured by  
 17 a dwelling that the mortgage servicer, mortgagee,  
 18 trustee,  
 19 beneficiary, or authorized agent has determined, after  
 20 exercising  
 21 reasonable diligence, is vacant or abandoned.

~~14 3273.11. (a) A borrower experiencing a financial  
 15 hardship  
 16 during the COVID-19 emergency or the 180 days following  
 17 that  
 18 emergency may request forbearance from any mortgage  
 19 obligation,  
 20 regardless of delinquency status, by submitting a request  
 21 to the  
 22 borrower's mortgage servicer, either orally or in writing,  
 23 affirming  
 24 that the borrower is experiencing hardship during the  
 25 COVID-19  
 26 emergency. A borrower shall not be required to provide  
 27 any  
 28 additional documentation to receive a forbearance.~~

29 3273.11. (a) *During the COVID-19 emergency, a  
 30 borrower  
 31 may request forbearance from any mortgage  
 32 obligation by  
 33 submitting a request to the borrower's mortgage servicer,  
 34 either  
 35 orally or in writing, affirming that the borrower is  
 36 experiencing  
 37 a financial hardship that prevents the borrower from making  
 38 timely  
 39 payments on the mortgage obligation due, directly or  
 40 indirectly,  
 41 to the COVID-19 emergency.*

42 (b) Pursuant to a borrower submitting a request for  
 43 forbearance,  
 44 a mortgage servicer may require the borrower to provide a  
 45 written  
 46 attestation subject to the following requirements:  
 47 (1) The attestation shall include only the following text:





26 whether or not the borrower also lives in the dwelling, shall provide  
27 the tenant with rent relief for a period of not less than the period  
28 covered by the forbearance.

29 3273.12. (a) Notwithstanding any other state law governing  
30 forbearance relief, during the COVID-19 emergency, a mortgage  
31 servicer shall automatically grant a borrower who is or becomes  
32 60 days or more delinquent on a mortgage obligation a 180-day  
33 forbearance, which may be extended upon request of the borrower  
34 for an additional 180 days. Such a borrower may elect to continue  
35 making regular payments by notifying their mortgage servicer of  
36 their election.

37 (b) Upon placing a mortgage obligation in forbearance pursuant  
38 to subdivision (a), a mortgage servicer shall provide the borrower  
39 written notification of the forbearance terms, including treatment  
40 of payments to an impound account during the forbearance period,

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1 and a complete and accurate description of the loss  
mitigation and  
2 reinstatement options that will be available to the borrower at  
the  
3 end of the forbearance period.

4 (c) Any payments made by the borrower during the  
forbearance  
5 period shall be credited to the borrower's account in  
accordance  
6 with Section 129F of the Truth in Lending Act (15 U.S.C.  
Sec.  
7 1639f) or as the borrower may otherwise instruct that is  
consistent  
8 with the terms of the mortgage loan contract.

9 3273.13. (a) Upon receiving a request for forbearance  
from a  
10 borrower under Section 3273.11 or placing a borrower in automatic  
11 forbearance under Section 3273.12, a mortgage servicer shall  
12 provide the forbearance for not less than 180 days, and an  
13 additional 180 days at the request of the borrower, provided that  
14 the borrower will have the option to discontinue the forbearance  
15 at any time.

16 (b) During the period of a forbearance under this article, a  
17 mortgage servicer shall not assess, accrue, or apply to a borrower's  
18 account any fees, penalties or additional interest beyond the  
19 amounts scheduled or calculated as if the borrower made all  
20 contractual payments on time and in full under the terms of the  
21 mortgage contract in effect at the time the borrower enters into the  
22 forbearance.

23 (c) If a borrower in forbearance under this article is required to  
24 make payments to an impound account, the mortgage servicer shall

25 pay or advance the disbursements on or before any relevant  
26 deadlines to avoid a penalty, regardless of the status of the  
27 borrower's payments. The mortgage servicer may collect any  
28 resulting shortage or deficiency in the impound account from the  
29 borrower after the forbearance period ends in any of the following  
30 manners at the borrower's election:

- 31 (1) In a lump sum.
- 32 (2) Amortized over 60 months.
- 33 (3) Capitalized into the loan.

34 3273.14. (a) Before the completion of a forbearance period  
35 provided by this article, a mortgage servicer shall evaluate the  
36 borrower's ability to return to making regular mortgage payments.

37 (b) If the borrower is able to return to making regular mortgage  
38 payments based on the evaluation required by subdivision (a), the  
39 mortgage servicer shall:

- 40 (1) Either:

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1 (A) Modify the borrower's loan to extend the term for the  
2 same  
3 period as the length of the forbearance, with all payments that  
4 were  
5 not made during the forbearance distributed at the same  
6 intervals  
7 as the borrower's existing payment schedule and evenly  
8 distributed  
9 across those intervals, with no penalties, late fees,  
10 additional  
11 interest accrued beyond the amounts scheduled or  
12 calculated as if  
13 the borrower made all contractual payments on time and in  
14 full  
15 under the terms of the mortgage contract in effect at the  
16 time the  
17 borrower entered into the forbearance, and with no  
18 modification  
19 fee charged to the borrower, or

20 (B) If the borrower elects to modify the loan to  
21 capitalize a  
22 resulting impound account shortage or deficiency, the  
23 mortgage  
24 servicer may modify the borrower's loan by reamortizing the  
25 total  
26 unpaid principal balance and extending the term of the  
27 loan  
28 sufficient to maintain the regular mortgage payments.

29 (C) A mortgage servicer that claims investor guidelines  
30 or any

17 applicable law prohibits the mortgage servicers from  
 18 implementing  
 19 a postforbearance reinstatement option described in  
 20 subparagraphs  
 21 (A) and (B) shall notify the borrower and the  
 22 Commissioner of  
 23 Business Oversight of the claim at the time of an  
 24 offer of  
 25 forbearance. Failure to make that disclosure shall have the  
 26 effect  
 27 of a designation by the servicer that it has the  
 28 authority to  
 29 implement the provisions of this section. At the time of an  
 30 offer  
 31 of forbearance, the servicer claiming such an exception  
 32 shall  
 33 present documentation of the ground for the exception  
 34 to the  
 35 borrower and the Commissioner of Business Oversight.  
 36 The  
 37 Commissioner of Business Oversight shall develop a  
 38 procedure  
 39 for reviewing and determining the validity of such  
 40 exception  
 41 requests and an affected borrower shall have the  
 42 opportunity to  
 43 participate in the review. Determinations by the  
 44 Commissioner of  
 45 Business Oversight shall be subject to judicial review.  
 46 (2) Notify the borrower in writing of the extension  
 47 or  
 48 modification required by paragraph (1), including provision  
 49 of a  
 50 new payment schedule and date of maturity, and that the  
 51 borrower  
 52 shall have the election of prepaying the suspended  
 53 payments at  
 54 any time, in a lump sum or otherwise.  
 55 (c) If the borrower is unable to return to making  
 56 regular  
 57 mortgage payments based on the evaluation required by  
 58 subdivision 39 (a):

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1 (1) The mortgage servicer shall evaluate the borrower  
 2 for all  
 3 loan modification options, without regard to whether the  
 4 borrower

3 has previously requested, been offered, or provided a  
4 loan  
5 modification or other loss mitigation option and without  
6 any  
7 requirement that the borrower come current before that  
8 evaluation  
9 or as a condition of eligibility for the modification. A  
10 modification  
11 may include any of the following:  
12 (A) Further extending the borrower's repayment period.  
13 (B) Reducing the principal balance of the loan.  
14 (C) Any other modification or loss mitigation options  
15 available  
16 to the servicer under the terms of any investor  
17 requirements and  
18 existing laws and policies.  
19 (2) If the borrower qualifies for a modification  
20 described in  
21 paragraph (1), the mortgage servicer shall implement the  
22 option,  
23 with no penalties, late fees, additional interest beyond the  
24 amounts  
25 scheduled or calculated as if the borrower made all  
26 contractual  
27 payments on time and in full under the terms of the  
28 mortgage  
29 contract in effect at the time the borrower entered  
30 into the  
31 forbearance, and with no modification fees charged to the  
32 borrower.  
(d) If a mortgage servicer determines that a borrower  
does not  
qualify for a modification after the mortgage servicer  
conducts the  
evaluations required by this section, the mortgage servicer  
shall  
evaluate the borrower for all available nonhome retention  
loss  
mitigation options before considering any foreclosure acts  
upon  
the expiration of 180 days after the COVID-19 emergency.  
3273.15. (a) Any notices or agreements required by this  
article  
shall be provided in the languages described in Section 1632.  
(b) A mortgage servicer shall communicate about  
forbearance  
and loan modification options described in this article in  
the  
borrower's preferred language when the mortgage  
servicer  
regularly communicates with the borrower in that language.  
3273.16. Nothing in this article shall relieve a mortgage

servicer 33 of its obligations under Section 2923.5, 2923.55,  
2923.6, 2923.7,  
34 2924.9, 2924.10, 2924.11, 2924.17, or 2924.18.

35 3273.17. (a) The Legislature finds and declares that  
any duty  
36 mortgage servicers may have to maximize net present value  
under  
37 their pooling and servicing agreements is owed to all  
parties in a  
38 loan pool, or to all investors under a pooling and  
servicing  
39 agreement, not to any particular party in the loan pool or  
investor  
40 under a pooling and servicing agreement, and that a  
mortgage

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1 servicer acts in the best interests of all parties to the loan  
pool or  
2 investors in the pooling and servicing agreement if it agrees  
to or  
3 implements a forbearance, loan modification or workout plan  
for  
4 which both of the following apply:  
5 (1) The loan is in payment default, or payment  
default is  
6 reasonably foreseeable.  
7 (2) Anticipated recovery under the forbearance and  
loan  
8 modification plan exceeds the anticipated recovery  
through  
9 foreclosure on a net present value basis.

10 (b) It is the intent of the Legislature that a mortgage servicer  
11 offer a borrower a forbearance and loan modification or workout  
12 plan if such a plan is consistent with the mortgage servicer's  
13 contractual or other authority.

14 3273.18. (a) (1) A mortgage servicer that violates any of the  
15 requirements of this article shall forfeit any rights to commence a  
16 foreclosure on a borrower that is harmed by the violation.

17 (2) Notwithstanding paragraph (1), the mortgage servicer shall  
18 have a right to cure any violation and reinstate their rights to  
19 commence a foreclosure on the borrower. In order to cure the  
20 violation, the mortgage servicer shall provide the borrower with  
21 compensation, which may include refunds, forbearance, or any  
22 other form of compensation, so that the borrower is returned to a  
23 state similar to that which the borrower would have been if the  
24 mortgage servicer did not violate this article.

25 (b) A violation of any provision of this article shall be deemed  
26 an unfair and deceptive business practice pursuant to Section 17200  
27 of the Business and Professions Code. Such violations include,  
28 but are not limited to, the following:

29 (1) A false statement, misrepresentation, or concealment by a  
30 mortgage servicer related to the availability of postforbearance  
31 payment options.

32 (2) A misrepresentation or concealment related to a requirement  
33 that a borrower pay a lump sum at the end of a forbearance period.

34 (3) A claim of a restriction placed on a mortgage servicer by an  
35 investor that is not provided accurately or timely according to the  
36 provisions of this article.

37 (c) A violation of a provision of this article shall be deemed a  
38 violation of the law pursuant to which a mortgage servicer is  
39 licensed, and such a violation shall be subject to the enforcement  
40 authority provided to the licensing agency by the licensing law.

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1 (d) A violation of Section 4022 of the federal CARES  
Act

2 (Public Law 116-136) shall be a violation of the state  
licensing

3 law pursuant to which a mortgage servicer is licensed.

4 3273.19. (a) (1) If a trustee’s deed upon sale has not  
been

5 recorded, a borrower may bring an action for injunctive  
relief to

6 enjoin a material violation of this article.

7 (2) Any injunction shall remain in place and any trustee’s  
sale

8 shall be enjoined until the court determines that the  
mortgage

9 servicer has corrected and remedied the violation or  
violations

10 giving rise to the action for injunctive relief. An enjoined entity  
11 may move to dissolve an injunction based on a showing that the  
12 material violation has been corrected and remedied.

13 (b) After a trustee’s deed upon sale has been recorded, a  
14 mortgage servicer shall be liable to a borrower for actual economic  
15 damages pursuant to Section 3281, resulting from a material  
16 violation of this article by that mortgage servicer where the  
17 violation was not corrected and remedied prior to the recordation  
18 of the trustee’s deed upon sale. If the court finds that the material  
19 violation was intentional or reckless, or resulted from willful  
20 misconduct by a mortgage servicer, the court may award the  
21 borrower the greater of treble actual damages or statutory damages  
22 of fifty thousand dollars (\$50,000).

23 (c) No violation of this article shall affect the validity of a sale

24 in favor of a bona fide purchaser and any of its encumbrancers for  
25 value without notice.

26 (d) The rights, remedies, and procedures provided to borrowers  
27 by this section are in addition to and independent of any other  
28 rights, remedies, or procedures under any other law. Nothing in  
29 this section shall be construed to alter, limit, or negate any other  
30 rights, remedies, or procedures provided to borrowers by law.

31 (e) A court may award a prevailing borrower reasonable  
32 attorney’s fees and costs in an action brought pursuant to this  
33 section. A borrower shall be deemed to have prevailed for purposes  
34 of this subdivision if the borrower obtained injunctive relief or  
35 was awarded damages pursuant to this  
section. 36

37 Article 2. Multifamily Mortgage Loans

38

39 3273.20. (a) A multifamily borrower may submit a request  
40 for forbearance to the borrower’s mortgage servicer, either orally

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1 or in writing, affirming that the multifamily borrower  
is  
2 experiencing hardship during the COVID-19 emergency.

3 (b) A multifamily borrower shall have the option to  
discontinue  
4 the forbearance at any time.

5 3273.21. Upon receipt of an oral or written request  
for

6 forbearance from a multifamily borrower, a mortgage  
servicer

7 shall request documentation of the financial hardship,  
provide the

8 forbearance for not less than 180 days, and provide the  
forbearance

9 for an additional 180 days upon the request of the borrower at  
least

10 30 days prior to the end of the initial forbearance period.

11 3273.22. During the term of forbearance under this article, a  
12 multifamily borrower shall provide rent relief to any tenants living  
13 in the property that secures the mortgage and may not evict a tenant  
14 for nonpayment of rent or apply or accrue any fees or other  
15 penalties on renters for nonpayment of rent.

16 3273.23. A multifamily borrower shall bring a loan placed in  
17 forbearance under this article current within the earlier of 12  
18 months after the conclusion of the forbearance period or within  
19 10 days of the receipt by the multifamily borrower of any business  
20 interruption insurance proceeds.

21 3273.24. A mortgage servicer of a federally backed multifamily  
22 mortgage loan that complies with Section 4023 of the federal  
23 CARES Act (Public Law 116-136) shall be deemed to be in  
24 compliance with this  
25 article.

26 Chapter 3. Vehicle-secured credit obligations

27

28 3273.30. A servicer of vehicle-secured credit may not take any  
29 action to repossess the mobilehome or motor vehicle that secures  
30 a loan during the COVID-19 emergency and for the 180-day period  
31 following that emergency, including providing a verbal or written  
32 notice of intent to repossess the mobilehome or motor vehicle.

33 ~~3273.31. (a) A consumer experiencing a financial hardship  
34 during the COVID-19 emergency may request forbearance from  
35 any vehicle-secured credit obligation, regardless of delinquency  
36 status, by submitting a request to the servicer of vehicle-secured  
37 credit, either orally or in writing, affirming that the borrower is  
38 experiencing hardship during the COVID-19 emergency. A  
39 borrower shall not be required to provide any additional  
40 documentation to receive such forbearance.~~

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1 3273.31. (a) *If a servicer of vehicle-secured credit  
2 complies  
3 with all provisions of this section, the servicer may proceed  
4 with  
5 a repossession of a mobilehome or motor vehicle that  
6 secures a  
7 vehicle-secured credit obligation due to a consumer failing  
8 to  
9 make a scheduled payment pursuant to the vehicle-secured  
10 credit  
11 obligation.*  
12 (b) *During the COVID-19 emergency, a consumer may  
13 request  
14 forbearance from a vehicle-secured credit obligation by  
15 submitting  
16 a request to the servicer of the vehicle-secured credit, either  
17 orally  
18 or in writing, affirming that the consumer is  
19 experiencing a  
20 financial hardship that prevents the consumer from making  
21 timely  
22 payments on the vehicle-secured credit obligation due,  
23 directly or  
24 indirectly, to the COVID-19 emergency.*



14 (c) Pursuant to a consumer submitting a request  
described in  
15 subdivision (b), a servicer of vehicle-secured credit may  
require  
16 the consumer to provide a written attestation subject  
to the  
17 following requirements:  
18 (1) The attestation shall include only the following text:  
“I,  
19 [consumer name], attest that I am experiencing a  
financial  
20 hardship that prevents me from making timely payments  
on my  
21 vehicle-secured credit obligation due, directly or indirectly, to  
the  
22 COVID-19 emergency.”  
23 (2) The servicer shall notify the consumer of the  
attestation  
24 requirement and provide clear directions for how the  
attestation  
25 shall be delivered to the servicer.  
26 (3) The servicer shall provide forbearance for a period  
of no  
27 less than 30 days before canceling the forbearance due  
to a  
28 consumer failing to provide the attestation required by the  
servicer.  
29 (4) The servicer shall not require the consumer to  
provide any  
30 additional information or documentation besides the  
attestation  
31 described in paragraph (1)  
32 (b)  
33 (d) A servicer of vehicle-secured credit shall provide  
the  
34 forbearance requested pursuant to subdivision (a) for a  
period of  
35 90 days. If the ~~borrower~~ consumer affirms that they  
continue to  
36 experience hardship within the 30 days prior to the  
expiration of  
37 the initial forbearance period, the servicer of vehicle-secured  
credit  
38 shall extend the forbearance period upon request of the  
~~borrower~~  
39 consumer for an additional 90 days. Those forbearance  
periods  
40 shall continue to be extended upon request of the  
~~borrower~~

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1 ~~throughout the duration of the COVID-19 emergency and~~  
2 ~~the~~  
3 ~~180-day period following that emergency. consumer up~~  
4 ~~to a~~  
5 ~~cumulative total of 270 days of forbearance.~~

6 (e) During the period of a forbearance under this  
7 chapter, a  
8 servicer of vehicle-secured credit ~~shall not~~ may assess,  
9 accrue, or  
10 apply to a ~~borrower's~~ consumer's account a rate of interest  
11 of up  
12 to 7 percent per annum, but shall not assess, accrue, or  
13 apply to  
14 a consumer's account any additional fees, penalties, or  
15 additional  
16 interest beyond the amounts scheduled or calculated as  
17 if the  
18 borrower-consumer made all contractual payments on time  
19 and in  
20 full under the terms of the vehicle-secured credit obligation  
21 contract  
22 in effect at the time the ~~borrower~~ consumer enters  
23 into the  
24 forbearance.

25 3273.32. (a) Before the completion of a forbearance  
26 period  
27 provided by this article, the holder of a vehicle-secured  
28 credit  
29 obligation shall evaluate a consumer's ability to return to  
30 making  
31 regular payments.

32 (b) If the consumer is able to return to making regular  
33 payments  
34 based on the evaluation required by subdivision (a), the  
35 holder of

36 the vehicle-secured credit obligation shall:

37 (1) Modify the consumer's vehicle-secured credit  
38 obligation to  
39 extend the term for the same period as the length of the  
40 forbearance,  
41 with all payments that were not made during the  
42 forbearance  
43 distributed at the same intervals as the consumer's existing  
44 payment  
45 schedule and evenly distributed across those intervals,  
46 with no  
47 penalties, late fees, or additional interest accrued

beyond the  
 28 amounts scheduled or calculated as if the consumer  
 made all  
 29 contractual payments on time and in full under the terms  
 of the  
 30 vehicle-secured credit obligation contract in effect at the  
 time the  
 31 consumer entered into the forbearance, and with no  
 modification  
 32 fee charged to the consumer.  
 33 (2) Notify the borrower in writing of the modification  
 required  
 34 by paragraph (1), including provision of a new payment  
 schedule  
 35 and date of maturity, and that the consumer shall have the  
 election  
 36 of prepaying the suspended payments at any time, in a  
 lump sum  
 37 or otherwise.  
 38 (3) Not require the consumer to waive any other claim  
 provided  
 39 by law in order to accept the terms of a modification.

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~~1 (c) If the consumer is not able to return to making  
 regular  
 2 payments based on the evaluation required by subdivision  
 (a), the  
 3 holder of the vehicle-secured credit obligation may proceed  
 with  
 4 a written notice of intent to repossess the vehicle as  
 required by  
 5 law only after the expiration of the COVID-19 emergency and  
 the  
 6 180-day period following that emergency.  
 7 3273.33. Notwithstanding Sections 2983.2 or 2983.8, or  
 any  
 8 other provision of law, no deficiency judgment shall lie in  
 any  
 9 event after the sale or other disposition of a mobilehome or  
 motor  
 10 vehicle for failure by a consumer to make a payment that  
 was due  
 11 during the COVID-19 emergency or the 180-day period  
 following  
 12 that emergency unless the servicer of the vehicle-secured  
 credit  
 13 obligation has complied with all provisions of this~~

chapter.—A

- 14 *repossession of a mobilehome or motor vehicle by a*  
 15 *servicer of a*  
 16 *vehicle-secured credit obligation that has failed to comply*  
 17 *with*  
 18 *all the provisions of this chapter shall constitute an*  
 19 *acceptance of*  
 20 *the collateral in full satisfaction of the vehicle-secured*  
 21 *credit*  
 22 *obligation as provided by Section 9620 of the Commercial*  
 23 *Code.*
- 19 3273.34. The provisions of this title are severable. If  
 20 any  
 21 provision of this title or its application is held invalid,  
 22 that  
 23 invalidity shall not affect other provisions or applications that  
 24 can  
 25 be given effect without the invalid provision or application.
- 26 ~~SEC. 3. Section 22698 is added to the Financial Code, to~~  
 27 ~~read:~~  
 28 ~~22698. (a) Notwithstanding any other provision of this~~  
 29 ~~chapter,~~  
 30 ~~the following shall apply during the COVID-19 emergency~~  
 31 ~~and~~  
 32 ~~the 180-day period following that emergency:~~
- 27 (1) ~~Within 60 days of enactment of this section, a~~  
 28 ~~program~~  
 29 ~~administrator shall notify each property owner with an~~  
 30 ~~outstanding~~  
 31 ~~assessment contract that the property owner is~~  
 32 ~~entitled to~~  
 33 ~~forbearance on the next annual PACE assessment owed~~  
 34 ~~pursuant~~  
 35 ~~to the assessment contract if the property owner is facing a~~  
 36 ~~financial~~  
 37 ~~hardship, directly or indirectly, due to the COVID-19~~  
 38 ~~emergency.~~
- 33 ~~The notification shall specify how the property owner may~~  
 34 ~~elect~~  
 35 ~~to accept the offer of forbearance.~~
- 36 (2) ~~A program administrator shall provide forbearance~~  
 37 ~~on the~~  
 38 ~~next annual PACE assessment owed by a property~~  
 39 ~~owner that~~  
 40 ~~accepts the offer pursuant to paragraph (1).~~
- 39 (3) ~~A program administrator may require the property~~  
 40 ~~owner to~~  
 41 ~~pay the amount of the forborne PACE assessment in the~~  
 42 ~~year~~  
 43 ~~following the scheduled end of the assessment contract. A~~  
 44 ~~program~~

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1 administrator may not charge additional fees or interest  
related to  
2 the forbore PACE assessment.

3 (4) A program administrator shall not exercise any  
contractual  
4 rights of acceleration related to unpaid assessments  
during the

5 COVID-19 emergency.

6 (b) For the purposes of this section, "COVID-19  
emergency"

7 means the period that begins upon the date of the  
enactment of

8 this section and ends on the date that the state  
declares the

9 emergency related to the COVID-19 disease has ended.

10 ~~SEC. 4.~~

11 ~~SEC. 3.~~ Section 23039 is added to the Financial Code, to read:

12 23039. (a) Notwithstanding any other provision of this  
13 division, the following shall apply during the COVID-19  
14 emergency and the 180-day period following such emergency:

15 (1) A fee for a deferred deposit transaction shall not exceed 5  
16 percent of the face amount of the check.

17 (2) A licensee shall offer a customer the option to enter into a  
18 payment plan that provides an extension of time for repayment of  
19 an existing deferred deposit transaction. The payment plan shall  
20 include the following terms:

21 (A) The plan shall not contain any additional fee or charge of  
22 any kind.

23 (B) The plan shall provide the customer with the option to repay  
24 the outstanding amount of the existing deferred deposit transaction  
25 over a 60-day period in four equal installments.

26 (3) At least three days prior to the date to which deposit of check  
27 has been deferred (due date) according to the agreement provided  
28 by the licensee to the customer pursuant to subdivision (e) of  
29 Section 23035, a licensee shall notify a customer of their option  
30 to enter into a payment plan pursuant to paragraph (1). If at any  
31 time, the customer attempts to pay the licensee for an outstanding  
32 amount of an existing deferred deposit transaction, the licensee  
33 shall immediately notify the customer of their option to enter into  
34 a payment plan pursuant to paragraph (1).

35 (4) A licensee shall not enter into a deferred deposit transaction  
36 with a customer within 14 days of the customer fully repaying a  
37 previous transaction.

38 (5) A licensee shall not charge any late fee for the return of a  
39 dishonored check by a depository institution in a deferred deposit  
40 transaction.

1

(b) For the purposes of this section, "COVID-19 emergency"

2 means the period that begins upon the date of the  
3 enactment of  
4 this section and ends on the date that the state  
5 declares the

6 emergency related to the COVID-19 disease  
7 has ended. 5 ~~SEC. 5.~~

8 ~~SEC. 4.~~ The provisions of this act are severable.  
9 If any

10 provision of this act or its application is held invalid, that  
11 invalidity

12 shall not affect other provisions or applications that can  
13 be given

14 effect without the invalid provision or  
15 application. 10 ~~SEC. 6.~~

16 ~~SEC. 5.~~ No reimbursement is required by this act  
17 pursuant to

18 Section 6 of Article XIII B of the California Constitution  
19 because

20 the only costs that may be incurred by a local agency  
21 or school

22 district will be incurred because this act creates a new  
23 crime or

24 infraction, eliminates a crime or infraction, or changes the  
25 penalty

26 for a crime or infraction, within the meaning of Section  
27 17556 of

28 the Government Code, or changes the definition of a  
29 crime within

30 the meaning of Section 6 of Article XIII B of the  
California

Constitution.

O



CITY COUNCILMEMBER  
**RIGEL ROBINSON**  
 DISTRICT 7

32

CONSENT CALENDAR  
 June 30, 2020

To: Honorable Mayor and Members of the City Council

From: Councilmember Rigel Robinson (Author), Councilmember Davila (Co-Sponsor), Councilmember Bartlett (Co-Sponsor), and Mayor Arreguin (Co-Sponsor)

Subject: Support for ACA 5: California Act for Economic Prosperity

RECOMMENDATION

Adopt a resolution in support of ACA 5, which would place a measure on the statewide ballot to repeal Proposition 209 (1996) and allow the State of California to pursue minority equal opportunity and access initiatives in public employment, education, and contracting. Send copies of the resolution to Assemblymembers Shirley Weber, Mike Gipson, Miguel Santiago, Lorena Gonzalez, and Buffy Wicks, and State Senator Nancy Skinner.

BACKGROUND

Assembly Constitutional Amendment (ACA) 5, introduced by Assemblymembers Shirley Weber, Mike Gipson, Miguel Santiago, and Lorena Gonzalez, would initiate a ballot measure for the November 3, 2020 general election to repeal Proposition 209, the ban on affirmative action.

Proposition 209, known as the California Civil Rights Initiative, was approved by voters on the November 1996 ballot by a margin of 54 to 46 percent.<sup>1</sup> The proposition added Section 31 to Article I of the California Constitution, which reads, "The State shall not discriminate against, or grant preferential treatment to, any individual or group on the basis of race, sex, color, ethnicity, or national origin in the operation of public employment, public education, or public contracting."<sup>2</sup> Today, California is one of only eight states to ban affirmative action.<sup>3</sup>

The consequences of Proposition 209 are evident right here in Berkeley. Black students at UC Berkeley made up 6.7 percent of all enrolled California resident freshmen in 1995. Two years after the proposition's passage, this figure dropped to only 3.7

<sup>1</sup> <https://escholarship.org/content/qt5580z80z/qt5580z80z.pdf>

<sup>2</sup>

[https://leginfo.ca.gov/faces/codes\\_displayText.xhtml?lawCode=CONS&division=&title=&part=&chapter=&article=1](https://leginfo.ca.gov/faces/codes_displayText.xhtml?lawCode=CONS&division=&title=&part=&chapter=&article=1)

<sup>3</sup> <https://www.jamesgmartin.center/2019/10/did-you-know-eight-states-ban-affirmative-action-in-college-admissions/>

percent.<sup>4</sup> In Fall 2019, Black students made up only 2.8% of all new freshman enrollment.<sup>5</sup> A report from the Race and Equity Center at the University of Southern California named UC Berkeley as the worst UC campus for Black students, based on equity indicators such as percentage of Black students, graduation rates, and representation in faculty.<sup>6</sup> According to a statement by the Cal Black Student Union, UC Berkeley also has “the highest gap between Black student enrollment and the racial demographic of the surrounding area,” showing that historically Black neighborhoods in Berkeley and Oakland are not being adequately served by institutions of higher education.<sup>7</sup>

Proposition 209 has devastated universities’ ability to serve Black students and non-Black students of color. In a single year following its passage, UC Berkeley’s admission rate dropped 29.3 percent for Black applicants, 32.2 percent for Native American applicants, 31.4 percent for Chicax applicants, and 6.9 percent for Latinx applicants.<sup>8</sup> The affirmative action ban stifled recruitment and retention efforts for underrepresented minorities, including Southeast Asian, Pacific Islander, and Native Hawaiian students.<sup>9</sup> The passage of ACA 5 would bring justice to these communities and help achieve Chancellor Carol Christ’s goal of making UC Berkeley a Hispanic Serving Institution (HSI) by 2027.<sup>10</sup>

ACA 5, which would also empower local governments to actively pursue minority equal opportunity and access initiatives in their hiring processes, is aligned with the City of Berkeley’s commitment to equal opportunity and diversity in our workforce.

Prior to the passage of Proposition 209, the opportunity gap faced by women and people of color had shrunk considerably. Two and a half decades later, these same populations are worse off due to the persistent discrimination that this proposition has failed to uproot. Proposition 209 has deprived minority and women-owned businesses of equal opportunities to fully contribute to our state’s economic growth.

Despite the climb of California’s Latinx population, they remain heavily underrepresented in state jobs. The amount of Black state workers has decreased since 1996 while the number of non-minority males increased, especially in executive leadership positions. The number of women employed in the construction industry had

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<sup>4</sup> <https://www.dailycal.org/2018/02/02/prop-209-affirmative-action-uc-berkeley-enrollment/>

<sup>5</sup> <https://opa.berkeley.edu/uc-berkeley-fall-enrollment-data>

<sup>6</sup> <https://www.sfgate.com/bayarea/article/Worst-public-California-schools-black-students-Cal-13264172.php>

<sup>7</sup> <https://twitter.com/CalBSU/status/1048022055193464833/photo/1>

<sup>8</sup> <http://reappropriate.co/2014/03/the-effect-of-prop-209-on-uc-admissions-and-campus-diversity-edu4all-noliesnohate-sca5/>

<sup>9</sup> <https://diversity.universityofcalifornia.edu/files/documents/prop-209-summary.pdf>

<sup>10</sup> <https://chancellor.berkeley.edu/task-forces/hispanic-serving-institution-task-force>



initially increased by 26 percent between 1990 and 1996; it declined by 33 percent after the passage of Proposition 209. Finally, minority and women business enterprises (MWBs), which had been erasing the disparity between their availability and their utilization, were heavily impacted. Some never recovered, resulting in a loss of \$1.1 billion annually for MWBs.

Allowing gender, racial, and ethnic diversity to be considered as one of many factors in public employment, contracting, and education will strengthen the City's ability to equitably serve its residents. As a city that is home to one of the largest public universities in California and committed to equal opportunity, the City of Berkeley should adopt a resolution in support of ACA 5 and send copies of the resolution to Assemblymembers Shirley Weber, Mike Gipson, Miguel Santiago, Lorena Gonzalez, and Buffy Wicks, and State Senator Nancy Skinner.

FINANCIAL IMPLICATIONS

None.

ENVIRONMENTAL SUSTAINABILITY

None.

CONTACT PERSON

Councilmember Rigel Robinson, (510) 981-7170

Attachments:

1: Resolution

2: Bill text

[http://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill\\_id=201920200ACA5](http://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201920200ACA5)

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

RESOLUTION IN SUPPORT OF ACA 5, THE CALIFORNIA ACT FOR ECONOMIC PROSPERITY

WHEREAS, in 1996, Governor Pete Wilson spearheaded the passage of Proposition 209, preventing equal opportunity in contracting, hiring, and education in city, county, public university system, community college district, school district, special district, and other government agencies; and

WHEREAS, California is one of only eight states that outlaw policies to promote equal opportunities, and states with affirmative action policies see greater gains for women and students, businesses, and people of color; and

WHEREAS, Black students at UC Berkeley made up only 2.8% of all new freshman enrollment in Fall 2019, down from 6.7% in 1995, resulting in a report naming UC Berkeley as the worst UC campus for Black students despite its proximity to historically Black neighborhoods in Berkeley and Oakland; and

WHEREAS, Proposition 209 has devastated universities' ability to serve Black students and non-Black students of color, stifling admission rates and recruitment and retention efforts for Black, Native American, Latinx, Southeast Asian, Pacific Islander, and Native Hawaiian communities; and

WHEREAS, repealing Proposition 209 would level the playing field for women in government contracts, where women and people of color have lost \$1.1 billion annually, and especially in the University of California system, where women make up 54 percent of students, yet only account for 33 percent of tenured faculty and 39 percent of senior leadership; and

WHEREAS, Assembly Constitution Amendment No. 5 (ACA 5) will repeal Proposition 209 and reinstate affirmative action in public contracting, hiring and public education, which is estimated to generate an additional \$138 billion in personal income for California families; and

WHEREAS, the current COVID-19 pandemic has had a demonstrated and disproportionate impact on minority-owned small businesses and an equitable economic recovery must include targeted, race-conscious governmental intervention; and

WHEREAS now, more than ever, we must support and pass ACA 5 in order to ensure that the most impacted communities receive equitable support and to take a strong

stance against racism, sexism, and xenophobia, and the current policies on the federal level that use race and gender to divide our communities.

NOW THEREFORE, BE IT RESOLVED that the City of Berkeley supports ACA 5, the California Act for Economic Prosperity, on the statewide ballot to allow gender, racial, and ethnic diversity to be considered as one of many factors in public employment, education, and contracting.

A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by repealing Section 31 of Article I thereof, relating to government preferences.

ACA 5, as amended, Weber. Government preferences.

The California Constitution, pursuant to provisions enacted by the initiative Proposition 209 in 1996, prohibits the state from discriminating against, or granting preferential treatment to, any individual or group on the basis of race, sex, color, ethnicity, or national origin in the operation of public employment, public education, or public contracting. The California Constitution defines the state for these purposes to include the state, any city, county, public university system, community college district, school district, special district, or any other political subdivision or governmental instrumentality of, or within, the state.

This measure would repeal these provisions. The measure would also make a statement of legislative findings in this regard.





Office of the City Manager

33

PUBLIC HEARING

June 30, 2020

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

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

Subject: Amend One-Way Car Share Program: Electric Mopeds, Fees, Deposits; Amending BMC Chapter 14.62

RECOMMENDATION

Conduct a public hearing and upon conclusion, 1) adopt a Resolution to amend the One-Way Car Share Program to rename it as the One-Way Vehicle Share Program, add parking permit and administration fees for electric mopeds, and adjust the administration fee and free-floating parking permit deposits for cars, and 2) adopt the first reading of an Ordinance pursuant to Berkeley Municipal Code Chapter 14.62, renaming the One-Way Car Share Program as the One-Way Vehicle Share Program and removing obsolete references to parking permit stickers affixed to vehicles.

FISCAL IMPACTS OF RECOMMENDATION

The program fee structure results in cost-neutrality. The program has three types of fees: Master Residential Parking Permit (MRPP) fees for Residential Parking Permits, Free-Floating Parking Permit (FFPP) fees for permits to park in metered spaces, and an Administration Fee to cover the staffing cost to administer the program. The MRPP fees are deposited into the General Fund (Fund 011) and the FFPP fees and Administration Fee are deposited into the Parking Meter Fund (Fund 631).

The FFPP deposit per vehicle is proposed to be reduced to account for observed meter usage in the program being lower than previously projected. This also takes into account recent parking meter rate increases. This will result in the meter deposits received from participating organizations at the beginning of the year more closely matching the actual usage at the end of the year, such that the City will not have to issue large refunds as has occurred in the past.

The administration fee is proposed to be reduced to more closely match the current City cost for staff time to administer the program. The proposed fee reduction will maintain the program's net revenue and cost-neutrality.

The addition of fees for electric mopeds provides a mechanism for providers of these types of vehicles to participate in the One-Way Vehicle Share Program, with fees that

are proportional to the space needed for parking. Future adjustments to parking permit fees are anticipated to be brought to Council for approval on an annual basis.

**CURRENT SITUATION AND ITS EFFECTS**

The One-Way Car Share program allows Berkeley residents and visitors to pick up a vehicle from one location and drop it off at another. Members find a vehicle through a smartphone application, or by placing a voice call on their phone, and end their reservation at a public parking space with a two hour or more time-limit duration within the car share organization’s designated service area. Qualified car share organizations wishing to operate a one-way car share service in Berkeley pay an administration fee and annually acquire permits as detailed in Municipal Code 14.62 “Car Sharing”.

The MRPP allows one-way car share vehicles to park in all RPP areas with the same rights and restrictions as RPP holders. For cars, it is priced at three times what residents pay for an annual RPP permit. For electric mopeds, it would be priced at one quarter the price for shared cars given that four mopeds can be parked in the space of one car.

The FFPP allows one-way car share vehicles to park pre-paid in metered or unmetered spaces with a two-hour or more time limit (outside RPP areas) without enforcement of the posted time limits and without the member-user paying the meter rates. The FFPP per-vehicle annual fee deposit amount is based on anticipated metered parking usage. At the end of each fiscal year, the FFPP deposit is reconciled through a comparison of the deposit paid to the actual meter usage by the vehicles and meter rates in effect. The participating one-way car share organization either pays the additional amount owed or is issued a refund for the excess amount deposited. The proposed new pricing structure reduces the deposit by 18% from \$1,352 to \$1,108 per vehicle based on observed meter usage, taking into account recent meter rate increases. The pricing for electric mopeds sets per-vehicle parking fees at one-fourth the amount of per-vehicle parking fees for cars given that four mopeds can be parked in the space of one car.

The annual administration fee charged to companies participating in the One-Way Car Share Program covers the staff cost for issuing parking permits. Based on an analysis conducted on actual City staff time spent to administer the program, the administration fee is proposed to be reduced from \$8,593 to \$6,005 for 72 hours for annual MRPP administration, and from \$4,110 to \$2,870 for 34 hours for annual FFPP administration.

Section 14.62.100 of the Berkeley Municipal Code states that One-Way Car Share Program fees may be adopted by resolution of the City Council, therefore without the adoption of an ordinance to amend the BMC.

| <b>Proposed annual administration fees (flat fees)</b> | <b>Car</b> | <b>Moped</b> |
|--------------------------------------------------------|------------|--------------|
| Master Residential Parking Permit (MRPP) only          | \$6,005    | \$6,005      |
| Free Floating Parking Permit (FFPP)                    | \$2,870    | \$2,870      |
| <b>Proposed annual parking permit fees</b>             |            |              |

|                            |         |       |
|----------------------------|---------|-------|
| MRPP fee (per vehicle)     | \$198   | \$50  |
| FFPP deposit (per vehicle) | \$1,108 | \$277 |

**BACKGROUND**

City Council approved a Referral to the City Manager on February 11, 2020 to rename the existing One-Way Car Share Program as the One-Way Vehicle Share Program and to amend the Program to include administrative requirements and parking permit fees for electric mopeds that are affixed with license plates and require a driver’s license for individuals to operate the vehicles, in coordination with the City of Oakland. This followed the launch on January 10, 2020 of a shared electric moped service in Oakland.

Adding electric mopeds to the existing One-Way Car Share Program is consistent with the Berkeley Municipal Code (BMC). BMC Section 14.62.020 defines "One-way car share vehicle" as “a vehicle (including, but not limited to, passenger cars, scooters and motorcycles) owned and operated by a qualified car share organization that is clearly and distinctly branded, is constantly tracked through Global Positioning System ("GPS"), and is technologically-enabled to allow members to pick up a car share vehicle from one location and drop it off at a different location within a defined geographic area, as specified by the car share organization.”

The California Vehicle Code Division 1, section 406(a) defines “Moped” or “motorized bicycle” as “a two-wheeled or three-wheeled device having fully operative pedals for propulsion by human power, or having no pedals if powered solely by electrical energy, and an automatic transmission and a motor that produces less than 4 gross brake horsepower and is capable of propelling the device at a maximum speed of not more than 30 miles per hour on level ground.” In California, electric mopeds are required to have a license plate and to be insured. Users of electric moped sharing services are required to hold a driver’s license and wear a motorcycle helmet, which is provided by the operator via a compartment on the vehicle. Per CVC Section 12804.9(5)(B)(h), users of shared mopeds are not required to hold a Class M2 moped drivers’ license.

**ENVIRONMENTAL SUSTAINABILITY**

The One-Way Vehicle Share program supports Berkeley’s Climate Action Plan, which targets a 33 percent greenhouse gas emission reduction below 2000 levels by the year 2020, and an 80 percent reduction below 2000 levels by 2050. Specifically, the Climate Action Plan Sustainable Transportation and Land Use Goal 7 calls to “enhance and expand car sharing and ride sharing programs”. Research shows that car share lowers vehicle ownership; increases walking and bicycling; and reduces vehicle miles traveled and greenhouse gas emissions.<sup>1</sup> Electric vehicle sharing may further reduce emissions.

**RATIONALE FOR RECOMMENDATION**

Including electric mopeds in the One-Way Vehicle Share program would expand transportation options for Berkeley residents and visitors, and may reduce automobile

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<sup>1</sup> Martin, Elliot and Shaheen, Susan, *Impacts of Car2Go on Vehicle Ownership, Modal Shift, Vehicle Miles Traveled, and Greenhouse Gas Emissions: An Analysis of Five North American Cities*, July 2016, Transportation Sustainability Research Center at UC Berkeley, access at <http://bit.ly/29WkSFG>

use and related emissions. Reducing the administration fee to match the actual City cost for staff time and adjusting the meter deposit to match observed meter usage will make the provision of one-way vehicle sharing services to the Berkeley public more financially sustainable for participating companies. Deletion of obsolete references to parking stickers from the Ordinance governing the program will reflect the current practice of using license-plate readers for program parking enforcement.

ALTERNATIVE ACTIONS CONSIDERED

Council could opt not to add a pricing structure for electric mopeds and not to reduce the administration fee and free-floating parking deposit in the One-Way Car Share program. This would reduce shared mobility options in Berkeley and discourage companies from participating.

CONTACT PERSON

Farid Javandel, Transportation Manager, Public Works, (510) 981-7061  
Beth Thomas, Principal Planner, Public Works, (510) 981-7068  
Dianne Yee, Associate Planner, Public Works, (510) 981-7066

Attachment:

- 1: Resolution
- 2: Ordinance
- 3: Public Hearing Notice
- 4: Referral: Electric Moped Ride-Share Permits, February 11, 2020



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

AMENDING THE ONE-WAY CAR SHARE PROGRAM TO INCLUDE ELECTRIC MOPED PARKING PERMIT AND ADMINISTRATION FEES AND TO ADJUST PARKING PERMIT DEPOSITS AND ADMINISTRATION FEES FOR CARS

WHEREAS, Council approved Resolution 68,900-N.S. on May 14, 2019, making the One-Way Car Share Two-and-a-Half Year Pilot Program an ongoing program and renaming it as the One-Way Car Share Program; and

WHEREAS, on February 11, 2020, Council approved a referral to the City Manager to rename the existing One-Way Car Share Program as the One-Way Vehicle Share Program and to amend the Program to include administrative requirements and parking permit fees for motorized bicycles (mopeds) that are affixed with license plates and require a driver's license for individuals to operate the vehicles, in coordination with the City of Oakland; and

WHEREAS, pursuant to Section 14.62.020 of the Berkeley Municipal Code, "One-way car share vehicle" is defined as "a vehicle (including, but not limited to, passenger cars, scooters and motorcycles) owned and operated by a qualified car share organization that is clearly and distinctly branded, is constantly tracked through Global Positioning System ('GPS'), and is technologically-enabled to allow members to pick up a car share vehicle from one location and drop it off at a different location within a defined geographic area, as specified by the car share organization."; and

WHEREAS, the California Vehicle Code (CVC) Division 1, section 406. (a) defines "Moped" or "motorized bicycle" as, "a two-wheeled or three-wheeled device having fully operative pedals for propulsion by human power, or having no pedals if powered solely by electrical energy, and an automatic transmission and a motor that produces less than 4 gross brake horsepower and is capable of propelling the device at a maximum speed of not more than 30 miles per hour on level ground."; and

WHEREAS, pursuant to Section 14.62.100 of the Berkeley Municipal Code, "Fees for master residential parking permits and free-floating parking permits, and for the implementation and administration of this [Car Sharing] Chapter may be adopted by resolution of the City Council. (Ord. 7508-NS § 1 (part), 2016)."

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the One-Way Car Share Program is renamed to the One-Way Vehicle Share Program; and

BE IT FURTHER RESOLVED by the Council of the City of Berkeley that the renamed One-Way Vehicle Share Program includes Free-Floating Parking Permit fees for cars priced as a \$1,108 per-vehicle deposit, and for electric mopeds priced as a \$277 per-vehicle deposit; and

BE IT FURTHER RESOLVED by the Council of the City of Berkeley that the renamed One-Way Vehicle Share Program includes Residential Parking Permit fees for cars priced at \$198 per vehicle and for electric mopeds priced at \$50 per vehicle; and

BE IT FURTHER RESOLVED by the Council of the City of Berkeley that the annual administration fee charged to all companies participating in the renamed One-Way Vehicle Share Program is \$6,005 for administration of Master Residential Parking Permits and \$2,870 for administration of Free-Floating Parking Permits, beginning with permits issued after the passage of this resolution, in order to cover the City cost of staff time to administer the Program; and

BE IT FURTHER RESOLVED by the Council of the City of Berkeley that permitted shared moped providers and their customers must adhere to the following parking requirements: mopeds must park perpendicular to the curb with the rear wheel toward the curb, and shared mopeds may not be parked in designated motorcycle parking areas.

## ORDINANCE NO. –N.S

AMENDING BERKELEY MUNICIPAL CODE (BMC) CHAPTER 14.62 (CAR SHARING) TO RENAME ONE-WAY CAR SHARE TO ONE-WAY VEHICLE SHARE AND TO DELETE OBSOLETE REFERENCES TO USE OF PARKING STICKERS AFFIXED TO PARTICIPATING VEHICLES

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

Section 1. That Berkeley Municipal Code Chapter 14.62 is amended to read as follows:

**Chapter 14.62**  
**~~CAR-VEHICLE~~ SHARING**

Sections:

- 14.62.010 Findings and purpose.
- 14.62.020 Definitions.
- 14.62.030 Term.
- 14.62.040 Permit parking exemption.
- 14.62.050 Free-floating parking permit.
- 14.62.060 Master residential parking permit.
- 14.62.070 One-way ~~car-vehicle~~ share parking zone.
- 14.62.080 Modification after initial designation of one-way ~~vehicle car~~ share parking zone.
- 14.62.090 Issuance of parking permits.
- 14.62.100 Parking permit fees.
- 14.62.110 Suspension or revocation.
- 14.62.120 Penalties, liability and enforcement

**14.62.010 Findings and purpose.**

The Council finds that the use of ~~vehicle car~~ sharing within Berkeley has numerous benefits, including improved mobility for residents, reduced personal vehicle ownership and vehicle miles traveled and overall reduction in greenhouse gas emissions. The purpose of this Chapter is to facilitate ~~vehicle car~~ sharing within Berkeley by establishing a program under which permitted one-way ~~vehicle car~~ share vehicles may park in metered and unmetered spaces in which parking is allowed for up to two hours or longer. (Ord. 7508-NS § 1 (part), 2016)

**14.62.020 Definitions.**

- A. "~~Car-Vehicle~~ sharing" means a membership-based service, available to all licensed drivers, who meet the ~~vehicle car~~ sharing organization's eligibility requirements, which offers members access to a network of vehicles, 24 hours per day, 7 days a week, at self-service locations and allows members to reserve and use a one-way ~~vehicle car~~ share vehicle without a separate written agreement, at rates that are proportional to usage.

- B. "One-way vehicle car-sharing" means a vehicle car-sharing model that allows members to pick up a vehicle from one location and drop it off at a different location within a defined geographic area, as specified by the qualified car share organization that operates that vehicle.
- C. "~~Car-Vehicle~~ share organization" means an entity that provides shared-use vehicles for its members at geographically distributed locations at hourly, daily and weekly rates (or fractions thereof) with insurance coverage provided by the vehicle car-share organization. The Public Works Department will maintain the criteria necessary to become a qualified vehicle car-share organization. The Public Works Department will compile a list of qualified vehicle car-share organizations entitled to apply for one-way vehicle car-share permits. The Public Works Director or their designee may make changes to these criteria at any time.
- D. "One-way vehicle car-share vehicle" means a vehicle requiring a driver's license to operate it, (including, but not limited to, passenger cars, motorized sit scooters, and motorcycles) owned and operated by a qualified vehicle car-share organization that is clearly and distinctly branded, is constantly tracked through Global Positioning System ("GPS"), and is technologically-enabled to allow members to pick up a ~~car-share~~ vehicle from one location and drop it off at a different location within a defined geographic area, as specified by the vehicle car-share organization.
- E. "Qualified vehicle car-share organization" is a vehicle car-share organization that has a fleet of at least twenty one-way ~~car-share~~ vehicles for member use.
- ~~F. "Annual Bay Area master parking badge" is a sticker affixed to the rear bumper of each one-way car share vehicle on which to place applicable municipal parking permits.~~
- ~~G. "Free-floating parking permit" is a parking permit affixed to the annual Bay Area master parking badge that allows members of a qualified share organization to park at metered and unmetered spaces in which parking is allowed for up to two hours or longer, but not in residential parking permit areas.~~
- ~~H. "Master residential parking permit" is a parking permit affixed to the annual Bay Area master parking badge that allows members of a qualified share organization to park in any residential parking permit ("RPP") area with the same rights and restrictions as residential parking permit holders in those RPP areas.~~
- ~~I.F.~~ "One-way car vehicle share-parking zone" is the area agreed upon by the qualified vehicle car-share organization permit holder and the Public Works Department, which bounds the geographic area where one-way vehicle car-share members may legally park one-way vehicle car-share vehicles within Berkeley. (Ord. 7508-NS § 1 (part), 2016)

#### 14.62.030 Term.

Reserved. (Ord. 7653-NS § 1 (part), 2019; Ord. 7508-NS § 1 (part), 2016)

#### 14.62.040 Permit parking exemption.

- A. A one-way vehicle car-share vehicle ~~displaying a valid annual Bay Area master parking badge and with~~ a free-floating parking permit, parked at metered parking spaces in which parking is allowed for up to two hours or longer, that is located

within the company's defined one-way ~~vehicle car~~ share parking zone, shall be exempt from the provisions stated in Chapter 14.52, which regulate the parking or standing of vehicles, which includes time limits enforced at inoperable parking meters and pay-and-display stations except that it may not remain parked at the same location for more than 72 hours.

- B. A one-way ~~vehicle car~~ share vehicle ~~that displays a valid annual Bay Area master parking badge and~~with a master residential ~~preferred~~ parking permit shall be permitted to stand or be parked in any of the residential permit parking areas established pursuant to Chapter 14.72 Preferential Parking Program with the same rights and restrictions as RPP holders. (Ord. 7508-NS § 1 (part), 2016)

#### **14.62.050 Free-floating parking permit.**

- A. A free-floating parking permit entitles qualified ~~vehicle car~~ share organization members to park one-way ~~vehicle car~~ share vehicles in metered and unmetered spaces in which parking is allowed for up to two hours or longer, for up to 72 hours within the designated free-floating zone.
- B. This Chapter shall not exempt a member of a ~~vehicle car~~ share organization or qualified ~~vehicle car~~ share organization from any other traffic controls and regulations. (Ord. 7508-NS § 1 (part), 2016)

#### **14.62.060 Master residential parking permit.**

- A. A master residential parking permit entitles qualified ~~vehicle car~~ share organization members to park one-way ~~vehicle car~~ share vehicles in a residential parking permit area as if the member had a residential parking permit for that zone as designated by chapter 14.72.050, even if the member is not a resident or employee within that zone.
- B. The master residential parking permit does not guarantee or reserve a parking space for the member of the ~~vehicle car~~ share organization.
- C. This Chapter shall not exempt a member of a ~~vehicle car~~ share organization or qualified ~~vehicle car~~ share organization from any other traffic controls and regulations. (Ord. 7508-NS § 1 (part), 2016)

#### **14.62.070 One-way ~~vehicle car~~ share parking zone.**

The one-way ~~vehicle car~~ share parking zone boundaries will be established by a qualified ~~vehicle car~~ share organization in consultation with the Public Works Department. Current and updated maps of one-way ~~vehicle car~~ share parking zones will be publicly available on the City of Berkeley's website. The GPS coordinates of one-way ~~vehicle car~~ share parking zones shall be programmed into the navigation equipment of those vehicles in order to alert members using those vehicles where parking is permitted. Qualified ~~vehicle car~~ share organizations shall notify their members of any modifications to the one-way ~~vehicle car~~ share parking zones applicable to their vehicles at least three days prior to such modification. (Ord. 7508-NS § 1 (part), 2016)

#### **14.62.080 Modification after initial designation of one-way ~~car~~ vehicle share parking zone.**

A qualified vehicle car-share organization may request up to four modifications to the one-way vehicle car-share parking boundary zone during the term of the parking permit. Application for such modifications shall be made to the Public Works Department. (Ord. 7508-NS § 1 (part), 2016)

#### **14.62.090 Issuance of parking permits.**

- A. Free-floating parking permits shall be issued by the Public Works Department in accordance with requirements set forth in this chapter.
- B. Master residential parking permits shall be issued by the Public Works Department in accordance with requirements set forth in this chapter.
- C. ~~The Annual Bay Area parking master parking badge shall be designed to state the license number of the one-way car share vehicle upon which the badge is affixed.~~ A vehicle share organization applying for parking permits shall provide the license plate numbers for the one-way vehicle share vehicles for which permits are sought to the Public Works Department.
- D. The Public Works Department shall issue the permits with a maximum term of one year. Permits can be granted quarterly each year through the end of the City's fiscal year.
- E. A vehicle car-share organization can apply for up to 700 parking permits to be used on vehicle car-share vehicles based within fifty miles of the Berkeley city limits. A vehicle car-share organization may alternatively apply for up to 500 parking permits to be used on vehicles based within fifty miles of the Berkeley city limits plus up to 300 parking permits for vehicles based more than fifty miles from the Berkeley city limits. The Public Works Department will review the quantity of parking permits requested by the vehicle car-share organization to balance the parking needs of the vehicle car-share organization with the on-street parking needs of private residents and employees.
- F. Any free-floating and master residential ~~preferred~~ parking permits which are renewed shall be subject to the same conditions applicable to the permits when originally issued. The Public Works Department may attach additional conditions to a renewed permit.
- G. The Public Works Department shall issue rules and regulations consistent with this Chapter governing issuance and display of proof that a one-way vehicle car-share vehicle is owned by a qualified vehicle car-share organization with a valid free-floating and/or master residential ~~preferred~~ parking permit. (Ord. 7653-NS § 2, 2019; Ord. 7508-NS § 1 (part), 2016)

#### **14.62.100 Parking permit fees.**

- A. Fees for master residential parking permits and free-floating parking permits, and for the implementation and administration of this Chapter may be adopted by resolution of the City Council. (Ord. 7508-NS § 1 (part), 2016)

#### **14.62.110 Suspension or revocation.**

- A. The City may suspend or revoke the status of any qualified vehicle car-share organization for any violation of the provisions of this Chapter or regulations promulgated to implement this Chapter. During the time that the permit is

- suspended or revoked, it shall be unlawful for the ~~vehicle~~ ~~car~~-share organization to exercise any of the rights granted under this Chapter.
- B. The permit holder shall be entitled to appeal the City's decision to suspend or revoke its permit by filing a written notice of appeal with the City Manager within ten days from the date the notice of suspension or revocation is mailed.
    - a. The appeal shall clearly and concisely set forth the grounds upon which it is based.
    - b. If the permit holder files a timely request for appeal, a hearing shall be held before the City Manager or their designee. The decision of the City Manager or their designee shall be final.
  - C. Pending the appeal hearing it shall be unlawful for the permit holder to exercise its rights under this Chapter. (Ord. 7508-NS § 1 (part), 2016)

**14.62.120 Penalties, liability and enforcement.**

- A. Every person who violates any provision of this chapter may be subject to administrative citations pursuant to Chapter 1.28.
- B. Each violation of this chapter and each day of violation of this chapter shall be considered a separate and distinct violation thereof and the imposition of a penalty shall be as set forth in subsection A of this section for each and every separate violation and each and every day of violation. (Ord. 7508-NS § 1 (part), 2016)

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.

**NOTICE OF PUBLIC HEARING  
BERKELEY CITY COUNCIL  
ONE-WAY CAR SHARE PROGRAM:  
ELECTRIC MOPEDS, FEES AND DEPOSITS**

The Department of Public Works is proposing to rename the One-Way Car Share Program to the One-Way Vehicle Share Program, to add parking permit and administrative fees for electric mopeds, and to adjust the administrative fees and free-floating parking permit deposit for cars.

The proposed annual parking fee for shared electric mopeds would be \$50 per vehicle for a Master Residential Parking Permit (MRPP) and \$277 per vehicle for a Free-Floating Parking Permit (FFPP) to park in metered spaces. The parking permit fees for electric mopeds per vehicle would be set at one-fourth the amount of parking fees for cars per vehicle, given that four mopeds can be parked in the space of one car.

The FFPP deposit for shared cars would be reduced from \$1,352 to \$1,108 per vehicle. This reduction is based on observed meter usage and accounts for recent meter rate increases. The change would result in the meter deposits received from participating organizations at the beginning of the year more closely matching the actual usage at the end of the year, such that the City will not have to issue large refunds as has occurred in the past.

The annual MRPP administration fee would be reduced from \$8,593 to \$6,005. The annual FFPP administration fee would be reduced from \$4,110 to \$2,870. The change in administration fees accounts for the actual City staff time spent to administer the program. The administration fees are charged to companies participating in the program with shared cars or mopeds.

The Berkeley Municipal Code would be amended to rename the One-Way Car Share Program to the One-Way Vehicle Share Program, and to remove obsolete references to parking permit stickers affixed to vehicles given that the City's parking enforcement now uses license plate readers.

The hearing will be held on June 30, 2020 at 6:00 p.m.

A copy of the agenda material for this hearing will be available on the City's website at [www.CityofBerkeley.info](http://www.CityofBerkeley.info) as of **June 18, 2020**.

For further information, please contact Beth Thomas, Principal Planner, Department of Public Works at 510-981-7068.



Written comments should be mailed or delivered directly to the City Clerk, 2180 Milvia Street, Berkeley, CA 94704, in order to ensure delivery to all Councilmembers and inclusion in the agenda packet.

Communications to the Berkeley City Council are public record and will become part of the City’s electronic records, which are accessible through the City’s website. **Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to the City Council, will become part of the public record.** If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service to the City Clerk. If you do not want your contact information included in the public record, please do not include that information in your communication. Please contact the City Clerk at 981-6900 or [clerk@cityofberkeley.info](mailto:clerk@cityofberkeley.info) for further information.

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I hereby certify that the Notice for this Public Hearing of the Berkeley City Council was posted at the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way, as well as on the City’s website, on June 18, 2020.

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



CITY COUNCILMEMBER  
**RIGEL ROBINSON**  
DISTRICT 7

CONSENT CALENDAR  
February 11, 2020

To: Honorable Mayor and Members of the City Council  
From: Councilmembers Rigel Robinson, Ben Bartlett, and Kate Harrison  
Subject: Referral: Electric Moped Ride-Share Permits

RECOMMENDATION

Refer to the City Manager to rename the existing One-Way Car Share Program as the One-Way Vehicle Share Program and to amend the Program to include administrative requirements and parking permit fees for motorized bicycles that are affixed with license plates and require a driver's license for individuals to operate them (mopeds), in coordination with the City of Oakland.

POLICY COMMITTEE RECOMMENDATION

On December 5, 2019, the Facilities, Infrastructure, Transportation, Environment, and Sustainability Committee adopted the following action:  
M/S/C (Harrison/Robinson) to send the item, as revised, back to the City Council with a Positive Recommendation. Vote: All Ayes.

BACKGROUND

In the spirit of encouraging residents to choose alternative, sustainable modes of transportation, major cities across the United States are pioneering motorized bicycle sharing programs that allow users to reserve and unlock a moped for short-term use.

In 2018, a company called Revel launched a ride-share electric moped pilot program in New York City. Following initial success, Revel recently expanded the New York program from 68 to 1,000 vehicles and to an area of about 20 square miles, in addition to launching a new fleet in Washington, D.C.

Under California Vehicle Code Section 406, Revel mopeds are legally classified as motorized bicycles: two-wheeled or three-wheeled devices "having fully operative pedals for propulsion by human power, or having no pedals if powered solely by electrical energy, and an automatic transmission and a motor that produces less than 4 gross brake horsepower and is capable of propelling the device at a maximum speed of not more than 30 miles per hour on level ground."<sup>1</sup>

Section 12804.9 of the Vehicle Code provides that motorized bicycles or mopeds fall under the M2 vehicle classification, which typically requires an M2 endorsement in addition to a Class A, B, or C driver's license. The Vehicle Code makes an exemption

<sup>1</sup> [https://leginfo.ca.gov/faces/codes\\_displaySection.xhtml?sectionNum=406.&lawCode=VEH](https://leginfo.ca.gov/faces/codes_displaySection.xhtml?sectionNum=406.&lawCode=VEH)

for short-term moped rentals of 48 hours or less, requiring only a valid driver's license for such rides.<sup>2</sup> However, short-term rental moped operators must still follow all other regulations that apply to non-rental operators, including wearing an approved safety helmet when riding on public roads.<sup>3</sup>

As an added safety precaution, Revel's Rental Agreement includes requirements that are more stringent than the Vehicle Code's provisions. In addition to holding a valid driver's license, Revel requires users to be 21 or older and pass a DMV background check to verify that they have a safe driving record. Each motorized bicycle has a DMV-issued license plate, comes with two USDOT certified helmets stored in the back compartment, and travels up to a maximum speed of 30 miles per hour. The mopeds are parked and driven on the street, not the sidewalk, and park compactly at a rate of seven motorized bicycles per one car-sized space. Revel also provides free training courses to registered users.

Electric mopeds present an alternative to lighter, smaller e-scooters, which have prompted accessibility concerns due to riders parking them on sidewalks. Unlike e-scooters, electric mopeds cannot be operated or parked on the sidewalk and come equipped with helmets. Additionally, the license plate requirement creates a greater degree of accountability, and allows for identification and sanction of users who violate traffic laws.

Revel mopeds are emissions-free, electrically powered, and noise-free. Maintenance staff move around the city to replace the batteries on-site, so the vehicles do not require EV charging infrastructure. In addition to providing a zero-emissions transit option, Revel is priced affordably, with rides costing a base price of \$1 plus 25 cents per minute. They offer an equitable access rider program with a 40 percent discount for underserved communities, and only employ full-time, benefited workers.

Offering an electric moped ride-share option in the City of Berkeley is consistent with the draft Electric Mobility Roadmap, which lays out a vision for a fossil-free transportation system in Berkeley.<sup>4</sup> The Roadmap's primary goals include increasing the accessibility of shared electric mobility options and promoting equity in electric mobility. Equity in Access Strategy 3b names membership and fee discounts, such as the one offered by Revel, as a key way to ensure financial access to shared mobility systems for historically underserved, low-income communities of color.

Issuing a One-Way Vehicle Share permit to Revel would not violate the terms of the City's exclusivity agreement with Bay Area Motivate for bicycle ride-share. Revel

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<sup>2</sup>

[https://leginfo.ca.gov/faces/codes\\_displaySection.xhtml?sectionNum=12804.9.&lawCode=VEH](https://leginfo.ca.gov/faces/codes_displaySection.xhtml?sectionNum=12804.9.&lawCode=VEH)

<sup>3</sup> <https://www.kctlegal.com/blog/2017/june/california-scooter-and-moped-driving-laws/>

<sup>4</sup> [https://www.cityofberkeley.info/uploadedFiles/Planning\\_and\\_Development/Level\\_3\\_-\\_Commissions/Commission\\_for\\_Energy/2019-10-23\\_EC\\_Item%205\\_Berkeley%20Electric%20Mobility%20Roadmap%20Public%20Review%20Draft%2010.14.19.pdf](https://www.cityofberkeley.info/uploadedFiles/Planning_and_Development/Level_3_-_Commissions/Commission_for_Energy/2019-10-23_EC_Item%205_Berkeley%20Electric%20Mobility%20Roadmap%20Public%20Review%20Draft%2010.14.19.pdf)

mopeds classify as motorized bicycles under the Vehicle Code, which is separately defined from electric-assisted or human-powered bicycles. Section 1.13 of the Motivate agreement explicitly states that “‘Bicycle’ shall not include motorized vehicles, including scooters or mopeds. For the avoidance of doubt, electric assisted bicycles constitute Bicycles and do not constitute motorized vehicles.”<sup>5</sup>

In 2017, the City of Oakland and the City of Berkeley worked together to establish a One-Way Car Share permit program and issue parking permits to Gig Car Share, the country’s first multi-jurisdictional car sharing program. A similar multi-jurisdictional moped sharing program could further expand accessibility and transit options for residents.

Currently, Revel is working with the Oakland Department of Transportation and has submitted an application to the Berkeley Transportation Division seeking approval as a Qualified Car-Share Organization as a means of operating a moped sharing program. However, the City of Berkeley has not yet established parking permit fees scaled to mopeds, which this referral seeks to address. Following the model of the Gig Car Share program, staff should work with their counterparts in Oakland to implement consistent regulations across the two jurisdictions. Both Revel’s application and the proposed revision to Oakland’s Free Floating Zone Permit and Master Residential Parking Permit Terms and Conditions to accommodate electric mopeds are attached.

In developing the permit requirements, staff should evaluate and address any safety and logistical concerns that come with motorcycle parking in dead space. Staff should work with Revel in determining appropriate rebalancing criteria. Staff should also establish a process by which other electric moped rideshare providers may apply for parking permits.

#### FINANCIAL IMPLICATIONS

Staff time to amend the existing One-Way Car Share Program and revise the Free-Floating Parking Permit to accommodate ride-share motorized bicycle parking.

#### ENVIRONMENTAL SUSTAINABILITY

Transportation is the biggest source of carbon emissions in California and makes up 60 percent of emissions in the City of Berkeley.<sup>6</sup> In order to meet our statewide and citywide climate goals, governments must find a way to actively seek out and encourage the use of greener transportation options.

Smaller vehicle ride-sharing services, such as Revel, can be part of the solution by providing more sustainable micro-mobility options. Around 35 percent of car rides in the United States are trips of 2 miles or less, and this percentage is even higher for urban areas.<sup>7</sup> According to Revel’s 2018 Brooklyn Pilot Rider Feedback, 50 percent of riders report using Revel to replace taxis, Ubers, Lyfts, and personal vehicle trips. By providing

<sup>5</sup> [https://sanjose.granicus.com/Viewer.php?view\\_id=&event\\_id=1475&meta\\_id=544265](https://sanjose.granicus.com/Viewer.php?view_id=&event_id=1475&meta_id=544265)

<sup>6</sup> <https://www.cityofberkeley.info/recordsonline/api/Document/AS1qYEO88qcY6lps8nwbGgL4jGxxlSquza3ESIDOTS6DL2nWI1jPxxzLJVhyvQgYDIKpuJDdT3oigVB31dHEfM%3D/>

<sup>7</sup> <https://slate.com/business/2019/08/revel-moped-scooters-nyc-washington.html>

zero-emission electric mopeds as an alternative to cars, the City of Berkeley can reduce transportation sector carbon emissions and reliance on gas-powered vehicles.

CONTACT PERSON

Councilmember Rigel Robinson, (510) 981-7170  
Rachel Alper, Intern

Attachments:

- 1: Application by Revel to the Transportation Division
- 2: Draft City of Oakland Free Floating Zone Permit and Master Residential Parking Permit Terms and Conditions Revisions
- 3: Revel Informational Packet



Department of Public Works  
Transportation Division

# Application for Qualification One-Way Car Share Program

Please read the *Qualified Car Share Organization Terms and Conditions* for the One-Way Car Share Program before completing and submitting this application

Company Name:Revel Transit, Inc.
Street Address: 68 3rd. Street
City, State, Zip:Brooklyn, NY, 11231
Contact Name:Daniella Henry
Contact Email:Daniella.henry@gorevel.com
Contact Phone:860-212-8088
Company Website:www.gorevel.com
Berkeley Business License # (if already obtained):

Please answer the following below.

Describe your company's organizational structure and names/ positions of the executive team. See Attached.
Does your organization currently operate membership-based car sharing and, if so, where? See Attached.
Does your organization currently operate one-way car sharing and, if so, where? See Attached.

Application for Qualification – One-way Car Share Program

<p>Describe your organization’s planned one-way car share operations in Berkeley as well as regionally. See Attached.</p>	<p>For office use only</p>
<p>What are or will be your membership requirements? See Attached.</p>	<p>For office use only</p>
<p>Describe the company’s insurance coverage for each shared vehicle and for each member operating the vehicle during the period of use, including liability coverage, personal injury protection, uninsured/ underinsured motorist and collision/ comprehensive deductible. See Attached.</p>	<p>For office use only</p>
<p>Quantify your company’s initial fleet size and how the vehicles will be geographically distributed to serve the City of Berkeley. See Attached.</p>	<p>For office use only</p>
<p>Describe how members use the company’s reservation system and the devices (phone, computer, smart phone, etc.) that can be used to make or change a reservation. See Attached.</p>	<p>For office use only</p>

Application for Qualification – One-way Car Share Program

<p>Describe all of the ways that members can find one-way car share vehicles (phone, computer, smart phone, etc.). See Attached.</p>	<p>For office use only</p>
<p>Describe all of the methods by which members can access the company's rental vehicles (fobs, credit cards, smart phones, etc.) and the hours and days that vehicles are available See Attached.</p>	<p>For office use only</p>
<p>Describe how members pay for vehicle use and the rates you plan to charge. See Attached.</p>	<p>For office use only</p>
<p>Describe how your company's rental vehicles are tracked in real time. See Attached.</p>	<p>For office use only</p>
<p>Indicate when your company would be ready to launch one-way car share in Berkeley. See Attached.</p>	<p>For office use only</p>
<p>Submit photos or renderings of your company's branded vehicles with this application.</p>	<p>For office use only</p>



Application for Qualification – One-way Car Share Program

By signing this form, I attest that the above statements are true and that I have the authority to sign on behalf of the company Revel Transit, Inc.

Furthermore, I attest that I have read and agree to the *Qualified Car Share Organization Terms and Conditions* for the One-Way Car Share Program.

Signature and Date

*For office use only*

*Qualified*

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

*Conditionally qualified:*

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

*More information required:*

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

*Denied*

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Signed by: \_\_\_\_\_ Date: \_\_\_\_\_

Print name: \_\_\_\_\_ Position: \_\_\_\_\_



## REVEL APPLICATION FOR ONE-WAR CAR SHARE PROGRAM

September 17, 2019

### Describe your company’s organizational structure and names/positions of the executive team.

Founded in March 2018 in New York City, Revel is an all-electric member-based shared moped company. Revel provides and maintains a fleet of vehicles available to the public for point-to-point rides. All riders must be at least 21 years of age and hold a valid driver’s license, Revel provides standard insurance coverage.

Revel fits into cities’ transportation networks, as they exist today. Vehicles operate and park in the street and are equipped with license plates to ensure rider accountability. The system thrives in neighborhoods with limited transit options, lower rates of car ownership and those historically underserved by companies offering innovative mobility solutions. As cities are looking for ways to make transportation more accessible to residents, Revel provides a unique transportation option built to make getting around convenient, affordable and fun.

### Revel’s Vehicle



Revels are 100% emissions-free all electric vehicles.<sup>1</sup> Powered by a Lithium ion battery, Revel’s innovative design features a side

kickstand and auto turn off blinkers. The vehicle’s weight is well distributed giving the rider better balance and command than is typical for comparable vehicle models. Each Revel is manufactured for one or two riders and comes with two USDOT-certified helmets stored in a helmet case on the vehicle at all times.



Two “dead space” locations

Brooklyn, New York 2019

Each Revel is “street legal”, that is it has received a USDOT-issued Vehicle Identification Number and is registered and issued a license-plate through the applicable state Department of Motor Vehicles. Every Revel is covered by liability

insurance for each vehicle and for each member operating the vehicle during the period of use. Because the vehicle's motor does not have a displacement over 50 cubic centimeters, and does not exceed a maximum speed of 30mph, a motorcycle license is not required.

Additionally, as cities grapple with shrinking parking availability in the midst of rapid population growth, Revels are space efficient. Requiring no more than three feet of the curb they easily fit in "dead space" where other vehicles are too large to park. A curbside parking spot for one car could fit up to five Revels.

**Revel Organization:** See attached for Revel's executive team organizational chart.

- Key Contact to the City of Berkeley: Haley Rubinson, Director of Business Development
  - Revel's Director of Business Development develops and executes the company's expansion strategy to enter into new city markets. She manages stakeholder engagement, regulatory affairs, external affairs and partnerships across all Revel's partner cities.
- Project Manager for the City of Berkeley: Jonathan Brims, Director of New Markets
  - Revel's Director of New Markets spearheads our efforts to plan and execute the deployment of Revel solutions in new cities. He is accountable for all aspects of launching new markets, including recruiting and hiring the local management and operations teams; identifying local office/warehouse space; and procuring the tools and equipment necessary to support local operations.

**Does your organization currently operate membership-based car sharing and, if so, where?**

Founded in March 2018, Revel is a membership based all-electric moped sharing company. Potential members must be at least 21 years of age and hold a valid driver's license. Potential members must upload a photo of their driver's license, take a selfie and upload their debit or credit card information. Revel then screens every potential user's driving history for incidents such as excessive speeding violations and DUIs. Once a potential member successfully passes the screening process, they can access vehicles on the Revel app. Revel currently operates 1000 vehicles in New York City and 400 vehicles in Washington D.C.

**Does your organization currently operate one-way car sharing and, if so, where?**

Revel provides and maintains a fleet of vehicles available to members for point-to-point rides, including one-way trips. As mentioned above, Revel currently operates in New York City and Washington, D.C.

**Describe your organization's planned one-way car share operations in Berkeley as well as regionally.**

Revel will establish a physical presence within the City of Berkeley, hiring locally-based employees on the ground so we remain responsive to our customers, government and our communities. We plan to hire a Berkeley-based team to manage both day-to day operations as well as long-term planning in coordination with the management team reflected in the attached personnel chart. Regionally, if amenable to all relevant government stakeholders, we look forward to launching a similar operation in the City of

Oakland at the same time as Berkeley. Hiring a local team will be top priority and we are committed to hiring a Head of Operations and a Head of Public Affairs as well as a fleet management team in advance of the launch.

a) Responsibility of Management Team performing the work

- Head of Public Affairs, Berkeley - Oakland
  - **Experience required:** \*10+ years of professional work experience in transportation, management consulting, political campaigns or similar fast-paced work setting \* At least 5 years experience leading large teams \*Experience working closely and communicating effectively with internal and external stakeholders in an ever-changing, rapid \*growth environment with tight deadlines \* Comfortable representing Revel in front of community boards and other stakeholder groups \* Are capable of taking on responsibilities outside of your core role \* Bring high energy and motivational leadership \* Experience navigating city and state regulatory structures \* You take your work seriously but not yourself.
  - **Responsible for:** \*Be accountable for all aspects of public affairs, including community engagement, in the Berkeley area. Salary commensurate with experience.
- Head of Operations, Berkeley - Oakland
  - **Experience Required:** \*10+ years of professional work experience in transportation, operations, logistics or similar fast-paced work setting \* 5+ years experience managing large teams of varying experience levels \* Quickly identify, troubleshoot and resolve problems \* Excellent verbal and written communication skills, with experience reporting to senior company management \* High energy and able to motivate and manage any personality type \* Can articulate clearly and persuasively in positive or negative situations \* Experience maintaining vehicles and/or a strong mechanical aptitude \* Adaptable, decisive, and able to juggle competing priorities \* Ability to work weekends and evenings \* Relevant OSHA accreditation preferred \* Experience working with Lithium Ion batteries preferred \* You take your work seriously but not yourself.
  - **Responsible for:** \*Lead team of warehouse and field Operations Managers whose teams are tasked with maintaining, cleaning and charging our Berkeley moped fleet \* Oversee recruitment, hiring and training of Operations Managers and Associates \* Coordinate with Launch team for pre-launch warehouse build out and fleet scale up \* Accountable for the safety, quality, and availability of our vehicles \* Accountable for lithium ion battery inventory, including storage and charging for entire Berkeley fleet \* Ensure operations team continually analyzes, improves, and sets best practices for maintaining our fleet \* Prioritize issues reported to our customer service team.
- Fleet Management Team:
  - Revel does not do gig economy. The company hires full-time employees and offers commensurate benefits. We are staffed 24/7, with operations

employees working shifts throughout the day and with live customer service representatives available at all times our vehicles are in service.

- o Fleet positions will include warehouse and fleet operations staff, including mechanics, battery swappers and safety leads.

b) Policies and Procedures that will be utilized to ensure safety and prompt service

- Safety is the number one priority at Revel. We have incorporated the following features, policies and procedures into our vehicle and operations. Further, we take a high touch approach to our business with operations, customer service, data/analytics and other functions performed in-house by Revel employees. This level of accountability allows us to stay attuned to our customers, as well as everyone else who interacts with our service so we can be immediately responsive should new safety or service issues arise.
  - o Drivers must be at least 21 years old with a valid license and safe driving record; before registration is complete Revel performs DMV background checks to verify riders' information. Users must also submit a selfie to verify they are the license-holders.
  - o Available in-app and on our website, riders are given information (through text, video, infographics) on how to safely and responsibly operate and park. Additionally, each vehicle has prominently placed stickers with printed information on how to ride and park; use the throttle; reminders on fastening helmets; and key 'Rules of the Road'.
  - o As part of our Rental agreement, users must accept the terms of our 'Rules of the Ride' (attached) which are aimed at safe operation of our vehicle and obeying applicable traffic and parking laws. Failure to do so may result in fines and suspension or termination of a rider's Membership.
  - o Two USDOT certified helmets equipped with eye protection shields are stored in each Revel at all times. Riders must wear helmets, per Revel's Rental Agreement.
  - o As motor vehicles, Revel's travel in traffic lanes, park curbside and have safety equipment consistent with or exceeding state DMV and insurance board standards.
  - o Speed throttled at 30mph to keep up with traffic, license plates ensure accountability.
  - o Revel offers free in-person lessons to existing and potential riders 7 days a week.
  - o Immediate multi-lingual (currently English and Spanish) customer support from Revel employees is available during operating hours.
  - o Revel has field technicians and mechanics working 24/7 so there is always an employee ready to respond to any issue at any time. It is also Revel's policy to engage with regulators, law enforcement and other key city officials in any city we operate. All will have a direct cell phone number and email address for a locally-based senior management employee to contact at any time, day or night if needed.

c) Plan of how Revel will provide services

- Revel will provide an initial fleet of 500 electric motor scooters (Revels) titled

and registered with the California Department of Motor Vehicles by December 1, 2019. All Revels in the Berkeley fleet will be:

- Zero-emission
  - Powered by a Lithium ion battery
  - Equipped with a kickstand
  - Equipped with automatic shut-off turning signals
  - Equipped with a helmet case containing two USDOT certified helmets
  - Equipped with a speed governor that ensures the vehicle will not travel in excess of 30 mph on level ground
  - Equipped with geo-fencing technology
- Like in New York and Washington D.C., Revel will maintain operating hours of 5am to midnight to start but will consider extending operating hours once the city is used to the service and demand permits. Revel will provide all signage, supplies and equipment necessary to operate in the program areas. Revel will secure an adequate facility within the City of Berkeley for the purpose of Revel operations.
  - Revel will hire a Head of Operations and Head of Public Affairs as well as a fleet operations team tasked with maintaining the vehicles at maximum capacity, including maintenance and charging. Customer support and data needs will be managed by our New York-based team, who will be in constant contact with the Berkeley-based operations team. We will secure a location in the Berkeley area which will house all our operations in advance of the launch date.
  - Like our other programs, Berkeley riders will download the Revel app to sign up for the vehicle sharing service. After uploading a license and a 'selfie', Revel will ensure that the potential user has a responsible driving record, e.g. no prior DUI violations or excessive speeding tickets. After determining that the potential user meets the Revel safety standard, the user can unlock any vehicle, unlock and access either of two USDOT-certified helmets (a Revel is manufactured to accommodate two riders) that are stored in the Revel helmet case at all times. In short, riders use the Revel app to find a nearby Revel, reserve it, ride where they need to go, and park it in a legal parking spot when done. The cost per ride will be \$1 to unlock, .25/minute to ride, .10/minute to park. We are also committed to equitable riding that is accessible to all residents and will offer the Revel Access program, which gives a 40 percent discount for riders on any form of government assistance, to qualifying Berkeley riders. This is consistent with the current pricing of our existing fleet.
  - Revels are licensed vehicles and therefore travel in traffic lanes, adhere to all rules of the road, including parking regulations, and have DMV safety equipment. While Revels are "street-legal", their speed is throttled at 30mph and no motorcycle license is required. Each Revel has an alarm system that is activated if the Revel is moved when locked, along with a rocking back wheel mechanism.

d) Regional Plan

**What are or will be your membership requirements**

- Revel members must:
  - be 21 years of age or older

- have a valid driver's license
- upload a "selfie" for the driving record screening
- have a responsible driving record, e.g. no prior DUI violations or excessive speeding tickets
- agree and adhere to our user agreement including
  - adhere to all rules of the road
  - follow parking regulations
  - wear a helmet at all times
  - passenger must be 18 years of age or older

**Describe the company's insurance coverage for each shared vehicle and for each member operating the vehicle during the period of use, including liability coverage, personal injury protection, uninsured/underinsured motorist and collision/comprehensive deductible.**

Every Revel is covered by liability insurance for each vehicle and for each member operating the vehicle during the period of use. Every Revel is covered by general liability insurance up to a million and up to \$50,000 for each member operating a Revel. Every Revel is covered by liability insurance for each vehicle and for each member operating the vehicle during the period of use.

Commercial General Liability:

- Each occurrence \$1,000,000
- Damage to rented premises \$50,000
- Medical expenses \$5,000
- Personal & adv injury 1,000,000
- General aggregate \$2,000,000
- Products \$2,000,000

Company: Y-Risk

- Address: 29 Mill St, Unionville, CT 06085
- Phone Number: 860-559-4099 (cell)
- Point of Contact: Bernie Horovitz
- Email Address: [bernieh@yrisk.com](mailto:bernieh@yrisk.com)
- Services Provided: Partner & CEO of Y-Risk (insurance provider)

**Quantify you company's initial fleet size and how the vehicles will be geographically distributed to serve the City of Berkeley**

Revel would initially deploy 500 mopeds in geographically distributed locations throughout Berkeley that would demonstratively serve Berkeley residents. As in other cities that we operate in, we would work together with the City of Berkeley to ensure that our operating area covered neighborhoods that have historically lacked transit access.

**Describe how members use the company's reservation system and the devices (phone, computer, smart phone, etc.) that can be used to make or change a reservation.**

During the sign-up process to use Revel, members are required to upload a photo of their driver's license and take a selfie to confirm the rider is the actual license holder. Then the system does a DMV record check to confirm the driver's license is not suspended; the holder is at least 21 years of age and that they have a safe driving history. A record of recent DUI's, speeding or multiple recent moving violations would trigger a flag to review or reject the registration. Once a rider's account is approved, accessing a Revel is as follows:

1. Open the Revel app on a smart phone to find a nearby vehicle.
2. Click to reserve (up to 15 minutes), once at vehicle click to start and unlock helmet case.
3. Take a free "safety minute" to fasten helmet, check mirrors, get comfortable.
4. Begin ride and park in a legal parking spot when you reach your destination.
5. Close out the ride with one click.

**Describe all of the ways that members can find one-way car share vehicles (phone, computer, smart phone, etc.).**

Members can access Revels through any phone that can access a phone app and that has a camera that can take a selfie. Members must put a debit or credit card on file to use the service. Revels are available to members every day between the hours of 5 a.m. and midnight.

**Describe how members pay for vehicle use and the rates you plan to charge**

Members pay through a debit or credit card registered to their Revel account. Revel has a flat \$19 fee to run a background check on every rider's driving history. If approved, Revel users pay a \$1 unlock fee and each additional minute is \$0.25. Further, as another example of our commitment to the communities we serve, we are proud to offer our Revel Access program, providing a 40% discount for Revel users that qualify for affordable assistance programs, including SNAP benefits and affordable housing. Revel members that qualify for the Access program also receive a credit to their account to offset the \$19 fee to run the background check.

**Describe how your company's rental vehicles are tracked in real time**

All of our vehicles contain a telematics device that communicates vehicle data to us, including but not limited to, vehicle location. Information is collected every second, and stored in our database.

**Indicate when your company would be ready to launch one-way car share in Berkeley.**

We would be ready to launch December 1.

**Photos and renderings of your company's branded vehicles with this application.**





Our team has the ability to execute.



Frank Reig  
Co-Founder & CEO  
VP, Energy & Industrials, GLG

Paul Suhey  
Co-Founder & COO  
Advanced Design Engineer,  
Exxon



Haley Rubinson  
Director of Business Development  
Managing Director, Tusk Ventures



Michael Pellegrino  
Director of Operations  
Director of Launch, Motivate



Joseph Nowicki  
Director of Data Science & Analytics  
VP, Data Science, Huge



Kristy Zoshak  
Director of Community  
Director of Marketing, Citi Bike



Lauren Vriens  
NYC GM  
Trade Commissioner Tech,  
Canadian Embassy



Theresa Magliano  
NYC Senior Operations Manager  
Head of Ops, Marley Spoon



Kaitlin Day  
Customer Experience  
Manager  
Manager, Customer Care at  
The Body Shop



Alexandria Borlabi  
Finance Manager  
Manager, Financial Planning  
at Flocabulary



Mikaela Jordan  
Senior Data Analyst  
Data Analyst at RAPP



Daniella Henry  
Policy and Gov't Affairs Manager  
Senior Policy Advisor, NYC Mayor



Helen Stackhouse  
Marketing & Design Manager  
Creative Services Manager, Lyft



Jonathan Brims  
New Market Launch Manager  
Chief Strategy Officer,  
Immersive Robotics

By December 1, 2019

*Berkeley Head of Operations*



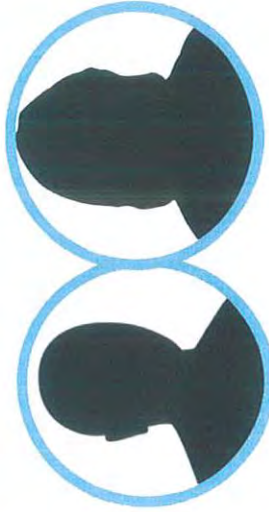
CEO of our critical markets

*Berkeley Head of Public Affairs*



Manage day-to day operations

*Berkeley Fleet Operations Staff*



Warehouse and field operations









City of Oakland

**FREE-FLOATING ZONE PARKING PERMIT (FFZPP) AND MASTER  
RESIDENTIAL PARKING PERMIT (MRPP) TERMS AND CONDITIONS**

Department of Transportation | Parking & Mobility

6/13/2019

FREE-FLOATING ZONE PARKING PERMIT (FFZPP) and MASTER RESIDENTIAL PARKING PERMIT (MRPP) TERMS AND CONDITIONS

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FREE-FLOATING ZONE PARKING PERMIT (FFZPP) and MASTER RESIDENTIAL  
PARKING PERMIT (MRPP) TERMS AND CONDITIONS

**Car Sharing Staff Contact:**

Michael Ford, Ph.D., C.P.P.

[mford@oaklandca.gov](mailto:mford@oaklandca.gov)

(510) 238-7670



FREE-FLOATING ZONE PARKING PERMIT (FFZPP) and MASTER RESIDENTIAL PARKING PERMIT (MRPP) TERMS AND CONDITIONS

**DEFINITIONS**

"Car sharing" is defined as a membership-based service, available to all qualified drivers in a community, which allows members to make motor vehicle trips with the use of a rented motor vehicle without a separate written requirement for each trip. (Oakland Municipal Code 10.44.030)

"Car sharing organization" is an organization that provides members with access to a minimum of 20 shared-use motor vehicles at geographically distributed locations with hourly, daily, and/or weekly rates (or fractions thereof) that include insurance. The Department of Transportation will maintain a list of the criteria necessary to become a "qualified" car sharing organization as well as a list of qualified car sharing organizations entitled to apply for car sharing-related permits. (Oakland Municipal Code 10.44.030)

"Car sharing vehicle" is a motor vehicle made accessible by a car sharing organization for use by its members. Each car sharing organization shall display its identifying emblem on any car sharing vehicle using on-street spaces. (Oakland Municipal Code 10.44.030)

"Master Residential Parking Permit" (MRPP) refers to the permit that entitles car sharing vehicles with master residential parking permits to park in any residential permit parking area. (Oakland Municipal Code 10.44.030)

"Motor vehicle" means and includes automobile, truck, motorcycle or other motor driven form of transportation not in excess of 10,000 pounds in gross vehicle weight rating. (Oakland Municipal Code 10.44.030)

"Free-floating Zone Parking Permit" (FFZPP) is a permit that entitles members of a permitted car sharing organization to lawfully park car sharing vehicles in metered and unmetered spaces with duration limits of two hours or longer for up to 72 hours within a designated zone. (Oakland Municipal Code 10.71.030)

"Free-floating zone area" is the area agreed upon by the car sharing organization permit holder and the Department of Transportation, which bounds the permitted parking area for permit holder's car sharing vehicles within Oakland. (Oakland Municipal Code 10.71.030)

"Qualified Car Share Organization" (QCSO) is a car sharing organization that has been approved by the Department of Transportation for a Free-floating zone parking permit and/or Master residential parking permit.

"Parking permit" means a permit issued under this chapter which, when displayed upon a motor vehicle, as described herein, shall exempt said motor vehicle from parking time restrictions established pursuant to this chapter. (Oakland Municipal Code 10.44.030)

**AUTHORITY**

In ordinance 13301 C.M.S. and a companion resolution, 85459 C.M.S., the City Council delegated the authority to the Director of Transportation or a designee to approve the criteria and

## FREE-FLOATING ZONE PARKING PERMIT (FFZPP) and MASTER RESIDENTIAL PARKING PERMIT (MRPP) TERMS AND CONDITIONS

administrative rules to issue the Free-Floating Zone Parking Permit (FFZPP) and the Master Residential Parking Permit (MRPP).

### INTENT

The intent of the FFZPP is to facilitate car sharing within Oakland by establishing a permit that entitles a permitted car sharing vehicle to lawfully park in metered and unmetered spaces with duration limits of two hours or longer for up to 72 hours within a designated free-floating zone area. The concept for the FFZPP is based on the idea that Qualified Car Sharing Organizations should be able to pre-pay an estimate of meter fees for parking activity of point-to-point car sharing vehicles within a designated free-floating zone area. The estimate will be reconciled with actual parking activity after the term of the FFZPP.

The intent of the MRPP is to facilitate car sharing within Oakland by establishing a permit that entitles a permitted car sharing vehicle to lawfully park in all residential permit parking areas (RPP) areas for up to seventy-two (72) hours. The concept for the MRPP is based on the idea that car sharing vehicles should be entitled to the same on-street parking privileges of private automobiles. Because car sharing vehicles will rotate throughout the City, the vehicles will require access to all RPP areas.

### FLEET DEPLOYMENT AND REBALANCING

In order to evenly distribute vehicles during initial deployment and ongoing operations, no more than two vehicles shall be parked by applicant as part of fleet "rebalancing" per block face or per 500 linear feet of curb, whichever is shorter. In addition, no more than one vehicle should be "rebalanced" to block faces where one or more of applicant's vehicles have already been parked by a customer. All rebalancing vehicle trips shall be clearly noted as such in vehicle trip and/or parking records provided to the City.

### PRIVILEGES OF THE FREE-FLOATING ZONE PARKING PERMIT

The following privileges will be extended to the Permittee:

1. **Waiver of parking duration time limits for two hours or longer within an approved free-floating zone area:** The FFZPP allows Permitted car sharing vehicles to be parked up to 72 hours without the direct payment of a meter on the public right-of-way, in legal and not otherwise restricted parking spaces within an approved free-floating zone area. Restricted parking spaces include those with one or more regulating signs (such as Vanpool spaces), which cannot be used by Permittee during the specified restricted times shown on the sign(s), as well as meters with time limits of less than two hours. The Permittee should consult *Title 10 – Vehicles and Traffic, Oakland Municipal Code*, for a list of City parking restrictions.
2. **Ability of the Permittee to pre-pay estimated parking fees accrued by its car sharing vehicles in the approved free-floating zone area over the calendar year:** The FFZPP fee estimates the average parking meter fees that a single car sharing vehicle will accrue

## FREE-FLOATING ZONE PARKING PERMIT (FFZPP) and MASTER RESIDENTIAL PARKING PERMIT (MRPP) TERMS AND CONDITIONS

over the course of one year (12 calendar months). With this Permit, the Permittee agrees to pay the fee published in the Master Fee Schedule at the beginning of the permit term as in lieu fee for its members' estimated parking meter usage. Members of the Permitted Qualified Car Sharing Organization should not pay meters with time limits of two hours or longer while parking FFZPP Permitted vehicles in an approved zone. It is expected that the Permittee will track actual parking events of members within the approved free-floating zone area and report parking activity to the City of Oakland on a monthly or quarterly basis. At the end of the Permit term, the City will invoice the Permittee for any parking fee shortfall, which will need to be paid within 30 days. If the Permittee has overpaid at the start of the Permit term, then either credit will be applied towards a renewal of permits or a reimbursement check will be sent to the Permittee.

*Mopeds and motorcycles:* Members parking mopeds or motorcycles in a metered zone but parked between metered spaces (at the parking "T" if one exists and/or in front of the parking meter if one exists), perpendicular to the curb in such a way as to not obstruct other vehicles from parking on either side, will not be required to reimburse the City for meter revenue. Members parking permitted mopeds or motorcycles in such a way that prevents another vehicle from parking in either adjacent space, or in a designated motorcycle parking area will be required to reimburse the City through the meter deposit. Permittee will educate its members about proper parking procedures.

3. **Ability to request signage:** The intention of the FFZPP is to designate an area within which it's possible to park without dedicating specific locations in the right of way for parking for car sharing vehicles. However, there are circumstances in which signage might be necessary to signify the right of Permitted car sharing vehicles to park in an approved area. In such circumstances, the Permittee can request that the City approve, install, and remove signage and sidewalk and/or street markings designating an approved home zone. The Permittee shall not install, paint, mark, or remove any signs, markings, or other demarcations on City property including on the street or the sidewalk. The City is not responsible for any damage caused to Permittee installed signage and/or markings.
4. **Option to request up to four (4) changes to the approved free-floating zone area during the term of the Permit:** The City of Oakland authorizes the Permittee to change the approved initial free-floating zone area up to four times during the term of the Permit. As long as the Permittee demonstrates to the City that changes to the free-floating zone area continue to meet the City's eligibility criteria (see Establishment of A Free-Floating Zone on page 8), the City will automatically approve the change to the free-floating zone area. If the changed free-floating zone area deviates from the criteria, the Permittee will need to submit the changes to the free-floating zone area for the City's approval before the Permittee can shift operations. Upon receipt of the changed free-floating zone area, the City will have ten (10) business days to respond to the changed boundary.

FREE-FLOATING ZONE PARKING PERMIT (FFZPP) and MASTER RESIDENTIAL PARKING PERMIT (MRPP) TERMS AND CONDITIONS

5. **Ability to park a moped or motorcycle within designated moped or motorcycle parking areas:** In addition to the privileges described above, FFZP permits obtained for mopeds or motorcycles grant members the ability to park them in designated motorcycle parking areas without direct payment of the meter fee when displaying their FFZP permits. Meter fees will be deducted from the FFZP deposit at the end of the permit year.

**PRIVILEGES OF THE MASTER RESIDENTIAL PARKING PERMIT**

The following privileges will be extended to the Permittee:

1. **Ability to park a permitted car sharing vehicle for longer than two (2) hours but no longer than seventy-two (72) hours in a residential permit parking area:** The Master Residential Parking Permit (MRPP) allows Permitted car sharing vehicles to be parked up to 72 hours in legal and not otherwise restricted parking spaces within an RPP area. Restricted parking spaces include those with one or more regulating signs (such as blue curb or disabled spaces), which cannot be used by Permittee during the specified restricted times shown on the sign(s). Permitted motorcycles or mopeds must park perpendicular to the curb, with one wheel touching the curb.

The Permittee should consult *Title 10 – Vehicles and Traffic - Chapter 10.44 – Residential Permit Parking Program* of the Oakland Municipal Code, for a list of City parking restrictions in RPP areas.

2. **Ability to park a permitted car sharing vehicle in any residential permit parking areas in Oakland:** The MRPP allows Permitted car sharing vehicles to park in any RPP area regardless of the residential address of the car sharing member operating the vehicle. Please see attached map of RPP areas.
3. **Ability to request signage:** The intention of the MRPP is to allow car sharing vehicles to rotate within and among RPP areas without dedicating specific locations in the right of way for parking for car sharing vehicles. However, there are circumstances in which signage might be necessary to signify the right of Permitted car sharing vehicles to park in an approved area. In such circumstances, the Permittee can request that the City approve, install, and remove signage and sidewalk and/or street markings in RPP areas. The Permittee shall not install, paint, mark, or remove any signs, markings, or other demarcations on City property including on the street or the sidewalk. The City is not responsible for any damage caused to Permittee installed signage and/or markings.

**ELIGIBLE PERMITTEES**

An eligible applicant for a FFZPP and/or a MRPP must have obtained a certificate, which acknowledges that the buyer is a Qualified Car Sharing Organization in Oakland, or a letter that indicates that the buyer is a Conditionally Qualified Car Sharing Organization. The Qualified Car Share Organization must also possess a business license to operate in the City of Oakland.

FREE-FLOATING ZONE PARKING PERMIT (FFZPP) and MASTER RESIDENTIAL PARKING PERMIT (MRPP) TERMS AND CONDITIONS

**PERMIT STRUCTURE**

The FFZPP and MRPP shall have two components: a Fleet Permit granted to a Qualified Car Sharing Organization (Qualified CSO) and an individual Permit, which is granted to a specific vehicle. To purchase individual FFZPP and/or MRPP Permits, an applicant must file an application for a fleet permit with the City. A Qualified CSO is only entitled to receive one FFZPP Fleet Permit, one MRPP Fleet Permit, or one combined FFZPP/MRPP permit per year.

Permits are issued to individual Qualified Car Sharing Organizations, and they may not be traded or resold.

**PERMIT TERM**

The FFZPP shall last for one year on a fiscal year schedule. For instance, the 2018 Permit will be in effect from July 1, 2018, to June 30, 2019. A Qualified Car Sharing Organization who receives an FFZPP Fleet Permit after July in the calendar year will have the option to pro-rate individual Permit fees to the month purchased. The option to renew permits to Permittees in good standing will be presented in June of the Permit year.

The Fleet Master Residential Parking Permit (Fleet MRPP) shall last for one year on a fiscal year schedule. For instance, the 2018 Permit will be in effect from July 1, 2018, to June 30, 2019. Qualified Car Sharing Organizations (Qualified CSOs) who receive a Fleet MRPP after July in the calendar year will have the option to pro-rate individual Permit fees at the discount schedule extended to Residential Parking Permits. For instance, a Qualified CSO that purchases MRPPs in the first half of the calendar year will have to pay the full Permit fee, but will only pay 70% of the Permit fee if purchased in the second half of the calendar year. Please see the FY 16-17 Master Fee Schedule for more information about proration: <http://www2.oaklandnet.com/Government/o/CityAdministration/d/BudgetOffice/OAK056277>.

The option to renew permits to Permittees in good standing will be presented in June of the Permit year.

**PERMIT CAP AND FLEET SIZE**

Each Qualified Car Sharing Organization (Qualified CSO) applying for FFZPPs can be issued no more than one Fleet Permit, which entitles a fleet of car sharing vehicles owned by a Qualified Car Sharing Organization to purchase individual FFZPPs. This Fleet Permit will allow the City to batch process renewals, vehicle registrations, parking citations, etc., with Permittees. The City has not adopted a cap on the number of car sharing vehicles a QCSO can include in a Permitted Fleet, but in the Car Sharing Principles (85459 C.M.S.), the City limited the number of individual FFZPPs to 400 per year during the pilot program (the first two years that the FFZPP is available for sale). If this cap presents a hindrance to operators and the realization of the City's car sharing principles, the City will make adjustments to the cap.

An FFZPP Fleet Permit applicant, however, cannot purchase more individual FFZPPs than with which it can initiate service during that Permit term. For instance, if an applicant has 30 vehicles

## FREE-FLOATING ZONE PARKING PERMIT (FFZPP) and MASTER RESIDENTIAL PARKING PERMIT (MRPP) TERMS AND CONDITIONS

ready to be used in a Free-Floating model, but it requests to purchase 40 individual FFZPPs, the additional 10 permits will be denied or revoked upon discovery that they are not in use.

A Fleet MRPP applicant cannot purchase more individual MRPPs than with which it can initiate service during that Permit term. For instance, if an applicant has 30 vehicles ready to be used in a Free-Floating model, but requests to purchase 40 individual MRPPs, the additional 10 permits will be denied or revoked upon discovery that they are not in use.

### **EVIDENCE OF PERMIT**

A separate, individual, revocable FFZPP will be issued to each vehicle and/or license plate registered by the Permittee. As evidence of the Permit, the City of Oakland will issue 1) a paper Permit, and 2) a sticker to be affixed to the lower left corner of the rear bumper. The sticker will take the following form:

1. A mini-sticker that features the City's logo and the serial number of the Permit to be affixed to a larger bumper sticker provided by the Qualified Car Sharing Organization (Qualified CSO) of a similar size to the Residential Parking Permit sticker. The larger bumper sticker provided by the Qualified CSO must display the following information:
  - a. A title indicating that the Permitted vehicle has special parking privileges
  - b. The license plate number of the Permitted vehicle
  - c. The date the Permit expires in that Permitted year
  - d. Sufficient space for the City's mini sticker
  - e. The zone designation of the Qualified CSO's approved Free-Floating Parking Zone.

If the FFZPP Permittee also purchases Master Residential Parking Permits (MRPPs) for its car sharing vehicles and chooses to affix City-issued mini-stickers to bumper stickers, the City will have opportunity to combine the mini-sticker for the FFZPP and the mini-sticker for the MRPP into one combined sticker.

Alternative arrangements for the sticker can be made at the request of the Qualified CSO. To inquire, please contact the car share contact.

### **ESTABLISHMENT OF A FREE-FLOATING ZONE AREA**

It is the obligation of the Qualified Car Sharing Organization (Qualified CSO) to propose a Free-Floating Parking Zone ("free-floating zone area") in which to establish car sharing services as permitted by the FFZPP Fleet Permit. In the form of a map (file type to be specified by the City), the boundaries of the free-floating zone area will be submitted to the Department of Transportation as the initial step in the FFZPP Fleet Permit application process. Once the boundaries of the FFZPP have been approved (criteria outlined below), the Qualified CSO will submit information about its fleet of car sharing vehicles to the Parking Permits Supervisor in the Revenue Department.

FREE-FLOATING ZONE PARKING PERMIT (FFZPP) and MASTER RESIDENTIAL PARKING PERMIT (MRPP) TERMS AND CONDITIONS

As specified in the Municipal Code (*Title 10 – Vehicles and Traffic*), the Permittee is allowed up to four (4) changes of the free-floating zone area during the term of the Permit. Any proposed changes to the boundaries within the Permit term must be submitted to the Department of Transportation. As long as the Permittee demonstrates to the City that changes to the free-floating zone area continue to meet the City’s eligibility criteria of the free-floating zone area boundary and that there are no outstanding claims by neighborhood associations and/or business groups, the City will automatically approve the change to the free-floating zone area. If the Permittee requires an exception from the eligibility criteria, then the Permittee will need to receive the City’s approval of the changes before the Permittee can adjust operations or inform members of the new free-floating zone area.

The Permittee must notify its members about changes to the free-floating zone area at least three (3) days before the Permittee adjusts the zone.

If changes to the operating area proposed by Permittee will significantly restrict access of neighborhoods or neighborhood commercial districts to car sharing services, the Permittee must contact any City-recognized neighborhood organizations and/or business associations that are impacted and provide an opportunity for neighborhood input.

The City may provide a list and/or map of any and all parts of the free-floating zone area that the Permittee’s permits will not be honored. The Permittee’s permits will not be valid when the vehicle is parked in these areas and therefore must follow the same rules and regulations as any other motor vehicle.

***Eligibility Criteria of Free-Floating Zone Area:***

1. The free-floating zone area must be situated in part or completely within the City of Oakland’s boundaries.
2. The free-floating zone area must be representative of Oakland’s geographic and socioeconomic diversity. Within 3 (three) months of FFZP approval or renewal, at least 50 percent (50%) of the free-floating zone area must encompass all or parts of census tracts that have been designated Communities of Concern by the Metropolitan Transportation Commission (MTC). Details about the Communities of Concern designation can be found on the MTC’s data portal: <http://opendata.mtc.ca.gov/datasets?q=Policy> . This criterion has been recommended to ensure that the City’s programs are accessible to all residents.
3. If a street or block face would like to be included in a free-floating zone area, and the Permittee has denied the request of the appropriate neighborhood association and/or business group, the City reserves the right to withhold approval of subsequent changes to the free-floating zone area or renewal of the FFZPPs until the complaints with said groups have been resolved. The neighborhood association and/or business group must file notice of the request to be included in a given free-floating zone area with the City at least ten (10) business days before a specific date of a requested action. The City must

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notify the affected Permittee within ten (10) business days that the City has received such a request from a neighborhood association and/or business group.

4. If, after six (6) months of inclusion in a free-floating zone area, neighborhood organizations and/or business groups within the zone protest the inclusion of a street or block face in a free-floating zone area, said groups can petition the City to have its street included on the black out list of streets with overriding parking restrictions. At least two-thirds (2/3) of residents on a given street or block face must sign a petition to remove said street and/or block face from a free-floating zone area. The City requires that the petitioning neighborhood and/or business group make an effort to negotiate the parking behavior directly with the Permittee operating in the free-floating zone area before bringing a petition to the Shared Mobility Coordinator or designee of the City Traffic Engineer.
5. The free-floating zone area is only valid and operational so long as the Permittee holds active FFZPPs granted by the City.
6. If the applicant's free-floating zone area does not include Communities of Concern (as designated by MTC) located in East Oakland (defined as areas to the east of 14<sup>th</sup> Avenue), then an Expansion Plan must be submitted to the Department of Transportation within three (3) months of the receipt or renewal of applicant's FZPP's. The Expansion Plan must include an expected timeline for expanding service to Communities of Concern in East Oakland, a map or maps depicting the proposed service area changes over time, and any actions that the applicant requests from the City in order to expand service.

**OUTREACH TO NEIGHBORHOOD ASSOCIATIONS AND BUSINESS GROUPS**

After the City grants the applicant an FFZPP, MRPP, or combined FFZPP-MRPP permit, the Permittee must request at least one (1) meeting with each neighborhood associations and/or business group located within the approved Free-Floating Parking Zone ("free-floating zone area") and/or Master Residential Parking Area Zone. When a free-floating zone area expands, the City expects the Permittee to request at least one (1) meeting with each neighborhood associations and/or business group located in the expanded free-floating zone area. Prior to designating or expanding a free-floating zone, the applicant must provide the City with a proposed list of neighborhood associations and business groups which it intends to meet with. The Department of Transportation must then approve the proposed list of meetings. After those meetings are completed, the applicant must provide the City with evidence of attendance (such as a sign-in sheet or meeting agenda) and meeting notes.

The Permittee shall not advertise or publish the City's participation in this Permit program prior to receiving the FFZPP, MRPP, or combined FFZPP-MRPP permit.

**PERMIT FEES AND PAYMENT RECONCILIATION**

The Permittee agrees to pay all permit and other appropriate fees to the City.



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*Free-Floating Parking Zone*

The Free-Floating Parking Zone (FFZPP or “free-floating zone area”) Permit fees are published in the Master Fee Schedule. For Fiscal Year 19-20, the cost of an FFZPP is \$220 per car sharing vehicle per year. The intent of this fee is to create an upfront estimate of the expected meter usage of a car sharing vehicle within the approved free-floating zone area. Over the course of the term of the Permit, the Permittee will track actual parking meter usage per vehicle, report that usage to the City, and within 30 days after the last day of the permit term, i.e. July 31 of the following year, reconcile the actual dollar value of parking meter usage estimated pre-payment.

For motorcycles and mopeds, the FFZP is one-fifth the cost of the standard FFZP fee, to account for the smaller size of these vehicles and the small number of designated motorcycle parking areas. For fiscal Year 19-20, the motorcycle and moped FFZP is \$44

In the case of overpayment, the City will credit the surcharge towards a Permit renewal or the Permittee will invoice the City for the balance by the last business day of the subsequent month. In the case of underpayment, the City will invoice the Permittee for the balance by the last business day of the subsequent month.

The Permit fees are based on the anticipated average number of vehicles in the Permittee’s fleet in Oakland. For an FFZPP Permittee with a free-floating zone area that spans multiple municipalities including Oakland, the Permittee will calculate an estimate of the average number of vehicles which will park overnight, based on the share of parking meters, the share of parking spaces, or the share of the area within Oakland of the multi-jurisdiction free-floating zone area. Documentation of the estimate of the average number of vehicles should be included with the Permit application. These fees are to be assessed at the beginning of each Permit term and when additional vehicles are added to the fleet (no fees will be assessed for substitute vehicles).

Meter recovery fees are based on the actual time car sharing vehicles parked at meters. These fees are to be assessed for the fleet at the end of each quarter or Permit term and will reflect the total meter usage for that quarter.

If a Permittee increases its fleet size during the Permit term, the Permittee must report to the City the number of new vehicles to be added to their fleet Permit. These vehicles must be added to the Permit and the FFZPP fee must be paid for these vehicles. The City may charge a pro-rated Permit fee for each vehicle added (see the Permit Term section).

*Master Residential Parking Permit*

The Master Residential Parking Permit (MRPP) fees are published in the Master Fee Schedule. For Fiscal Year 19-20, the cost of an MRPP is \$105 per car sharing vehicle per year.

The intent of this fee is to allow car sharing vehicles equivalent curbside parking privileges to private vehicles in residential areas. Because car share vehicles are expected to rotate in an unpredictable fashion within and among residential parking areas, the City deems it necessary to open all residential parking areas to car sharing vehicles; the City has valued this privilege at approximately three (3) times the value of a standard Residential Parking Permit (RPP). The cost

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of a new RPP was \$35 at program inception, but has since risen to \$84. Thus the City derived the \$105 Permit fee from three (3) times the cost of the \$35 fee. In FY 19-20, the fee for the MRPP is likely to increase with the updated cost of the RPP (see the **Error! Reference source not found.** on page **Error! Bookmark not defined.**)

**INSURANCE REQUIREMENTS**

The Permittee shall maintain in force at its own expense, each type of insurance noted below:

1. Commercial General Liability Insurance covering bodily injury and property damage in a form and with coverage that is satisfactory to the City. This insurance shall include personal and advertising injury liability, products and completed operations. Coverage shall be written on an occurrence basis. The limit per occurrence shall not be less than \$2,000,000 or as may be required by subsequent amendment and shall provide that the City of Oakland, and its agents, officers, and employees are Additional Insured.
2. Automobile Liability insurance with a combined single limit of not less than \$2,000,000 per occurrence for Bodily Injury and Property Damage, including coverage for owned, hired, or non-owned vehicles, as applicable.
3. On all types of insurance. There shall be no cancellation, material change, reduction of limits, or intent not to renew the insurance coverage(s) without 30-days written notice from the Permittee or its insurer(s) to the City.
4. Certificates of insurance. As evidence of the insurance coverages required by this permit, the Permittee shall furnish acceptable insurance certificates to the City at the time Permittee returns signed permits. This certificate will specify all of the parties who are Additional Insured and will include the 30-day cancellation clause that provides that the insurance shall not terminate or be cancelled without 30-days written notice first being given to the City Auditor. Insuring companies or entities are subject to City acceptance. If requested, complete policy copies shall be provided to the City. The Permittee shall be financially responsible for all pertinent deductibles, self-insured retentions, and/or self-insurance.
5. The Department of Transportation will automatically revoke this permit without further action if this insurance is permitted to lapse, is canceled, or for any other reason becomes inoperative.

**PERMIT APPLICATION AND SERVICE INITIATION**

To apply for and receive a FFZPP or MRPP, as well as initiate the car sharing service, the applicant will follow the following steps:

1. Apply for and obtain a Qualified Car Sharing Organization Certificate.

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2. Submit to the Department of Transportation a proposed free-floating zone area map.
3. Submit an FFZPP Fleet Permit and/or MRPP application with 1) the Qualified Car Sharing Organization Certificate, 2) the City-approved free-floating zone area map 3) the applicable information about the car sharing vehicles in the fleet, 4) the payment for Permit fees, and 5) other supporting documentation, as needed.
4. Conduct outreach meetings, as appropriate.
5. Receive Permits and apply sticker decals to car sharing vehicles.

Documentation of these steps, an estimated timeline of the application process, and other updates will be posted to the City's website: <https://www.oaklandca.gov/services/dot/car-share-program>

The City expects Permittees to initiate the car sharing services during the Permit term in which the Permits were purchased. If the Permittee does not initiate car sharing services during the Permit term in which the Permits were purchased, the unused Permits will be revoked and ineligible to renew in a subsequent Permit term.

Because the City recognizes the first two years of sales of these permits as the Pilot Program, the period within which to initiate service is the entire Permit term. For instance, a Permittee that receives Permits on April 1, 2016 will have until December 31, 2016 to initiate car sharing services. In subsequent years, the time period between when the Permits are issued and when car sharing services are initiated may be shortened.

**DATA REPORTING AND RECORD KEEPING**

***Reporting to the City***

The Permittee agrees to survey members at least once (1 time) per Permit term, consult with the City on questions included in the survey, and provide results of the annual survey to the Car Share Contact in the Department of Transportation.

The Permittee is also required to report, on a monthly or quarterly basis, information regarding the fleet and membership. The goal of these reports is to better understand how the entire car share system is being utilized and to better inform future policy changes. The Permittee will work with the City to provide the following information on their company's operations, such as:

1. Number of vehicles in fleet
2. Parking locations of vehicles
3. Fleet usage
4. Total number of members
5. Member Survey and General Demographics

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Information submitted to the City is subject to the City of Oakland's Sunshine Ordinance (Oakland Municipal Code Chapter 2.20 – Public Meetings and Public Records) and the California Public Records Act (Government Code Section 6250 et seq.). If the Permittee believes that any material it submits constitutes trade secrets, privileged information, or confidential commercial or financial data, then the Permittee should mark those items as confidential or proprietary. The City is not bound by the Permittee's determination as to whether materials are subject to disclosure under CPRA and reserves the right to independently determine whether the materials are required to be made available for inspection or otherwise produced under CPRA. If the City receives a request for such information marked as confidential, it will notify the Permittee. If a suit is filed to compel disclosure of such information, the City will notify the Permittee, and the Permittee shall be responsible for taking appropriate action to defend against disclosure of its confidential information, and will hold the City harmless from any costs or liability resulting from any CPRA litigation.

The Permittee shall furnish to the City a report each month, quarter or Permit term (as determined by the Permittee and the City), due within 30 days from end of that quarter or term, containing monthly summary data related to parking events in the Free-Floating Parking Zone for the prior quarter. This data should detail the time parked in the meter zones as well as sum up the meter usage costs in relation to FFPP deposits. Should the Permittee's FFZPP and/or MRPP include the Montclair Flexible Parking Rate District or any future flexible parking rate districts, the Permittee must track the parking meter rate changes and apply them to the parking events, which can change as often as every sixty days. This data will be used to evaluate quarterly or term charges related to metered parking fees. If the City Council approves any changes to metered parking rates or meter districts during the Permit term, the Permit fee will be adjusted to reflect the changes. Changes to meter rates will be published within the City's Master Fee Schedule.

The Permittee will agree to work with and provide access to members to independent researchers, who will study to the environmental, social, and economic impacts of the two- year expansion of car sharing in Oakland as a part of the car sharing grant awarded to the City of Oakland from the Metropolitan Transportation Commission (85459 C.M.S.). The City will provide details about the evaluation to Permittees during the Permit application process.

***Records***

The Permittee shall retain and maintain all records and documents relating to the Permit for five (5) years after the date in which this Permit terminates, and shall make them available for inspection and audit by authorized representatives of the City. Permittee shall make available all requested data and records at reasonable locations within the City of Oakland at any time during normal business hours, and as often as the City deems necessary. If records are not made available within the City of Oakland, the Permittee shall pay the city's travel costs to the location where the records are maintained. Failure to make requested records available for audit by the date requested may result in termination of the permit.

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**ENFORCEMENT**

***Parking Enforcement***

The City will train its parking enforcement technicians in the new privileges associated with the FFZPP and MRPP, and equip technicians with approved area maps. The Department of Transportation will be responsible for keeping the parking enforcement staff apprised of changes to a Permittee's approved free-floating zone area and new sales of MRPPs.

With the exceptions of the aforementioned privileges bestowed to car sharing vehicles and Permittees (see Privileges of the Free-Floating Zone Parking Permit on page 4), car sharing vehicles are subject to all other traffic and parking regulations outlined in *Title 10 – Vehicles and Traffic* of the Oakland Municipal Code. Parking enforcement technicians will issue citations to car sharing vehicles for violations as they would private automobiles. Permittees with outstanding parking citations will not be allowed to renew FFZPPs or MRPPs until citations have been resolved with the Parking Operations Division.

***Financial and Field Audits***

The City reserves the right to conduct a financial review and/or audit of the Permittee. If the City commences an audit of a Permittee, the Permittee will be notified of the forthcoming audit at least thirty (30) days in advance of the audit by mail and by email. Details of the financial information to be provided to the City will be included in the notification.

The Permittee shall establish and maintain a reasonable accounting system that enables the City to readily identify the Permittee's assets, expenses, costs of goods, and use of funds. The City and its authorized representatives shall have the right to audit, to examine, and to make copies of or extracts from all financial and related records (in whatever form they may be kept, whether written, electronic, or other) relating to or pertaining to the Terms and Conditions of the permit, including, but not limited to those kept by the Permittee, its employees, agents, assigns, successors, and subcontractors. Such records shall include, but not be limited to, accounting records, written policies and procedures; subcontract files; all paid vouchers including those for out-of-pocket expenses; other reimbursement supported by invoices; ledgers; cancelled checks; deposit slips; bank statements; journals; original estimates; estimating work sheets; contract amendments and change order files; backcharge logs and supporting documentation; insurance documents; payroll documents; timesheets; memoranda; and correspondence. The City shall have the right to conduct an audit or examination no more than two (2) times per calendar year.

The City reserves the right to conduct field audits of car sharing vehicles in which parking enforcement officers record locations of parked car sharing vehicles and cross-check them against reports of parking activity provided to the City by the Permittee. The Permittee shall, at all times during the term of the permit and for a period of five (5) years after the permit term, maintain such records, together with such supporting or underlying documents and materials. The Permittee shall at any time requested by the City, whether during or after the permit term, make such records available for inspection and audit by the City. Such records shall be made available to the City during normal business hours and subject to a thirty (30) day written notice by electronic mail and first-class U.S. Postal Service delivery. In the event that no such location

**FREE-FLOATING ZONE PARKING PERMIT (FFZPP) and MASTER RESIDENTIAL PARKING PERMIT (MRPP) TERMS AND CONDITIONS**

is available, then the financial records, together with the supporting or underlying documents and records, shall be made available for audit at a time and location that is convenient for the City. The Permittee shall ensure the City has these rights with the Permittee's employees, agents, assigns, successors, and subcontractors, and the obligations of these rights shall be explicitly included in any subcontracts or agreements formed between the Permittee and any subcontractors to the extent that those subcontracts or agreements relate to fulfillment of the Permittee's obligations to the City. Costs of any audits and examinations conducted under the authority of this right to audit and not addressed elsewhere in this contract will be borne by the City. The City will issue a warning to the Permittee if it fails either a financial or field audit. The Permittee risks revocation of some or all individual FFZPPs or MRPPs, if the Permittee fails to take measures to address the audit failure or repeats a failure in a subsequent audit.

FREE-FLOATING ZONE PARKING PERMIT (FFZPP) and MASTER RESIDENTIAL PARKING PERMIT (MRPP) TERMS AND CONDITIONS

**REVOCAATION**

The City of Oakland reserves the right to revoke a FFZPP or MRPP at any time upon written notice of revocation sent to both the Permittee's mailing and email addresses listed on the Permittee's Application submitted to the City.

The Permittee agrees to surrender such permit in accordance with the instructions in the notice of revocation. In the event that the City revokes a FFZPP or MRPP, Permittee shall cease operations in the public right of way within ten (10) business days from the date the notice of revocation was mailed and emailed by the City to the Permittee.

If the Permittee wishes to contest the revocation of a permit, the Permittee may contact, within ten (10) days of the date of revocation, the Supervisor of the Shared Mobility Coordinator, appropriate transportation manager within the City of Oakland or the Supervisor of the Parking Permits and Citations Office within the Department of Finance and Management to explain any basis for why the Permit should not be revoked.

In circumstances that pose a serious threat to public health or safety, the City reserves the right to immediately revoke an FFZPP and/or MRPP effective on the date the notice of revocation is mailed and emailed to the Permittee. The City shall state the public health or safety reasons that require immediate revocation in the notice of revocation. In such circumstances, the Permittee shall be required to immediately remove the car sharing vehicle from the public right of way.

This permit is revocable by the City Traffic Engineer at any time in the event the public's need requires it, or the Permittee fails to comply with the conditions of this Permit. No expenditure of money hereunder, lapse of time, or other act or thing shall operate as an estoppel against the City of Oakland, or be held to give the Permittee any vested or other right. Upon the expiration of this permit, or upon its sooner revocation by the City Traffic Engineer, the City shall no longer provide said right of this Permit.

**INDEMNIFICATION**

Permittee shall indemnify and save harmless City and its officers, agents and employees from, and, if requested, shall defend them against any and all loss, cost, damage, injury, liability, and claims thereof for injury to or death of a person, including employees of Permittee or loss of or damage to property, arising directly or indirectly from Permittee's performance of this Permit, including, but not limited to, Permittee's use of facilities or equipment provided by City or others, regardless of the negligence of, and regardless of whether liability without fault is imposed or sought to be imposed on City, except to the extent that such indemnity is void or otherwise unenforceable under applicable law in effect on or validly retroactive to the date of this Agreement, and except where such loss, damage, injury, liability or claim is the result of the active negligence or willful misconduct of City and is not contributed to by any act of, or by any omission to perform some duty imposed by law or agreement on Permittee, its subpermittees or either's agent or employee. The foregoing indemnity shall include, without limitation, reasonable fees of attorneys, consultants and experts and related costs and City's costs of investigating any claims against the City.

FREE-FLOATING ZONE PARKING PERMIT (FFZPP) and MASTER RESIDENTIAL PARKING PERMIT (MRPP) TERMS AND CONDITIONS

In addition to Permittee's obligation to indemnify City, Permittee specifically acknowledges and agrees that it has an immediate and independent obligation to defend City from any claim which actually or potentially falls within this indemnification provision, even if the allegations are or may be groundless, false or fraudulent, which obligation arises at the time such claim is tendered to Permittee by City and continues at all times thereafter. Permittee shall indemnify and hold City harmless from all loss and liability, including attorneys' fees, court costs and all other litigation expenses for any infringement of the patent rights, copyright, trade secret or any other proprietary right or trademark, and all other intellectual property claims of any person or persons in consequence of the use by City, or any of its officers or agents, of articles or services to be supplied in the performance of this Permit.

Permittee shall indemnify, defend and hold harmless the City of Oakland, its officers, agents and employees from and against all claims, demands, suits, actions, damages, liabilities, costs and expenses of whatsoever nature, including all attorney fees and costs, relating to, resulting from or arising out of the permitted activities. This Permit is personal to the Permittee and may not be transferred, assigned or otherwise conveyed. Identification of vehicle as belonging to this car sharing organization must be clearly visible on the vehicle, in contrasting colors with letters two inches high or larger.

**COMPLIANCE WITH ADDITIONAL TERMS AND CONDITIONS**

Permittee agrees to comply with any and all additional written terms and conditions required by the City of Oakland for participation in the Car Sharing Program. Permittee acknowledges that these written terms and conditions may be changed, amended, or revised at any time by the City upon written notification to the Permittee. By acceptance of a FFZPP and/or MRPP, Permittee agrees to comply with any changed, amended or revised written terms and conditions within thirty (30) days of written notification by the City. Failure to comply with any or all terms and conditions required by the City in the FFZPP and/or the MRPP can result in the revocation of any or all FFZPPs and/or MRPPs issued to the Permittee upon written notice of revocation by the City.

**COMPLIANCE WITH APPLICABLE LAW**

The Permittee represents and certifies, under penalty of perjury, that the Car Share Organization and the car sharing vehicles on whose behalf the Permittee is seeking this Permit is in compliance with all California Vehicle Code requirements, FFZPP requirements, and Qualified Car Sharing Organization criteria set forth here and in the City's Municipal Code.

**RESPONSIBILITIES OF PERMITTEE**

It is responsibility of the Permittee to:

1. Operate a legitimate car sharing service that benefits the residents of Oakland.
2. Maintain its Qualified Car Sharing Organization status during the term of the FFZPP and/or MRPP.



FREE-FLOATING ZONE PARKING PERMIT (FFZPP) and MASTER RESIDENTIAL PARKING PERMIT (MRPP) TERMS AND CONDITIONS

3. Maintain adequate and sufficient insurance coverage.
4. Conduct outreach to Oakland residents and businesses, as appropriate.
5. Ensure that car sharing vehicles display evidence of the FFZPP and/or MRPP.
6. For FFZPP Only: Maintain an approved Free-Floating Parking Zone.
7. For FFZPP Only: Submit documentation of changes of the free-floating zone area no more than four (4) times within the Permit term.
8. Track and report to the City parking activity of car sharing vehicles within the free-floating zone area or within residential permit parking areas.
9. Pay upfront Permit fees as specified in the Master Fee Schedule, and reconcile balance differences at the end of the Permit term with respect to the amount of actual parking activity.
10. Pay the City all citations and towing fees incurred by the Permittee's car sharing vehicles, however the pass-through of fees to the member is justified wherein the member is the responsible party, according to the California Vehicle Code and/or the Oakland Municipal Code.
11. Report changes in license plate numbers, vehicle registrations, and other required vehicle information to the Parking Operations Supervisor, as changes to the Permitted fleet occur during the term of the permit.
12. Facilitate the City's financial and/or field audits and take steps to address the City's recommendations from the audits.
13. Meet all the requirements of the FFZPP and MRPP.

**RESPONSIBILITIES OF THE CITY**

It is the responsibility of the City to:

1. Fulfill the objectives of the Car Sharing Policy (85459 C.M.S.).
2. Administer a fair, timely, and efficient FFZPP process.
3. Coordinate internally to communicate changes to maps, Permits, Permit fees, etc. between divisions and departments.
4. Keep records of Qualified Car Sharing Organization certifications and Permits granted.
5. Approve the list of outreach activities proposed by the applicant prior to establishing or expanding a free-floating zone area.

**FREE-FLOATING ZONE PARKING PERMIT (FFZPP) and MASTER RESIDENTIAL PARKING PERMIT (MRPP) TERMS AND CONDITIONS**

6. Conduct outreach to Oakland residents and businesses, as appropriate.
7. Respond to concerns and petitions of Oakland residents and businesses, as appropriate.
8. Assess Permit fees as defined in the Master Fee Schedule.
9. Enforce the Traffic and Vehicle Code.
10. Conduct audits of Permittees to ensure that car sharing services follow regulations and accurately report parking activity, as needed.
11. Receive and analyze reports of parking activity.
12. Respond to requests from Permittees, as defined in the FFZPP Terms and Conditions, in a timely and efficient manner
13. Keep Permittees apprised of changes to Permit terms and conditions, parking and curb designations, and parking meter rates and permit fees.
14. Keep Permittees apprised of changes to key City personnel and provide a staff contact to car sharing organizations.

# Revel

Fall 2019



## REVEL

**Meet Revel. Seamless integration into the existing transportation network.**

### Street Legal

Every vehicle has a DMV-issued license plate and requires a drivers license to operate. No motorcycle license required.

### Space Efficient

Parks in curb dead space. An average parking spot fits 7 mopeds

### Affordable

Cheaper than UberX, Lyft, UberPool

### Sustainable

100% of the fleet is 100% emissions-free. Electrically powered, they're also noise-free

### Multiple uses

Great for short trips, middle mile and complete trips. Replace car trips, relieve/supplement congested transit lines



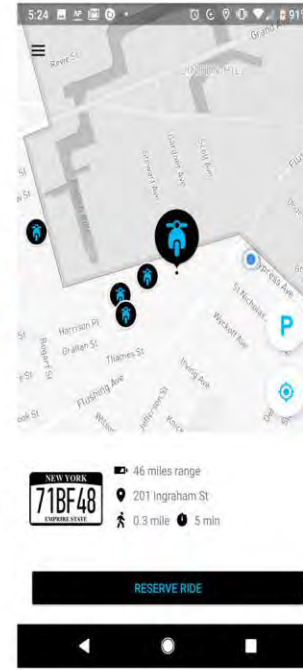
## REVEL

### How it works.

1. Open the Revel app to find a nearby vehicle.
2. Click to reserve (up to 15 min), at vehicle click to start and unlock helmet case.
3. Begin ride and park in a legal parking spot when you reach your destination. Close ride.



Open the App



Locate nearest Revel



Reserve and ride wherever you need to go!

## REVEL

### Safety is paramount.

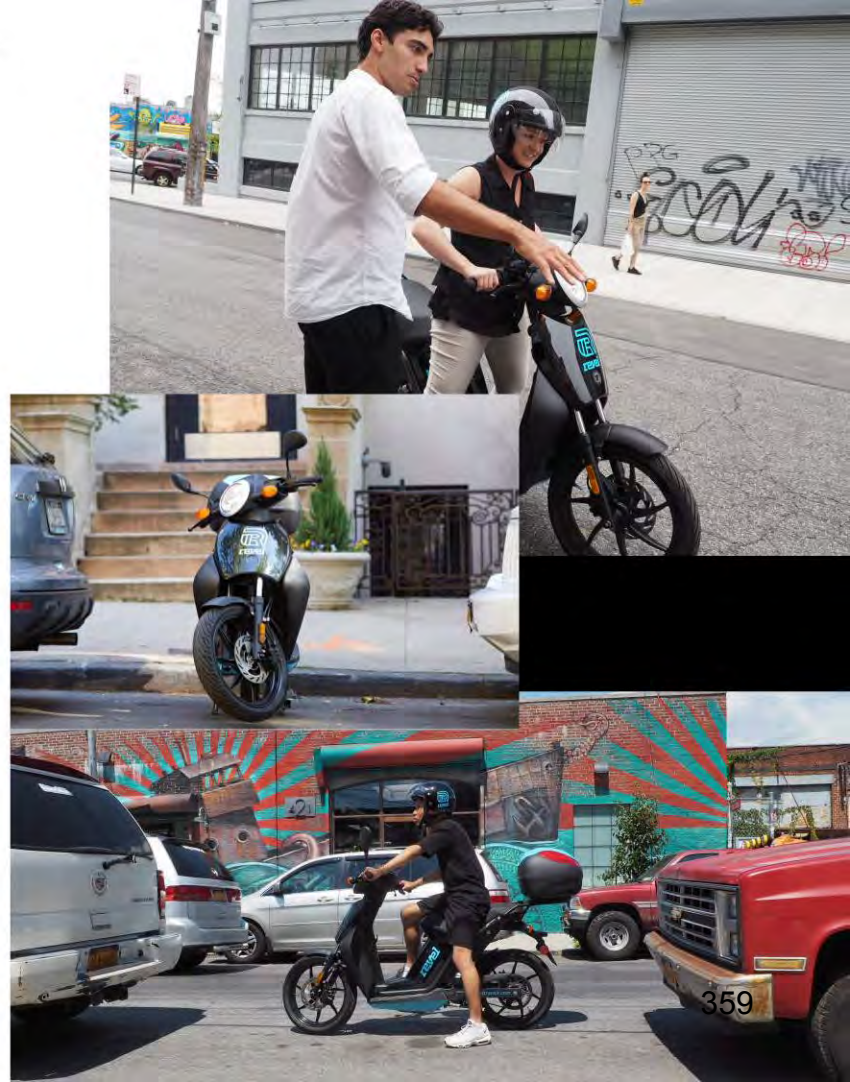
- Drivers must be at least **21 years old** with a **valid license** and safe driving record.
  - ✓ Before registration is complete Revel performs background checks to verify riders' information.
  - ✓ Users must also submit a selfie to verify they are the license-holders.
- **2 USDOT certified helmets** equipped with eye protection shields are stored in each Revel at all times.
- As motor vehicles, Revel's **travel in traffic lanes, park curbside** and have safety equipment consistent with or exceeding state DMV and insurance board standards.
- Speed **throttled at 30mph** to keep up with traffic, license plates ensure accountability.



## REVEL

We're committed to free safety education for all.

- Revel offers free in-person lessons to existing and potential riders 7 days a week
- Each trip begins with a safety checklist
- Ride ends with reminders to ensure proper parking
- Our team is available to provide immediate customer support during operating hours



## REVEL

# Our pilot has been a success.

July 2018 – April 2019: 68 e-mopeds in Bushwick, Greenpoint & Williamsburg

27,000+ rides

2.5 mi avg ride

3,500+ users

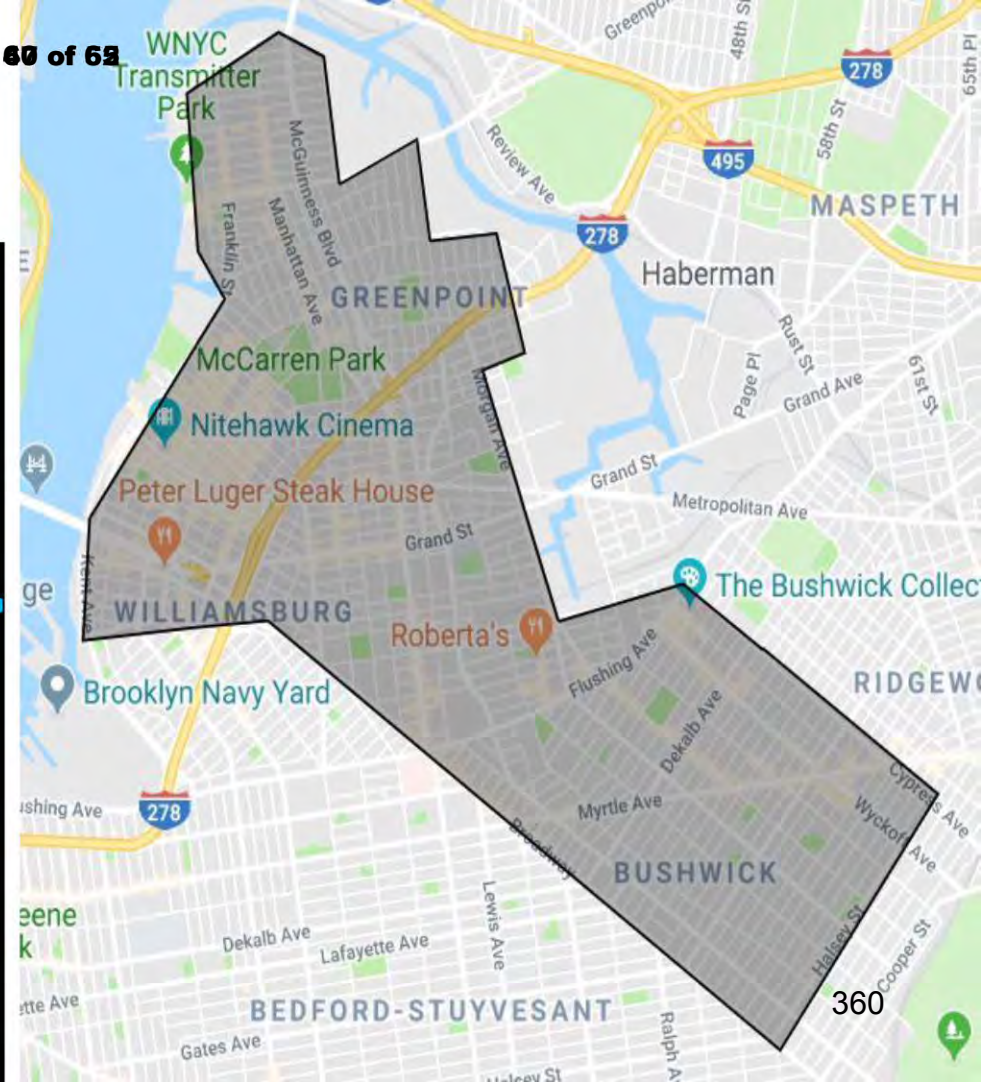
>200 lessons

### Customer Reviews

“Shockingly easy to use, incredible customer service, and neighborhood-to-neighborhood no-brainer. So glad it’s here, it better be to stay.”

“Best customer service I’ve ever experienced, ever.”

“I never knew how much fun and exciting it would be until I got on it and I love it, I can see this company going far.”





REVEL

## 2018 Brooklyn Pilot: Rider Feedback

**90%** Would take fewer car trips if Revel were available throughout all of Brooklyn and Queens

**50%** Report using Revel to replace taxi/Uber/Lyft/personal vehicle trips

**70%** Would use Revel at least once a week if it were available throughout all of Brooklyn and Queens

**90%** Would recommend Revel to their friends

REVEL

Data and rider feedback have helped us make Revel even better.

2018



\$4 for 20 minutes, \$0.25 each additional minute

Center kickstand, common for mopeds, motorcycles

Manual turn-off blinkers, common for mopeds

200lbs of weight centralized

Safety / education material on our website

Seat ~32" from the ground

2019



\$1 unlock fee, \$0.25 each additional minute

Side kickstand, common for bicycles

Auto turn-off blinkers, common for typical passenger vehicles

200lbs of weight distributed for improved balance and command over the vehicle

Safety / education material on both our website and app

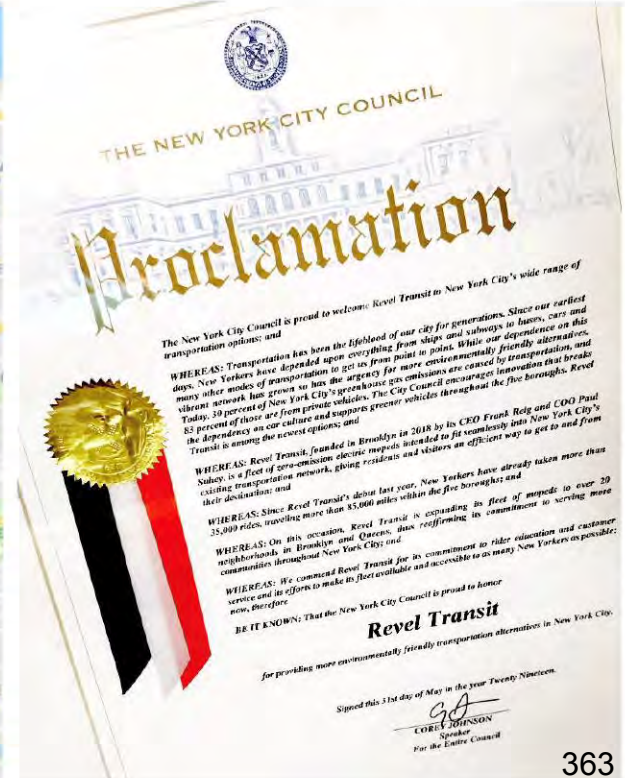
Seat ~29" from the ground

## REVEL

# NYC Expansion 2019

As a result of such a successful pilot, with support from local leaders, on May 28th we expanded our fleet of 68 vehicles in three neighborhoods to a fleet of **1000** across approximately **20**.

In just the first month **tens of thousands of new users** signed up, with vehicles averaging **7+ trips per day**.



REVEL

## Moving forward in 2019.

- We have **expanded our footprint in NYC**, in August we **launched a fleet in Washington DC** and plan to launch in additional cities across the United States.
- We will engage early and often with cities. Our approach is to **listen, deploy, learn and refine**.
- Our goal is to fit seamlessly into cities' existing transportation networks, offering a new option for all residents. Particularly in neighborhoods with **limited transit options, lower rates of car ownership**, and those **historically underserved** by companies offering innovative mobility solutions.
- We are also committed to **equitable riding** that is **accessible to all residents**. We will continue to offer an **equitable access rider program** with a **40 percent discount** off our standard pricing. We will also invest in marketing to traditionally underserved communities.
- **Revel doesn't do gig economy**. We staff full-time employees with benefits including health insurance and 401k. We will also establish a physical presence in every city we operate, with locally-based employees on the ground so we remain responsive to our customers, city government and our community.

REVEL

We're here to help.

Our approach is to listen, deploy, learn and refine.

Call (or text) us anytime with questions, concerns or if you want to take a test ride!

Daniella Henry, Associate Director, Policy  
860-212-8088/[Daniella.Henry@gorevel.com](mailto:Daniella.Henry@gorevel.com)

Haley Rubinson, Director of Business Development  
917-572-5122/[haley.rubinson@gorevel.com](mailto:haley.rubinson@gorevel.com)







Fair Campaign Practices Commission

34

PUBLIC HEARING  
June 30, 2020

To: Honorable Mayor and Members of the City Council  
 From: Fair Campaign Practices Commission  
 Submitted by: Brad Smith, Chair, Fair Campaign Practices Commission  
 Subject: Amendments to the Berkeley Election Reform Act; Amending Berkeley  
 Municipal Code Chapter 2.12

#### RECOMMENDATION

Conduct a public hearing and upon conclusion, adopt an ordinance amending the Berkeley Election Reform Act, BMC Chapter 2.12, regarding the public financing program.

#### FISCAL IMPACTS OF RECOMMENDATION

None.

#### CURRENT SITUATION AND ITS EFFECTS

The proposed amendments to the Berkeley Election Reform Act (BERA) were adopted by the Fair Campaign Practices Commission (FCPC or Commission) at its regular meeting of April 23, 2020.

**Action:** M/S/C (McLean/O'Donnell) to approve the amendments with changes.

**Vote:** Ayes: Metzger, O'Donnell, Ching, Blome, McLean, Sheahan, Tsang, Smith; Noes: none; Abstain: none; Absent: none.

Pursuant to Berkeley Municipal Code Section 2.12.051, BERA may be amended by the "double green light" process. This process requires that the FCPC adopt the amendments by a two-thirds vote and the City Council hold a public hearing and adopt the amendments by a two-thirds vote.

#### BACKGROUND

Under the provisions of the Berkeley Election Reform Act (BERA) known as the Berkeley Fair Elections Act of 2016 (BMC §§ 2.12.490 et seq.), a candidate who wishes to participate in the City's public financing program must file with the Commission an application for certification to participate in the program. (BMC § 2.12.500.A.1.) The Commission is required to certify an applicant's eligibility at the earliest practicable time. (BMC § 2.12.500.B.) The City is required to make the initial payment of Fair Elections

funds to the qualified candidate within seven business days of certification by the Commission. (BMC § 2.12.505.E.)

When the Berkeley Fair Elections Act was initially passed, the Commission was also required to verify that an applicant candidate's qualified contributions met all application requirements, authorize the initial distribution of Fair Elections funds to the candidate, and provide any candidate who has been denied payment of funds with a written determination. At its April 18, 2019 meeting, the Commission determined that the Fair Elections process could be more effectively and efficiently run if these three roles were carried out by City staff, rather than the Commission. As a result, the Commission passed an amendment to BERA to authorize City staff to carry out these three roles. That amendment was subsequently passed by the City Council.

At its February 20, 2020 meeting, the Commission discussed the ways in which retaining the requirement that the Commission, rather than staff, must certify a candidate's initial application can cause delays in candidates being certified and receiving funds. The process also sometimes necessitates that, in the interest or expediency or fairness, the Commission hold special meetings to review and approve a candidate's application. This can result in significant time and resources being expended by staff and commissioners to schedule, notice and attend a special meeting simply to approve a single public financing application. Moreover, ensuring commissioner availability, setting an agenda and providing adequate notice for a special meeting can lengthen the time a candidate must wait to receive Fair Elections funds.

Under current practice, the Office of the City Clerk reviews and verifies candidates' applications prior to certification by the Commission. At its April 23, 2020 meeting, the Commission adopted amendments to BERA which would allow City staff to also certify applications without Commission action, and subsequently report those certifications to the Commission.

#### ENVIRONMENTAL SUSTAINABILITY

There are no identifiable environmental effects related to the recommendation in this report.

#### RATIONALE FOR RECOMMENDATION

The proposed amendments ensure that public financing applications can be reviewed and certified in a more efficient and streamlined manner while retaining Commission oversight of the process.

#### ALTERNATIVE ACTIONS CONSIDERED

None.

#### CITY MANAGER



Amendments to the Berkeley Election Reform Act

CONTACT PERSON

Brad Smith, Chair, Fair Campaign Practices Commission, 981-6998

Samuel Harvey, Commission Secretary, Fair Campaign Practices Commission, 981-6998

Attachments:

1: Ordinance

ORDINANCE NO. XXXXXXXX -N.S.

AMENDMENTS TO THE BERKELEY ELECTION REFORM ACT RELATED TO  
PUBLIC FINANCING FOR CAMPAIGNS

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

Section 1. That Berkeley Municipal Code Section 2.12.500 is amended to read as follows:

**2.12.500 Eligibility for Fair Elections campaign funding.**

A. To be eligible to be certified as a participating candidate, a candidate must:

1) During the qualifying period for the election involved, choose to participate in the Fair Elections program by filing with the CommissionCity a written application for certification as a participating candidate in such form as may be prescribed by the Commission, containing the identity of the candidate, the office that the candidate seeks, and the candidate's signature, under penalty of perjury, certifying that:

a) The candidate has complied with the restrictions of this chapter during the election cycle to date;

b) The candidate's campaign committee has filed all campaign finance reports required by law during the election cycle to date and that they are complete and accurate; and

c) The candidate will comply with the requirements of this Act during the remainder of the election cycle and, specifically, if certified an eligible participating candidate, will comply with the requirements applicable to participating candidates.

2) Meet all requirements to be eligible to hold the office of Mayor or Councilmember as set forth in Sections 9 and 10 of Article V of the Charter of the City of Berkeley;

3) Before the close of the qualifying period, collect and submit at least 30 qualified contributions, from at least 30 unique contributors, of at least ten dollars (\$10), for a total dollar amount of at least five-hundred dollars (\$500).

a) Each qualified contribution shall be acknowledged by a receipt to the contributor, with a copy retained by the candidate. The receipt shall include the contributor's signature, printed name, home address, and telephone number, if any, and the name of the candidate on whose behalf the contribution is made. In addition, the receipt shall indicate by the contributor's

- signature that the contributor understands that the purpose of the qualified contribution is to help the candidate qualify for Fair Elections campaign funding and that the contribution is made without coercion or reimbursement.
- b) A contribution for which a candidate has not obtained a signed and fully completed receipt shall not be counted as a qualified contribution.
- 4) Maintain such records of receipts and expenditures as required by the Commission;
- 5) Obtain and furnish to the Commission or City staff any information itthey may request relating to his or her campaign expenditures or contributions and furnish such documentation and other proof of compliance with this chapter as may be requested by such Commission or City staff;
- 6) Not make expenditures from or use his or her personal funds or funds jointly held with his or her spouse, domestic partner, or unemancipated children in connection with his or her election except as a monetary or non-monetary contribution to his or her controlled committee of \$250 or less. Contributions from a participating candidate to his or her own controlled committee are not eligible for matching funds.
- 7) Not accept contributions in connection with the election for which Fair Elections funds are sought other than qualified contributions, contributions not greater than fifty dollars (\$50) made by a natural person non-resident of Berkeley, or non-monetary contributions with a fair market value not greater than fifty dollars (\$50). The aggregate value of all contributions from any individual must not be greater than fifty dollars (\$50);
- 8) Not solicit or direct contributions in connection with any election during the election cycle in which Fair Elections funds are sought other than qualified contributions, contributions not greater than fifty dollars (\$50) made by a natural person non-resident of Berkeley, or non-monetary contributions with fair market value not greater than fifty dollars (\$50) to such candidate's controlled committee.
- 9) Not accept loans from any source.
- 10) The CommissionCity has the authority to approve a candidate's application for public financing, despite a violation by the candidate related to participation and qualification in the public financing program, if the violation is minor in scope and the candidate demonstrates a timely, good-faith effort to remedy the violation. The Commission mayshall adopt regulations setting forth guidelines for what constitutes a minor violation under this provision. (Ord. 7674-NS § 1, 2019: Ord. 7564-NS § 7, 2017: Ord. 7524-NS § 3.6 (part), 2016)

B. At the earliest practicable time after a candidate files with the ~~Commission~~City a written application for certification as a participating candidate, the ~~Commission~~City shall certify that the candidate is or is not eligible. Eligibility can be revoked if the Commission determines that a candidate has committed a substantial violation of the requirements of this Act, in which case all Fair Elections funds shall be repaid. ~~Such a determination shall be made by the Commission.~~

C. At the discretion of the Commission or at the applying candidate's request, the City's denial of eligibility is subject to review by the Commission. The Commission's determination is final except that it is subject to a prompt judicial review pursuant to Section 2.12.235.

D. If the ~~City or~~ Commission determines that a candidate is not eligible, the candidate is not required to comply with provisions of this Act applicable only to participating candidates.

Section 2. That Berkeley Municipal Code Section 2.12.505 is amended to read as follows:

**2.12.505 Fair Elections fund payments.**

A. A candidate who is certified as an eligible participating candidate shall receive payment of Fair Elections funds equal to six-hundred percent (600 percent) of the amount of qualified contributions received by the candidate during the election cycle with respect to a single election subject to the aggregate limit on the total amount of Fair Elections funds payments to a candidate specified in Section 2.12.505.B.

B. The aggregate amount of Fair Elections funds payments that may be made to a participating candidate during an election cycle may not exceed:

- 1) \$120,000 for a candidate running for the office of Mayor;
- 2) \$40,000 for a candidate running for the office of City Council.

C. A participating candidate's application for Fair Elections funds, including an initial request submitted with an application for certification as a participating candidate, shall be made using a form prescribed by the Commission and shall be accompanied by qualified contribution receipts and any other information the Commission deems necessary. This application shall be accompanied by a signed statement from the candidate indicating that all information on the qualified contribution receipts is complete and accurate to the best of the candidate's knowledge.

1) All Qualified Contributions, of any dollar amount, eligible for matching Fair Elections funds must be publically disclosed with the contributor information required under Sections 2.12.280 and 2.12.283.

2) All campaign filings must be current in order for a Participating Candidate to receive a disbursement of Fair Elections funds and the Participating Candidate and a Participating Candidate's controlled committee must not have any outstanding fines related to campaign filings or violations of municipal, state or federal election law. All applications for Fair Elections funds shall include a certification by the Participating Candidate that the Participating Candidate or his or her controlled committee does not have any outstanding fines or penalties related to campaign filings. Upon submission of outstanding campaign filings and payment of any outstanding fines, withheld Fair Elections funds will be disbursed at the next regularly scheduled distribution for that election cycle.

D. The City shall verify that a candidate's qualified contributions meet all of the requirements and restrictions of this Act prior to the disbursement of Fair Elections funds to the candidate. A participating candidate who receives a qualified contribution that is not from the person listed on the qualified contribution receipt shall be liable to pay the Fair Elections Fund the entire amount of the inaccurately identified contribution, in addition to any penalties.

E. The City shall make an initial payment of Fair Elections funds within seven business days of the ~~Commission's~~City's certification of a participating candidate's eligibility, or as soon thereafter as is practicable. City staff shall report a certification or denial to the Commission no later than the Commission's next regular meeting, consistent with the Brown Act.

F. The Commission shall establish a schedule for the submission of Fair Elections funds payment requests, permitting a candidate to submit a Fair Elections funds payment request at least once per month. However, the Commission shall schedule a minimum of three payment request submission dates within the thirty days prior to an election.

G. The City shall provide each participating candidate with a written determination specifying the basis for any non-payment of Fair Elections funds. The Commission shall provide participating candidates with a process by which they may immediately upon receipt of such determination petition the Commission for reconsideration of any such non-payment and such reconsideration shall occur within seven business days of the filing of such petition. In the event that the Commission denies such petition then it shall immediately notify the candidate of his or her right to seek judicial review of the Commission's denial pursuant to Section [2.12.235](#).

H. Unspent funds of any Participating Candidate who does not remain a candidate until the election for which they were distributed, or such funds that remain unspent by a Participating Candidate following the date of the election for which they were distributed

shall be deposited into the Fair Elections Fund. A Participating Candidate shall deposit all unspent funds into the Fair Elections Fund, up to the total amount of funds that the Participating Candidate received as Fair Elections Fund distributions in that election cycle, within sixty (60) days after the date of the election. (Ord. 7674-NS § 2, 2019: Ord. 7564-NS § 8, 2017: Ord. 7524-NS § 3.6 (part), 2016)

**NOTICE OF PUBLIC HEARING  
BERKELEY CITY COUNCIL**

**AMENDMENTS TO THE BERKELEY ELECTION REFORM ACT**

The Fair Campaign Practices Commission is proposing amendments to the Berkeley Election Reform Act related to the public financing program for campaigns.

The hearing will be held on **June 30, 2020**, at 6:00 p.m. The hearing will be held via videoconference pursuant to Governor’s Executive Order N-29-20. The Council will consider all objections or protests, if any, to the proposed assessment. At the public hearing any interested person may present written or oral testimony.

A copy of the agenda material for this hearing will be available on the City’s website at [www.CityofBerkeley.info](http://www.CityofBerkeley.info) as of **June 18, 2020**. **Once posted, the agenda for this meeting will include a link for public participation using Zoom video technology.**

For further information, please contact Samuel Harvey, Commission Secretary at 981-6998.

Written comments should be mailed directly to the City Clerk, 2180 Milvia Street, Berkeley, CA 94704, or emailed to [council@cityofberkeley.info](mailto:council@cityofberkeley.info) in order to ensure delivery to all Councilmembers and inclusion in the agenda packet.

Communications to the Berkeley City Council are public record and will become part of the City’s electronic records, which are accessible through the City’s website. **Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to the City Council, will become part of the public record.** If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service to the City Clerk. If you do not want your contact information included in the public record, please do not include that information in your communication. Please contact the City Clerk at 981-6900 or [clerk@cityofberkeley.info](mailto:clerk@cityofberkeley.info) for further information.

**Published:** June 19, 2020 – The Berkeley Voice  
Pursuant to Berkeley Municipal Code section 2.12.051

~~~~~  
I hereby certify that the Notice for this Public Hearing of the Berkeley City Council was posted at the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way, as well as on the City’s website, on June 18, 2020.

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







Office of the City Manager

**ACTION CALENDAR**  
 June 30, 2020  
 (Continued from June 16, 2020)

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: Mark Numainville, City Clerk  
 Subject: Placing Charter Amendment Measure on the November 3, 2020 Ballot  
 Related to Full-Time Status and Salaries for the Mayor and  
 Councilmembers

**RECOMMENDATION**

1. Adopt a Resolution submitting an Amendment to Article V of the City Charter regarding the full-time status and salaries for the Mayor and City Council to a vote of the electors at the November 3, 2020 General Municipal Election.
2. Designate, by motion, specific members of the Council to file ballot measure arguments on this measure as provided for in Elections Code Section 9282.

**FISCAL IMPACTS OF RECOMMENDATION**

The table below shows the year-by-year costs for elections since 2012. Significant cost increases occurred in 2012 and 2014 due primarily to general year-over-year increases, and the addition of two more required languages (Vietnamese and Tagalog). The cost increase in 2016 is due to a new, permanent surcharge from the Registrar of Voters to fund the County’s voting equipment replacement account.

| Date                     | Election         |                  |                  |                 |                  |
|--------------------------|------------------|------------------|------------------|-----------------|------------------|
|                          | Nov. 2012        | Nov. 2014        | Nov. 2016        | Mar. 2017       | Nov. 2018        |
| <b>No. of Measures</b>   | 10               | 7                | 11               | 0               | 4                |
| <b>No. of Candidates</b> | 26               | 23               | 29               | 2               | 30               |
| <b>General Costs</b>     | \$367,884        | \$392,331        | \$706,901        | -               | \$385,246        |
| <b>RCV Costs</b>         | \$101,041        | \$189,148        | \$181,954        | -               | \$185,578        |
| <b>Total Costs</b>       | <b>\$468,925</b> | <b>\$581,479</b> | <b>\$888,855</b> | <b>\$85,628</b> | <b>\$570,824</b> |

### CURRENT SITUATION AND ITS EFFECTS

At the May 29, 2018 City Council meeting, the council discussed the results of a second community survey and proposed language for an amendment to the City Charter regarding the salary and full-time status of the City Council. The Council directed the City Manager to return with draft ballot measure language for the November 6, 2018 General Election. The Council elected not to place this measure on the November 2018 ballot.

On February 4, 2020, during a City Council work session on potential ballot measures, a majority of the Council expressed interest in placing a measure on the ballot to amend the City Charter to make the office of Mayor and City Councilmember full-time positions, with remuneration set at a level reflecting full-time employment. The proposed Charter Amendment would provide that the office of Mayor and Councilmember are full-time positions, and that the Personnel Board shall set the salary of the Mayor and Councilmembers initially after adoption and every five years thereafter based on a salary survey of other full-time Mayors and City Councils in California and it shall consider the Consumer Price Index (CPI).

Remuneration may be reduced in defined instances, including unexcused absences from Council meetings or negotiated salary reductions for City employees. If adopted, the attached resolution will request that the Registrar of Voters place the matter on the ballot for consideration by Berkeley voters.

Additionally, according to California Elections Code 9282(b), for measures placed on the ballot by the legislative body, the legislative body, or a member or members of the legislative body authorized by that body, or an individual voter who is eligible to vote on the measure, or bona fide association of citizens, or a combination of voters and associations, may file a written argument for or against any city measure.

### BACKGROUND

The current Charter provisions do not designate the offices of Mayor and Councilmember as full-time positions. This amendment would designate the offices as full-time and task the Personnel Board with setting the salaries of Mayor and Council based on surveys of other full-time Mayors and City Councils.

### ENVIRONMENTAL SUSTAINABILITY

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

### RATIONALE FOR RECOMMENDATION

The City Clerk is presenting this action in accordance with the direction given by Council.

### ALTERNATIVE ACTIONS CONSIDERED

None

CONTACT PERSON

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

Attachments:

1: Resolution

Exhibit A: Text of Measure

RESOLUTION NO. -N.S.

SUBMITTING TO THE BERKELEY ELECTORATE AN AMENDMENT TO THE SALARY PROVISIONS IN ARTICLE V OF THE BERKELEY CITY CHARTER ON THE NOVEMBER 3, 2020 BALLOT

WHEREAS, the Berkeley City Council has elected to submit to the voters at the November 3, 2020 General Municipal Election, a measure to amend Article V of the Berkeley Charter related to the salary for Mayor and City Council; and

WHEREAS, in accordance with the provisions of Section 10002 and 10403 of the Elections Code of the State of California, the Alameda County Board of Supervisors is requested to consolidate the City of Berkeley General Municipal Election with the Statewide General Election to be held November 3, 2020; and

WHEREAS, the City of Berkeley hereby requests that the Alameda County Board of Supervisors permit the Registrar of Voters of Alameda County to perform services in connection with said election at the request of the City Clerk. These services to include all necessary services related to official ballot creation, sample ballot and voter information pamphlet preparation, vote-by-mail, polling places, poll workers, voter registration, voting machines, canvass operations, and any and all other services necessary for the conduct of the consolidated election; and

WHEREAS, the Council desires to submit this measure to be placed upon the ballot at said consolidated election.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the Board of Supervisors of Alameda County is hereby requested to include on the ballots and sample ballots the measure enumerated above to be voted on by the voters of the qualified electors of the City of Berkeley.

BE IT FURTHER RESOLVED that the full text of the measure shall be printed in the Voter Information Pamphlet mailed to all voters in the City of Berkeley.

BE IT FURTHER RESOLVED that the above enumerated measure requires a majority vote threshold for passage.

BE IT FURTHER RESOLVED that the City Clerk is hereby directed to cause the posting, publication and printing of notices, pursuant to the requirements of the Charter of the City of Berkeley, the Government Code and the Elections Code of the State of California.

BE IT FURTHER RESOLVED that the City Clerk is hereby directed to obtain printing, supplies and services as required.

BE IT FURTHER RESOLVED that the City Clerk is hereby authorized to enter into any contracts necessary for election consulting services, temporary employment services,

printing services, and any such other supplies and services as may be required by the statutes of the State of California and the Charter of the City of Berkeley for the conduct of the November General Municipal Election.

BE IT FURTHER RESOLVED that Pursuant to Elections Code Section 9285 (b), the City Council hereby adopts the provisions of Elections Code Section 9285 (a) providing for the filing of rebuttal arguments for city ballot measures.

BE IT FURTHER RESOLVED that the City will reimburse the Registrar of Voters for the costs associated with placing the measure on the ballot.

BE IT FURTHER RESOLVED that said proposed Charter Amendment measure shall appear and be printed upon the ballots to be used at said election as follows:

| <b>CITY OF BERKELEY CHARTER AMENDMENT</b>                                                                                                                                                                                                                                                                                                                                                                                                                            |     |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----|
| Shall the measure amending the City Charter to provide that the offices of Mayor and Councilmember are full-time positions and shall receive a salary for performance of their official duties set by the Personnel Board based on salaries of other full-time California Mayors and Councils, but which may be lowered in defined instances, including for unexcused absences from Council meetings or negotiated salary reductions for City employees, be adopted? | YES |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | NO  |

BE IT FURTHER RESOLVED that the text of the Charter Amendment be shown as Exhibit A, attached hereto and made a part hereof.

Exhibits

A: Text of Charter Amendment

## AMENDMENTS TO ARTICLE V OF THE BERKELEY CITY CHARTER RELATED TO FULL-TIME STATUS AND SALARIES FOR THE MAYOR AND CITY COUNCIL

The People of the City of Berkeley hereby amend Section 19 of the Charter of the City of Berkeley to read as follows:

Section 1. Section 19 of Article V of the Charter of the City of Berkeley is amended to read as follows:

### **Section 19. Salaries.**

The Mayor and Councilmembers shall receive remuneration for the performance of their official duties. at the rate of up to \$1,800 per month, and the Mayor shall receive up to \$2,850 per month, effective the Council term beginning in December 1998. Such amount shall be adjusted upward by the increase in the cost of living for the San Francisco Bay Area as verified by official United States economic reports. The office of Mayor and Councilmember are full-time positions. The Personnel Board shall set the salary of the Mayor and Councilmembers initially after the effective date of this Charter Amendment and every five years based on a salary survey of other full-time California Mayors and City Councils and it shall consider the Consumer Price Index (CPI).

The Personnel Board shall establish dates for an appropriate five-year cycle for making the determinations required by this Section, in order to efficiently coordinate with City budget processes and related procedures. In order to institute this five-year cycle, the initial determination may be for less than a five-year period, as determined by the Personnel Board.

If the City and employee organizations agree to amend the compensation provisions of existing memoranda of understanding to reduce costs, the Personnel Board shall review and amend the Mayor and Councilmembers' salary as necessary to achieve comparable cost savings in the affected fiscal year or years.

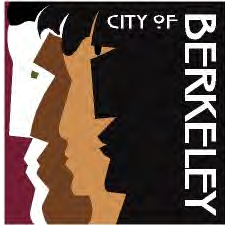
Either the Mayor or any Councilmember may, at his or her sole discretion, reduce the remuneration paid himself or herself. In any such case, the difference between the reduced amount actually paid to such Mayor or Councilmember and the amount of remuneration authorized by this Article shall be appropriated as part of the budget of the Mayor or Councilmember taking the voluntary reduction in remuneration and such differential may be expended for any purpose otherwise authorized for the expenditure of sums so budgeted. ~~If the Mayor or any member of the Council is absent from one or more regular meetings of the Council during any calendar month, unless excused by the Council in order to attend to official business of the City, or unless excused by the Council as a result of illness from attending no more than two regular meetings in any~~

~~calendar year, he or she shall be paid for each regular meeting attended during such months in an amount equal to the monthly remuneration divided by the number of regular meetings held during such month.~~

For each member of the Council and the Mayor, a sum, as established by the Personnel Board, shall be deducted from the salary of such member for each regular or special meeting of the full Council, which they fail to attend in each such calendar month; provided, however, that such deduction shall not be made for their failure to attend any meeting during which they are away on authorized City business, or from which they are absent because of their own illness or the illness or death of a "close family member" as defined in the City's bereavement leave policy.







Kate Harrison  
Councilmember District 4

## SUPPLEMENTAL AGENDA MATERIAL

**Meeting Date:** June 16, 2020

**Item Number:** D

**Item Description:** Recommendation to Prepare a City Ballot Measure to Create a Climate Action Fund, in Response to the Fossil Fuel Free Berkeley Referral

**Supplemental/Revision Submitted By:** Councilmember Harrison

**“Good of the City” Analysis:**

*The analysis below must demonstrate how accepting this supplement/revision is for the “good of the City” and outweighs the lack of time for citizen review or evaluation by the Council.*

The supplemental material is in the public interest as it:

1. reflects action taken by the neighboring Albany City Council on June 15, 2020 (after the deadline for Supp. 2);
2. provides data on average gas and electric bills;
3. provides a proposal for the Council to direct the City Manager to prepare ballot measure language to increase the gas and electric Utility Users Tax to fund a Climate Equity and Action Fund.

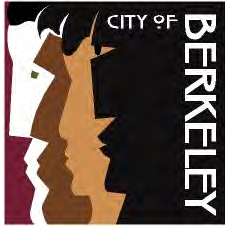
These additions further facilitate Council and public consideration.

***Consideration of supplemental or revised agenda material is subject to approval by a two-thirds vote of the City Council. (BMC 2.06.070)***

A minimum of **42 copies** must be submitted to the City Clerk for distribution at the Council meeting. This completed cover page must accompany every copy.

Copies of the supplemental/revised agenda material may be delivered to the City Clerk Department by 12:00 p.m. the day of the meeting. Copies that are ready after 12:00 p.m. must be delivered directly to the City Clerk at Council Chambers prior to the start of the meeting.

Supplements or Revisions submitted pursuant to BMC § 2.06.070 may only be revisions of the original report included in the Agenda Packet.



Kate Harrison  
Councilmember District 4

## **REVISED AGENDA MATERIAL for Supplemental Packet 3**

**Meeting Date:** June 16, 2020

**Item Number:** D

**Item Description:** Recommendation to Prepare a City Ballot Measure to Create a Climate Action Fund, in Response to the Fossil Fuel Free Berkeley Referral

**Submitted by:** Councilmember Harrison

**Recommendation:**

Direct the City Manager to: prepare a ballot tax measure to increase the electricity and gas portion of the Utility Users Tax by 2.5%, except for CARE customers, for the purpose of funding a Climate Equity and Action Fund, and providing authority to the Council to potentially raise the gas portion an additional 5% at a rate of 1% per year.

**Rationale**

The City of Berkeley is working to achieve its Climate Action Plan goals of reducing greenhouse gas (GHG) emissions 33% below 2000 levels by 2020 and 80% by 2050. According to the Berkeley Office of Energy and Sustainable Development, the latest and best available data suggest that Berkeley's 2016 community-wide GHG emissions, including emissions from transportation, building energy use, and solid waste disposal, are approximately 15% below 2000 baseline levels. Therefore the City is approximately 18% behind its 2020 goal. In 2018, the Council declared a citywide climate emergency, calling for increase in funding to accomplish rapid greenhouse gas (GHG) reductions.

The Utility Users Tax (UUT) is Berkeley's fourth largest source of general fund revenue. The tax is applied at a rate of 7.5% to consumption of electricity, gas, telephone, cable, and cellular services. Revenues can fluctuate from year to year due to various consumption, market and regulatory factors. For example, the COVID-19 pandemic will likely reduce demand for electricity and gas in the commercial sector.

Approximately 60% of total UUT revenues are generated from gas and electric services and 40% from telecommunications. Among gas and electric service revenue, gas accounted for 32% and electric 68% during the last two fiscal years.

Before the COVID-19 pandemic, the Finance Department projected a total UUT revenue of \$15,000,000 in Fiscal Years 2020 and 2021. During that same period, gas and electric revenues were expected to be approximately \$9,555,753.

| UTILITY<br>USERS TAX     | Actual Revenue |              |              | Projected Revenue |              |              |
|--------------------------|----------------|--------------|--------------|-------------------|--------------|--------------|
|                          | FY 2016        | FY 2017      | FY 2018      | FY 2019           | FY 2020      | FY 2021      |
| <b>Total Collections</b> | 14,211,318     | \$15,109,305 | \$14,828,120 | \$14,600,000      | \$15,000,000 | \$15,000,000 |
| <b>\$ Change</b>         | (90,739)       | 897,987      | (281,185)    | 228,120           | 400,000      | 0            |
| <b>% Change</b>          | (0.63%)        | 6.32%        | (1.90%)      | (1.53%)           | 2.73%        | 0%           |
| <b>Cable</b>             | 1,283,102      | 1,251,842    | 1,341,570    | 1,316,080         | 1,352,008    | 1,353,008    |
| <b>Gas/Elec</b>          | 8,675,201      | 9,445,069    | 9,441,160    | 9,300,427         | 9,555,753    | 9,555,753    |
| <b>Phone</b>             | 2,043,557      | 2,009,0350   | 1,915,053    | 1,885,752         | 1,937,233    | 1,937,233    |
| <b>Cellular</b>          | 2,209,458      | 2,403,544    | 2,130,336    | 2,097,741         | 2,155,009    | 2,155,009    |

The Berkeley Energy Commission recommends increasing the electric and gas portion of the tax to equitably fund a number of greenhouse gas reduction programs. This item proposes that funds be aimed primarily at supporting low-income and historically marginalized individuals through programs that reduce greenhouse gas emissions. Programs may include building electrification, weatherization, low-carbon shuttles, and other low-carbon transportation and mobility subsidies. The Council and staff may also consider equity-focused recommendations in Commission’s Fossil Free Berkeley Report and the Office of Energy and Sustainable Development’s Electric Mobility Roadmap. In addition, the tax rate modification would help incentivize reductions in energy consumption.

Survey results suggest that an increase in the UUT would garner sufficient support for a general tax, but not necessarily a special tax. Assuming that the measure proceeds as a general tax, it is in the public interest that the Council, through its budgetary authorities directly allocate funds to equity-focused climate mitigation programs instead of to other general fund expenditures. Council would rank projects and programs based on their equity and greenhouse gas reduction outcomes.

In recognizing the regressive nature of the UUT and the environmental justice principles, a substantial portion of revenues should be allocated to programs that mitigate climate-related environmental injustices. In addition, it is in the public interest that low-income customers enrolled California Alternate Rates for Energy Program (CARE) be exempted from the proposed UUT increase.

Despite current limitations in the Pacific Gas & Electric Company’s (PG&E) billing software, Berkeley should aim to reduce the tax on the electric portion overtime, in acknowledgment of the lower GHG intensity of electric energy (currently a minimum 86% GHG-free) as compared to natural gas, which is inherently GHG intensive. In considering an increase in its UUT tax, the neighboring City of Albany has determined that Pacific Gas & Electric Company (PG&E) software is not currently capable of bifurcating rates applied to the gas and electric portions of the tax. Albany’s city staff

determined that to tax electricity and natural gas at different rates PG&E would charge approximately \$500,000 - \$800,000. In addition to exploring modification of the UUT, the City of Berkeley should explore opportunities to coordinate with neighboring cities to share the cost of modifying PG&E’s software.

On June 15, 2020, the Albany City Council asked their staff to consider and provide ballot language granting authority to raise the gas portion of the UUT up to a maximum of 15% from 10% at a rate of 1% per year. This item asks the City Manager to provide similar language.

Using City revenue projections for FY 2021, the following table details the estimated increase in revenue if the City were to increase the gas-electric UUT rate between 1-2.5%:

|                                          | <b>Projected Gas/Electric Revenue with 1-2.5% increase in UUT Rate (FY 2021)</b> |
|------------------------------------------|----------------------------------------------------------------------------------|
| <b>Marginal rate</b>                     | <b>+ 2.5% (10%)</b>                                                              |
| <b>Marginal revenue (gas)</b>            | \$1,019,280                                                                      |
| <b>Marginal revenue (electric)</b>       | \$2,165,970                                                                      |
| <b>Marginal revenue (gas + electric)</b> | <b>\$3,185,251</b>                                                               |

If for example voters agreed to increase the gas-electric UUT to 2.5%, a residential utility customer with an average \$100 monthly bill would see \$2.50 increase in their bill.

The average residential electric bill in the East Bay Community Energy *Bright Choice* Service territory is \$88.58.<sup>1</sup> Commercial customers on *Bright Choice* have an average bill of \$375.79. As of late 2019, the average statewide residential electric bill in the PG&E service territory was \$121.10 and \$56.64 for gas.<sup>2</sup> Assuming an average total residential bill of \$177.74, the proposed tax increase would result in an average monthly utility tax increase of \$4.44.

<sup>1</sup> East Bay Community Energy, Residential Rates, <https://ebce.org/residents/>.

<sup>2</sup> “PG&E electricity and gas bills will rise in October,” Mercury News, September, 9, 2019, <https://www.mercurynews.com/2019/09/19/pge-electricity-and-gas-bills-will-rise-in-october/>.



Energy Commission

ACTION CALENDAR

June 30, 2020

*(Continued from June 16, 2020)*

To: Honorable Mayor and Members of the City Council  
From: Energy Commission  
Submitted by: Cate Leger, Chairperson, Energy Commission  
Subject: Recommendation to Prepare a City Ballot Measure to Create a Climate Action Fund, in response to the Fossil Fuel Free Berkeley referral

RECOMMENDATION

The Commission recommends that the City Council develop a referendum and seek approval for it on the 2020 ballot to create a Climate Action Fund, which would support actions to achieve the Berkeley Climate Action Plan, to become Fossil Fuel Free, and to respond to the Climate Emergency.

FISCAL IMPACTS OF RECOMMENDATION

Development of the referendum would involve work time of staff and City Council members, plus members of the public. The Council should survey voters about fundraising options, as part of polling on ballot measures. Adoption of the referendum by voters would result in a new Climate Action Fund of \$5 million to \$10 million per year to be spent on measures to reduce carbon pollution.

CURRENT SITUATION AND ITS EFFECTS

On June 12, 2018, the Council adopted a goal of creating a “Fossil Fuel Free Berkeley” and a “Declaration of a Climate Emergency,” which together reinforced the Council’s desires to make Berkeley a global leader on reducing the threat of climate change.

Rising greenhouse gas concentrations in the atmosphere are leading to rising global average temperatures and greater incidence of drought, wildfire, extreme weather events, and other impacts. Berkeley is a significant contributor to greenhouse gas emissions, due to heavy reliance of its citizens on gasoline and diesel vehicles, natural gas in homes and businesses, consumption of goods with high levels of “embedded emissions” from manufacturing and distribution, and other sources. New technologies, along with changes to infrastructure and human behavior, offer significant potential to cut fossil fuel use and carbon emissions in Berkeley.

The Energy Commission submitted to Council “Recommendations for a Fossil Fuel Free Berkeley” in January 2019, in response to the Council’s Fossil Fuel Free Berkeley proclamation and Declaration of a Climate Emergency. In that report, the Commission

recommended, among other things, that the Council put a referendum on the November 2020 ballot that “would include binding mandates and specific priorities for emissions reductions.” This recommendation provides further ideas about the content of that referendum.

At its meeting of February 26, 2020, the Energy Commission voted to recommend to the City Council that a referendum be placed on the ballot to ask voters to create an ongoing funding stream for carbon reduction activities, called a Climate Action Fund, with annual revenues of \$5 million to \$10 million. (Moved by Paulos, second by Stromberg. Ayes: Zuckerman, Bell, Weems Paulos, Stromberg, O’Hare; Nays: None; Abstentions: None; Absent: Schlachter Leger, Gil; 6-0-0-3).

The key issues for Council to explore are 1) how to raise revenues for the Fund, and 2) how to spend the funds. The Council should initiate a public process to explore funding and spending options. The Commission recommends the following principles: Revenues for the Fund should be raised in accord with the “polluter pays principle,” such as by imposing a higher price on fossil fuels, and as progressively as possible, with reduced burdens on low-income citizens. Preliminary ideas for funding sources include:

- An increase in the Utility Users Tax (UUT) for natural gas consumption, along with a reduction in the UUT for electricity, to encourage switching from a fossil fuel to renewable electricity;
- A tax on “transportation network companies” like Uber and Lyft, who have caused a drop in transit use and an increase in carbon emissions and traffic congestion, and on delivery services and fleets;
- Taxes aimed at internal combustion vehicles, such as a tax on gasoline and diesel fuel, vehicle registration fees, oil changes and smog inspections; and
- An increase in parking fees and a tax on privately-owned parking lots.

Funds would be administered by City offices with input from current Commissions or a new expert panel, similar to the panels that guide funding for the Sugar-Sweetened Beverages Tax and Measure O. The Fund would be spent on activities that reduce climate emissions, as described in the Berkeley Climate Action Plan. Funds would be used to fill gaps in regional, state, and federal policy, and leverage local, state, federal, philanthropic, and private-sector funds. Proposals for funding would be accepted from businesses, non-profits, and government agencies, and scored based on a) their effectiveness at reducing carbon emissions, b) equity benefits, c) cost effectiveness, and d) local economic benefits. Funds would not be used to backfill existing City budgets. Some potential areas for funding could include:

- Electric mobility and charging infrastructure;
- Renewable energy in homes and businesses;

- Accelerated deployment of bicycle, micro-mobility and pedestrian improvements, such as protected bike and micro-mobility lanes, and safer street crossings; and
- Building electrification and energy efficiency.

Funding allocation strategies would be reassessed annually. Berkeley would join other communities with similar voter-approved funds, including Boulder, Colorado; Athens, Ohio; and Portland, Oregon.

### BACKGROUND

The City of Berkeley adopted the Climate Action Plan in June 2009. While the City has made good progress in some areas, it has lagged overall and is behind schedule in achieving interim goals. In addition, many of the gains have been caused by state and federal policy and market and technology developments, rather than by City actions.

One impediment to greater progress on the Climate Action Plan is the lack of dedicated funding for it. While City departments sometimes implement measures that cut carbon emissions, their budgets do not have line items for climate action, and rarely are actions prioritized solely because of the carbon reduction benefits. Instead, the City's sustainability programs are often forced to seek support from outside funding sources, such as state and philanthropic grants.

Having a dedicated funding source would give the City greater ability to be proactive; to take advantage of local opportunities and create more local benefits; to expand upon or fill in gaps left by state, regional and federal policies; and to leverage outside funding opportunities.

### ENVIRONMENTAL SUSTAINABILITY

These recommendations are intended to accelerate citywide reductions in greenhouse gases and reduce the impact of global warming.

### RATIONALE FOR RECOMMENDATION

Creation of a Climate Action Fund would increase the City's ability to meet the goals of the Climate Action Plan, the Fossil Fuel Free Berkeley declaration, and the Climate Emergency declaration.

### ALTERNATIVE ACTIONS CONSIDERED

The Commission's report to Council on the Fossil Fuel Free Berkeley and Climate Emergency resolutions explored many options. The idea for a climate referendum was included as a "fast track proposal." This memo supplements the previous Energy Commission recommendation.

### CITY MANAGER

The City Manager takes no position on the content and recommendations of the Commission's Report.

CONTACT PERSON

Billi Romain, Energy Commission Secretary, (510) 981-7432

Attachments:

1: Fossil Fuel Free Berkeley Report of the Berkeley Energy Commission, January 23, 2019



# Fossil Free Berkeley Report

Berkeley Energy Commission January 23, 2019

## Council Referral

On June 12, the Berkeley City Council passed item 30 “Fossil Free Berkeley” which refers “to the Energy Commission and Transportation Commission consideration of the proposed resolution or similar action to further implement the Climate Action Plan and establish the goal of becoming a Fossil Fuel Free Berkeley, and further consider:

Establishing a date by which we are committed to being a Fossil Fuel Free City;

Opposing further transportation of oil, gas, and coal;

Fully implementing Berkeley Deep Green Building, raising the citywide LEED certification requirement above the current LEED Silver, and applying the same requirements to newly constructed city facilities, and major renovations;

Requiring all future City government procurements of vehicles to minimize emissions, and establishing a goal and plan for transitioning the city’s vehicle fleet to all electric vehicles;

Establishing a goal and plan for transitioning to 100% renewable energy for municipal operations and a community wide goal of 100% reductions by 2030;

Formally opposing the recent expansion of offshore drilling by the Trump Administration; and

Calling for region-wide solutions to carbon emissions, including rapid adoption of renewable energy sources, affordable densification of cities and low-emissions public transportation infrastructure.”

On June 12, the Berkeley City Council also passed item 49 “Declaration of a Climate Emergency” which refers “to the Energy Commission to study and report back to Council on a path for Berkeley to become a “Carbon Sink” as quickly as possible, and to propose a deadline for Berkeley to achieve this goal” ideally by 2030.

This Report is the Energy Commission’s response to Council’s June 12 referrals.

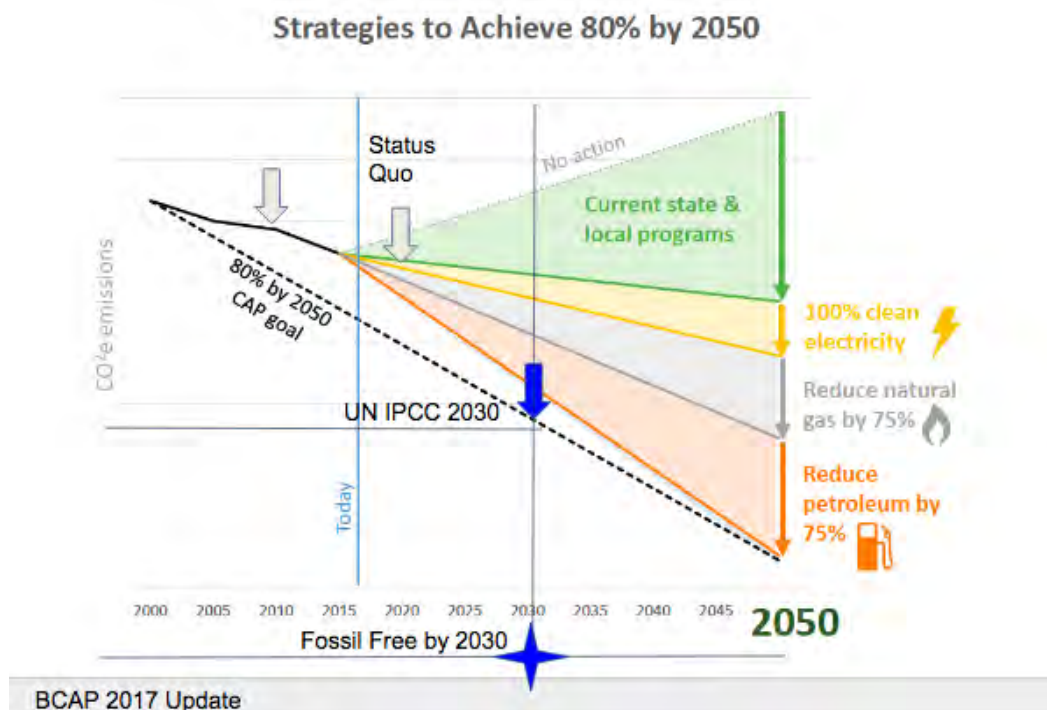
## Executive Summary

The City Council's Climate Emergency Resolution lists record breaking climate related catastrophes and urges 'out of the box' thinking for solutions.

As if intended to support the Council's climate emergency declaration, the UN IPCC issued a heart rattling Special Report ([IPCC-SR15](#), 10/9/2018) noting global temperatures are rising faster than predicted and a myriad of cascading effects are happening sooner, and reiterating a worldwide goal to keep warming to no more than 1.5 °C. It asserts Greenhouse pollution must be reduced 45 percent from 2010 levels by 2030 and 100 percent by 2050.

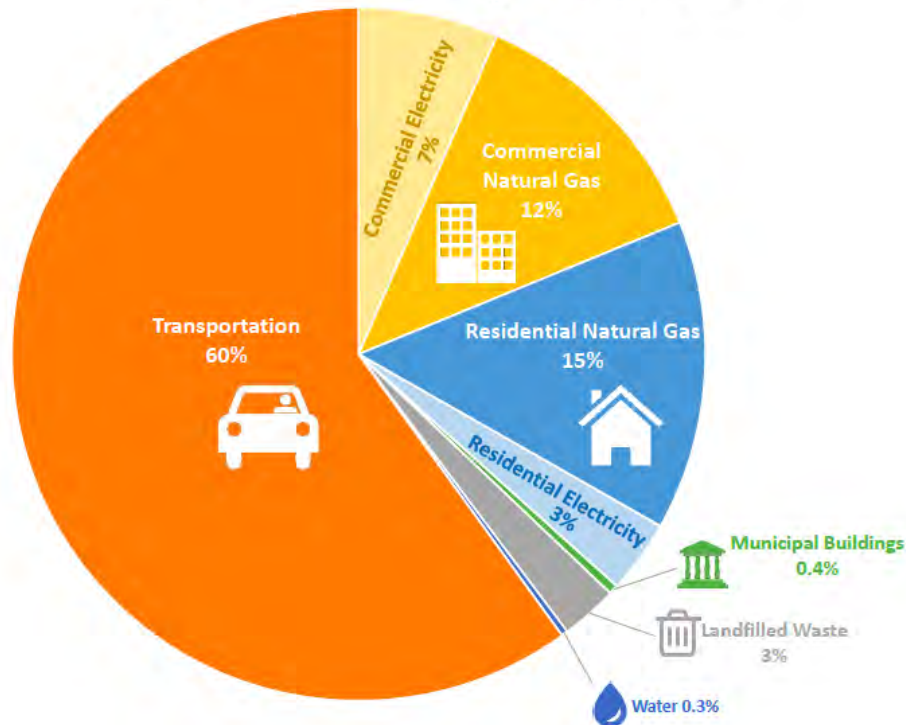
The trajectory of the Berkeley Climate Action Plan's 2020 emission reduction targets, extended to 2030, is roughly in line with the IPCC-SR15 goal. However, according to the city's 2018 [Annual Progress Update](#) Berkeley is significantly behind in achieving the Climate Action Plan 2020 reduction goals, let alone extending that trajectory through 2030 as recommended by IPCC-SR15, or doubling down to become 100% fossil free by 2030 as to be considered in the Fossil Fuel Free Berkeley Resolution Council adopted in June.

### IPCC and Fossil Free by 2030 goals superimposed on 2017 CAP update



Clearly in order to meet any of these 2030 goals we need a sea change in commitment. Specifically, we must exert the will to honestly accept and meet the challenge we face. The 2018 CAP Update shows where we need to act:

## 2016 Community Emissions



Given statutory limitations on specific authorities held by the City, the Energy Commission is not able to determine a date by which Berkeley could be completely fossil fuel free. However, aiming to be fossil fuel free by 2030 to the fullest extent possible is a compelling goal. Urgency prompts the Commission to recommend aggressively prioritizing options with high early impacts. Lastly, Berkeley will only become a carbon sink if it is also virtually fossil free. The City has little capacity to sequester carbon.

### **Four Fast Track Proposals**

- Opt all East Bay Community Energy accounts to 100% renewable electricity in 2019. This would result in an immediate 10% reduction in GHGs.
- Integrate greenhouse gas (GHG) reduction goals into the objectives and responsibilities of every city department. Amend funding priorities to support this initiative.

- Develop an updated Climate referendum to put before the voters that doesn't soft pedal very challenging proposals and why they are necessary. A successful referendum campaign would provide the platform for massive public education and support Council decision making. This referendum would be submitted to the voters in November 2020 and would include binding mandates and specific priorities for emissions reductions.
- Lead a regional effort to make changes to the Utility Users Tax structure in order to assess taxes on natural gas usage separately from electricity usage. Once complete, the City should submit a referendum to voters that would raise the tax on natural gas usage and dedicate the funds to decarbonization efforts.

## ***Summary of Recommendations***

### **Citywide Transportation**

1. Accelerate infrastructure changes to support walking, biking, and small electric and human powered vehicles.
  - a. Build all high priority projects in the city's bicycle, pedestrian, and BeST plans including tier 1 projects in the bike plan by 2025.
  - b. Re-prioritize road and sidewalk capital expenditures to accelerate changes in favor of walking, human powered vehicles, and other low carbon footprint mobility alternatives.
  - c. Add 3 FTE to the Transportation Division to expedite implementation.
2. Adopt financial incentives and disincentives to reduce transportation carbon emissions such as: free transit passes for youth, restricted vehicle access to certain streets, and additional parking fees. Funds raised would be used to support fossil fuel free transportation programs.
3. Explore developing Berkeley shuttle services similar to the Emery Go-Round using EVs.
4. Develop effective communication and education strategies. Continue to expand programs that encourage residents to shift to fossil fuel free modes of transport.

### **Residential and Commercial Buildings**

1. Opt all accounts in Berkeley up to 100% renewable EBCE electricity with a policy of no added cost for CARE customers and an outreach campaign to enroll all eligible customers in the CARE program. This is the most significant immediate thing the city can do reduce greenhouse gas emissions. A ton of GHG gases eliminated in 2019 is far more impactful in slowing climate change than a ton eliminated in 2025 or even in 2020 because of the impact of positive feedback loops.
2. Expand BESO and include electrification along with energy efficiency. Consider instituting more triggers that require an energy audit, more detailed energy

- audits, not allowing the seller to transfer the audit to the buyer, and required implementation of some of the measures recommended in the energy audit.
3. Stop expansion of natural gas infrastructure by prohibiting gas cooktops and dryers in new residences. Place a moratorium on new gas hook ups if possible.
  4. Funding options for electrification and energy efficiency upgrades:
    - a. Sales transfer tax rebates, similar to the seismic rebate but tied to implementation of BESO recommendations.
    - b. A new, very low interest revolving loan fund.
    - c. Strategic relaxation of the Planning Code, such as density and/or parking requirements, or accelerated review in exchange for electrification and energy efficiency measures.
  5. Develop an effective communication and education strategy that reaches the Berkeley community at large. This strategy should include updating the City's website to reflect the City's prioritization of electrification, and low carbon footprint and low toxic construction. Updated green building information should be easily found on the Permit Service Center home page. The City's website needs to offer clear guidance reflecting the urgency of the climate crisis.

### **Regional Action**

1. Lead a regional effort to make changes to the Utility Users Tax structure in order to assess taxes on natural gas usage separately from electricity usage. The City Council adopted a resolution in favor of this change and is awaiting support from other cities in the region to share the fees PGE would charge to modify the billing. It is time to look aggressively for the necessary funds and initiate the process. Once complete, the City should submit a referendum to voters that would raise the tax on natural gas usage and dedicate the funds to decarbonization efforts.
2. Encourage the Bay Area Air Quality Management District (BAAQMD) to adopt rules with future effective dates to prohibit sale of gas powered appliances. It has used the authority in the past to prohibit the sale of polluting products like high VOC paints and to restrict installation of wood burning fireplaces. Prohibiting sale of gas powered appliances would support electrification.
3. Increase regional and support state efforts to expand availability of low global warming potential refrigerant heat pump space and water heaters for the retrofit markets.
4. Initiate regional policy consistent with fossil free goals for ride hailing services and the introduction of autonomous vehicles. Support state programs that restrict the use of fossil fuel by ride hailing services and autonomous vehicles. Regulate these services to reduce overall per capita VMT.
5. Explore viability of reducing R-1 zoning to increase housing availability, opportunities for home ownership and improve transit access through increasing densification. Such transit oriented development can be adopted

throughout the region to reduce development pressure on open spaces, provide more housing near jobs, and provide the density to support expansion of regional transit.

## Analysis

### I. Establishing a date by which we are committed to being a Fossil Fuel Free City

#### Recommendations

1. Consider a new ballot initiative for updating the Climate Action Plan in order to engage Berkeley residents in the comprehensive and ambitious efforts that will be needed.
2. The City should take aggressive, immediate, and sustained action to achieve the goal of a fossil free Berkeley to the fullest extent possible while simultaneously calling for necessary and immediate complementary emergency actions by other local, regional (e.g. MTC/ABAG, BAAQMD, BayREN) state and federal governmental bodies.

#### Discussion

The Energy Commission believes that the Berkeley Residents who initiated “Fossil Free Berkeley” intend it to apply to the entire city, not just municipal operations. Our comments reflect this point of view.

The two Council items 30 and 49 taken together suggest a goal of 2030 for Berkeley to become fossil free. It should be noted that this is far more ambitious than recommendations by the IPCC and recently adopted state laws<sup>1</sup> which taken together would suggest a goal of 50% reduction of greenhouse gas (GHG) emissions by 2030.

In some ways, Berkeley is better positioned than many cities to take the initiative to make accelerated and meaningful reductions in fossil fuel consumption.

- Unlike many other GHG emissions sectors, techniques for eliminating building GHGs--specifically improving energy efficiency, electrifying remaining energy uses, and using renewably generated electricity--are all commercially available, and can improve comfort and safety and offer property owners economic savings over time. Energy efficiency programs have been around for decades and the city’s unique BESO energy audit program helps property owners prioritize efficiency upgrade spending. Because of recent developments in heat pump technologies making electric heat pump space and water heating more than 3 times as efficient as their gas equivalents and the dramatic

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<sup>1</sup> SB 100 commits state utilities to provide 60% renewable electricity by 2030, and zero carbon electricity by 2045.

AB 3232 charges the California Energy Commission with assessing how to reduce emissions from the state’s building stock by 40 percent below 1990 levels by 2030.

SB 1477 will expand the accessibility of clean heating technologies by promoting them in the market with incentives and training.

Executive Order B-55-18 commits California to economy-wide carbon neutrality by 2045.

increase of renewables on the electricity grid, all electric homes, even without solar panels, can produce substantially less GHGs than natural gas powered ones.

- Berkeley's size, density, mild and dry climate, and mass transit infrastructure make it ideally suited for an accelerated reduction in transportation related GHGs. The recent commercial introduction of vehicle sharing programs and proliferation of small electric vehicles such as electric bikes, scooters, and tricycles solve two of the main long time challenges to rethinking the transportation picture in Berkeley. They dramatically reduce costs of electric transport and offer small scale power assisted options, particularly for hills residents.

According to the 2017 Bicycle Plan a "2015 survey of Berkeley residents showed 90 percent of Berkeley residents already bicycle or would consider bicycling if the right bikeway facility or roadway conditions were available. That is a larger percentage than any other city that has conducted a similar study, including Portland...."

- Finally, residents voted overwhelming in favor of the Berkeley Climate Action plan in 2006 and are likely to support new targeted programs to accelerate reductions in GHGs.

The challenges to accelerating GHG reductions cannot be overstated. They are technological, political and social. And, the more ambitious the reduction goals the greater the challenges. While Berkeley is better set up to meet a goal of 100% reduction by 2030 than many communities, it is still a very difficult task.

- The vast majority of buildings rely on natural gas for operation. Every one of them will need to be shifted from gas to all electric operation. Every fossil fuel operated vehicle on the roads will need to be eliminated. How do we motivate ourselves to electrify our buildings and give up our fossil fuel vehicles?
- As much as a quarter of Berkeley's past GHG reductions are a result of state programs such as the renewable fuels portfolio standard. To push ahead with an accelerated GHG reduction goal, the city will need to rely on local programs.
- There are real technological hurdles that need to be solved before complete electrification of the California or US economy can occur. It is hoped these problems will be solved by 2030 or much sooner. While they do not prohibit Berkeley from being fossil free by 2030 as an isolated entity, they do drive up the cost for some of the needed technologies, particularly in relationship to vehicles and battery storage. In addition, regional and state governments will be reluctant to set goals without confidence that the technologies are in place to meet them, so Berkeley will likely be out of step with others the more aggressively it pursues accelerated GHG reductions.



Finally, the urgency of the climate crisis requires use of the simplest, cheapest and most available tools at hand to achieve high early results. A ton of GHG gases eliminated in 2019 is far more impactful in slowing climate change than a ton eliminated in 2025 or even in 2020. Because of positive feedback loops, the effects of GHG emissions are amplified. For example warmer, dryer forests burn more which releases more CO<sub>2</sub> which contributes to more forest fires. Establishment of new manufacturing facilities and a city scale power company would take decades. It will be far more effective to work with existing programs such as East Bay Community Choice Energy, BESO, and the Berkeley Bicycle Plan.

## **II. Opposing further transportation of oil, gas, and coal**

### **Recommendations**

1. In order to put the brakes on the transport of refinery feedstock and refined products traveling through Berkeley, call for a plan to responsibly wind down all Bay Area refineries as California demand wanes.
2. Consider a ban on the storage and transport of coal within the City

### **Discussion**

It should be noted that the City of Berkeley has already adopted a more specific position in opposition to transport of oil, gas and coal: joining neighboring communities in September in calling for a ban on coal shipments through East Bay Communities.

Unfortunately, the Federal Government has jurisdiction over rail transport limiting the City's options for preventing travel by rail through Berkeley.

Eliminating transport of fossil fuels would require the shutdown of all Bay Area oil refineries, because their products are trucked to and through Berkeley for cars, trucks, planes and trains operating in the Bay Area. It would also mean that all ground vehicles, including trains would have to be converted to run on 100% carbon-free electricity, and air transport be fueled by bio-fuel or by imported fossil fuels.

Regarding the shutdown of local refineries, Communities for a Better Environment has drafted a California Refinery Study and will soon launch a campaign to responsibly wind down all California refineries by 2035, by requiring annual emission reductions of 5% beginning in 2020. Mayors of Benicia and Richmond, home to the Valero and Chevron refineries, are already making public statements in support of winding down Bay Area refineries. As California electrifies its vehicles, we must ensure refineries are not permitted to maintain or increase refining activities such that fossil fuel exports increase and frontline communities remain subject to the health consequences of this dirty, outdated industrial sector.

## **III. Fully implementing Berkeley Deep Green Building plan, raising the citywide LEED certification requirement above the current LEED Silver,**

## **and applying the same requirements to newly constructed city facilities, and major renovations**

### **Municipal Buildings Recommendations**

1. Immediately convene a citywide departmental summit including Public Works and Planning and Development to establish a timeline and budget for electrifying all city owned buildings and installing solar plus storage at City buildings wherever possible.
2. Review and re-prioritize all funds currently earmarked for capital improvements to facilitate rapid electrification of municipal buildings.
3. Work with East Bay Community Energy to secure grants for solar with storage.
4. Use the 2 x 2 process to coordinate with BUSD in establishing a fossil fuel free goal and providing BUSD with technical and policy assistance to achieve it.
5. Set higher goals for municipal buildings related to indoor air quality, lowered carbon footprint, and all electric as outlined in Berkeley Deep Green Building and Healthy Building Network's HomeFree Spec guidance.<sup>2</sup> In addition to developing expertise that can be shared with Berkeley residents and property owners, these changes would have health, environmental, and economic benefits. The City can decide the standards which municipal buildings must be built or remodeled to. It is our understanding that currently, there is no requirement beyond meeting minimum state building codes.

### **Residential and Commercial Buildings Recommendations**

1. Develop options for expanding the coverage of the current LEED requirements to other areas of the City including mandatory points in certain sections.
2. Strategically relax the Planning Code, such as density and/or parking requirements or accelerated permit review in exchange for electrification and energy efficiency measures.
3. Place moratorium on natural gas cooktops and dryers in new residences or on new gas hook ups if possible.
4. Institute a transfer tax rebate for energy efficiency upgrades and electrification at time of sale.
5. Ensure every plan checker is trained in methods of electrification, and instructed to present that information to property owners at the beginning of the permit application process. In this way, every interaction with property owners becomes an opportunity to educate them on their options for home energy efficiency and

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<sup>2</sup> <https://homefree.healthybuilding.net/reports>

electrification and their importance. Building owners need to understand the importance of reducing energy consumption and electrification and to switch out fossil fuel appliances for electric whenever possible.

6. Expand BESO and shift focus to include electrification along with energy efficiency. To be considered are: instituting more triggers that require an energy audit, more detailed energy audits, not allowing the seller to transfer the audit to the buyer, and required implementation of some of the measures recommended in energy audit.
7. Develop an effective communication and education strategy that reaches the Berkeley community at large. This strategy should include updating the City's website to reflect the City's prioritization of electrification, and low carbon footprint and low toxic construction. Updated green building information should be easily found on the Permit Service Center home page. Many architects, builders and homeowners begin the design process online, making key decisions based on information found online. It is critical the City's website offer clear guidance reflecting the urgency of the climate crisis.
8. Work with PG&E to develop a plan for eventually shutting down natural gas service in Berkeley. Priority should be given to areas most vulnerable to the effects of climate change and earthquakes and those where infrastructure has not yet been upgraded to plastic. Funds that would be spent on upgrading gas infrastructure can instead be used for electrifying buildings and under-grounding electrical lines.
9. Consider the development of a long term funding plan such as a very low interest revolving loan fund to assist property owners to decarbonize their buildings.
10. The City should work with the BAAQMD to adopt rules with future effective dates to prohibit sale of gas powered appliances.
11. Increase regional and support state efforts to expand availability of low global warming potential refrigerant heat pumps space and water heaters for retrofit markets.

## Discussion

The Berkeley Deep Green Building (BDGB) initiative, adopted by the City Council in 2017, outlines best practices for green building including zero net energy and all electric construction, low carbon footprint and low toxicity building materials, and water conservation. City staff has provided a detailed analysis and review of progress in implementation. See the [Energy Commission](#) Agenda from 4-25-18 for copy of this review.

Energy efficiency measures including: low toxic, low carbon footprint insulation, air sealing, and replacing incandescent with LED lights, have long been recognized as important to greenhouse gas reduction. BDGB argues in addition that going all electric is foundational to achieving fossil fuel free goals. Historically energy efficiency standards and incentive programs have been based on the assumption that natural

gas appliances have lower environmental impacts than electric appliances. However, this is no longer the case. The dramatic increase of renewables in supplying electricity and the development of heat pump technologies for space and water heating, which are more than 3 times as efficient as their gas equivalents, have turned this balance around. If the significant fugitive emissions from gas infrastructure and their concomitant climate changing and indoor air quality impacts are added to the equation, the scale definitely tips in favor of all electric buildings.

Natural gas is also a safety issue in Berkeley. The recent gas line explosions around Lawrence Massachusetts are only the most recent in a long line of such incidents. Even though PG&E is working to upgrade existing infrastructure, rising sea levels in West Berkeley and the overdue earthquake on the Hayward fault threaten Berkeley. Electricity infrastructure has its safety issues as well. Money saved on gas infrastructure could be used on improving the safety and reliability of electric power.

One of the stumbling blocks to a fossil free California is energy storage. All electric, energy efficient buildings can be key in addressing this problem by reducing overall energy demand and drawing energy for space and water heating in the middle of the day when it is most abundant and storing it for use in the evening after the sun goes down. As a quarter of all energy used in the home is for water heating, state policymakers and manufacturers are already working on ways to incorporate tanked electric water heaters into energy management programs.

Heat pump space and water heaters are commercially available and can be economical. Recent studies of homes by Rocky Mountain Institute and NRDC<sup>3</sup> have found that all electric construction can be cost effective, especially in new construction where there are significant savings from not installing natural gas plumbing and infrastructure. All electric construction can also be economical in remodels in cases where natural gas equipment is older and needs replacing and where electrification is coupled with solar PV installation.

As the city is largely built out, construction tends to focus on remodels and new construction of high rise apartment buildings. Every effort needs to be made to guide these projects to be all electric. Currently it appears the economics for high rise residential buildings in Berkeley favor electric heating and air conditioning paired with central gas heat for water. Though adding significant cost to construction, some developers will run natural gas to individual units for the perceived increased value of a gas cooktop. It should be noted that building owners who install natural gas heating and appliances now will be left with stranded assets as society is quickly shifting to all electric operation.

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<sup>3</sup> <https://rmi.org/insight/the-economics-of-electrifying-buildings/>  
<https://www.nrdc.org/experts/pierre-delforge/new-report-heating-next-clean-energy-frontier-ca>

The biggest challenge in Berkeley is electrifying existing buildings -- particularly where no work is anticipated or no permit is obtained for the work. This is a major source of greenhouse gases in our city and across the state. Several state level assistance programs can help property owners with improvements. However they generally fall short of amounts needed and currently rebates are not available for switching gas appliances to electric.

California has been a leader in improving energy efficiency and expanding renewable electricity generation. Several state laws from 2018 will continue that effort:

- SB 100 commits state utilities to provide 60% renewable electricity by 2030, and zero carbon electricity by 2045.
- AB 3232 charges the California Energy Commission with assessing how to reduce emissions from the state's building stock by 40 percent below 1990 levels by 2030.
- SB 1477 will expand the accessibility of clean heating technologies by promoting them in the market with incentives and training.
- Executive Order B-55-18 commits California to economy-wide carbon neutrality by 2045.

While California has been a leader in improving energy efficiency, state laws and regulations have been slow to guide and in some cases act as barriers to the transition to all-electric construction. Many of these barriers are obscure and buried deep in regulatory policy:

- 3 prong test. The 3 prong test is policy established in the early 1990s originally intended to ensure fuel switching did not occur that caused adverse effects on the environment. At the time it generally meant discouraging shifts from natural gas to electric. However the policy assumptions continue to serve the same purpose even as the climate impacts of the two fuels have completely changed places. This policy is the core of why PG&E will not provide energy upgrade rebates when changing gas to electric heat.
- Title 24 assumptions. Title 24 is the shorthand name for the energy efficiency standards of the California Building Code. These are updated every 3 years and currently include several assumptions that favor gas heating and air conditioning over electric.
- Energy rate structure. Retail prices for natural gas do not reflect the GHG emissions of gas compared to electricity, or the grid benefits of flexible electric loads like tanked electric water heaters.

Of these barriers, only the assumptions in title 24 have begun to shift in PG&E territory. The standards that will go into effect in 2020 will no longer penalize use of

heat pump water heaters in low rise residential construction. However many other assumptions within the new standards will continue to support use of natural gas such as the climate benefits of electricity in the TDV and the lack of credit given to tanked electric water heaters for energy storage.

At the regional level, BAAQMD has the authority to regulate air pollution including GHGs. It has used the authority in the past to prohibit the sale of polluting products like high VOC paints. It could prohibit sale of gas powered appliances to support electrification and elimination of GHG emissions.

Working within state level constraints, planning staff have developed and pushed policies that improve the energy efficiency of buildings in Berkeley and encourage a shift to all electric, carbon free operation. Policies they have developed unique to Berkeley include:

- New non-residential construction and additions in the downtown area need to be LEED Gold or equivalent.
- Free advice and consultation on green building design and strategies.
- Building renovation and new construction over 10,000 square feet needs to have an energy analysis and a completed green building checklist.
- Under the BESO program, at time of sale for residences and more frequently for commercial properties, owners must complete an energy audit of the building.

City staff are pursuing many additional efforts:

- Reviewing the BESO program to improve effectiveness. Scope of review to include requiring energy audits sooner for more properties, expanding the triggers that require an audit to include remodeling, more detailed energy audits including electrification, elimination of the option of allowing the buyer to perform the audit, and implementation of some of the upgrades recommended by the energy audits.
- Expanding heat pump water heater availability through collaboration on BayRen's mid-market expansion grant program.
- Pursuing "reach" building codes for the 2020 building codes that give regulatory advantage to all electric construction. The most important priority for this effort is new multi-unit high rise apartment buildings and major remodels.
- Advocating for state level policies that allow building owners to receive energy efficiency rebates when switching fuels.

- Advocating for removal of all biases against electrification within the state building energy codes including Total Daily Value (TDV) and computer modeling assumptions.

Care should be taken that solutions do not create additional problems. Many building materials are coming under increasing scrutiny for their long trail of environmental and health impacts, such as polystyrene and PVC plastics and organo-halogenated materials. Others have such a high global warming footprint, such as certain foam plastic insulations that their use minimizes the GHG reduction benefits of the projects. The refrigerants commonly used in most heat pumps in the U.S.A. also have very high global warm potential. While heat pumps still have dramatic energy saving benefits over other options, phase out of these chemicals under state Air Resources Board programs will improve their GHG benefits.

**IV. Requiring all future City government procurements of vehicles to minimize emissions, and establishing a goal and plan for transitioning the city's vehicle fleet to all electric vehicles**

*See V. for discussion and recommendation concerning 100% renewable energy for municipal vehicles.*

**V. Establishing a goal and plan for transitioning to 100% renewable energy for municipal operations and a community wide goal of 100% reductions by 2030.**

*See III. for discussion and recommendation concerning 100% renewable energy for buildings.*

**Municipal Transportation Recommendations**

1. Assess the city's transportation vehicle needs and develop an aggressive timeline for transitioning to all electric.<sup>4</sup> This assessment would include consideration of: 1) Switching to lower carbon transport options such as electric carts or bicycles where possible and 2) the timing of technology development and commercialization for car batteries.
2. Immediately switch diesel vehicles to run on renewable diesel in the interim until fossil fuel free options are available for the tasks they perform.

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<sup>4</sup> Ref: San Francisco Ordinance 115-17 Administrative Code Section 4.10-1:

c) By December 31, 2022, all light duty vehicles in the City fleet must be Zero Emission Vehicles in compliance with Environment Code Section 404, unless there is a waiver, exemption, or applicable exception. detailed in Environment Code Chapter 4.

## Citywide Transportation Recommendations

*The Energy Commission would like to coordinate recommendations with the Transportation and Public Works Commissions to accelerate a reduction in fossil fuel vehicles in Berkeley. To begin the process, the Energy Commission makes the following recommendations:*

1. Re-prioritize road and sidewalk capital expenditures to accelerate changes in favor of walking, human powered vehicles, and other low carbon footprint mobility alternatives. The Council should amend funding priorities to reflect the climate emergency.
2. Adopt financial incentives and disincentives to reduce transportation carbon emissions such as: free transit passes for youth, restricted vehicle access to certain streets, and additional parking fees. Funds raised would be used to support fossil fuel free transportation programs.
3. Develop and implement a transit plan in support of the Climate Action Plan. The transit plan could include detailed accountability metrics such as required dates for identified new routes, dates for replacement of fossil fueled busses and shuttles with electric busses and shuttles, and smaller intra-neighborhood subsidiary transit (shuttles). The city should explore developing its own shuttle services similar to the Emery Go-Round using EVs as part of the transit plan.
4. Add 3 FTE to the Transportation Division to expedite implementation of the city's bicycle, pedestrian, and BeST plans.
5. Build all high priority projects in the city's bicycle, pedestrian, and BeST plans including tier 1 projects in the bike plan by 2025.
6. Develop a communication strategy to inform residents of fossil free and lower carbon footprint personal mobility options and the desirability of prioritizing these options.
7. Continue to develop and expand programs that encourage residents to shift to fossil fuel free modes of transport, such as electric bike and scooter sharing, Waterside Workshop, and Safe Routes to School.
8. Work with State authorities to prohibit operation of autonomous vehicles within city limits unless they are electric vehicles.
9. Use the 2x2 process to encourage the BUSD to develop a plan for phasing out fossil fuel vehicles and supporting families to safely get to and from school without cars.
10. Lobby and work collaboratively with public and private transportation providers and the commercial sector to convert all vehicle fleets to electric power.



11. Support state programs that restrict the use of fossil fuel vehicles by ride hailing services such as Uber and Lyft.

## Discussion

One of the greatest challenges we face is how to eliminate emissions from transportation. By far the most promising way to make transportation renewable is with electric vehicles.

The vast majority of fossil fuel powered vehicles operated in the city are owned by individuals and companies and government entities outside of the city simply driving through the city or entering the city for business or pleasure. For the purposes on this report, the fossil fuel free goal will be focused on reducing fossil fueled vehicular traffic on city streets. It should be noted that for Berkeley to be truly fossil free, all ground vehicles, including trains, must be converted to electric power. We recognize the City has no independent way to get Amtrak and freight trains off fossil fuels.

The Commission believes that the goal of 100% emission reduction from vehicles is most likely to happen using batteries. Fuels other than electricity are possible but less likely to be adopted. Biofuels have a limited role because of lack of feedstock availability without associated environmental damage (the food vs. fuel problem).

Electric automobiles are quieter and more economical to operate than gas cars. Although only 2% of new car sales in the United States in 2018 were electric, that represented an 81% increase in sales over 2017. Electric auto sales were about 6% of new cars in California in 2018, and reached 10% in December. Because of their lower operating and maintenance costs, electric cars are competitive in lifetime costs of ownership. Residents of homes without garages (of which there are many in Berkeley), and apartments without charging stations, face a serious challenge to find a place to plug in. We encourage further city action on this.

Another option is hydrogen. To be emission-free the hydrogen has to be produced from renewable electricity or directly from sunlight with a catalyst. The problem is that hydrogen storage is very expensive either as a liquid or as a high pressure gas, both because it is energy intensive and because the container is expensive. Furthermore, the likelihood of leakage is much higher than, say, natural gas and the likelihood of explosive ignition in the presence of oxygen is also much higher than natural gas.

One biofuel that can play a useful role in Berkeley as bridge to electrification is renewable diesel. Renewable diesel though made entirely from vegetable oils is not biodiesel. It is processed to meet the exact performance specifications required for diesel motors. It does not void manufacturer warranties and can be used in any diesel vehicle. The emissions are much cleaner, the carbon footprint is lower and it is cheaper than diesel. While its use should be minimized because of the potential food vs fuel concerns, it can be used immediately in all city diesel vehicles until they can be replaced with fossil fuel free alternatives.

The city already has advocated walking, human powered vehicles, electric vehicles and mass transportation accessibility to all in its 2009 Climate Action Plan. In achieving a fossil fuel free goal, there are important timing issues. Several significant transportation changes are just over the horizon that will dramatically reshape our city street experience including:

- Expanded ride hailing operations such as Uber and Lyft, especially as autonomous vehicle operation is perfected;
- Docked and undocked ride sharing vehicles; and
- Proliferation of varied electric vehicles including electric golf carts, bicycles, tricycles, stand-up scooters, hoverboards, Segways, and wheelchairs.
- Breakthroughs in battery technologies that will dramatically lower the cost and improve performance of electric vehicles.

The city should be careful about engaging in longer term contracts and that decisions be revisited regularly as new technologies mature and the economics change for different transportation modes.

## **VI. Formally opposing the recent expansion of offshore drilling by the Trump Administration**

### **Offshore Drilling Recommendation**

Formally endorse California laws intended to block offshore drilling if it has not done so already.

### **Discussion**

The State legislature has passed and the Governor has signed SB 834 (an act to add Section 6245 to the Public Resources Code, relating to state lands) and SB 1775 (an act to add Section 6245 to the Public Resources Code, relating to state lands). Both Sections are entitled State lands: leasing: oil and gas. These new laws are intended to block the Trump administration's plan to expand offshore oil drilling by prohibiting new leases for new construction of oil and gas-related infrastructure, such as pipelines, within state waters if the federal government authorizes any new offshore oil leases.

## **VII. Calling for region-wide solutions to carbon emissions, including rapid adoption of renewable energy sources, affordable densification of cities and low-emissions public transportation infrastructure**

The Council has rightly included the need for regional coordination to address energy supply, housing and transportation. It's safe to say all Bay Area cities are grappling with these issues in one way or another, with significant disparities among them in both priorities and resources. It will take trust, willingness to move away from a

provincial mentality, leadership from MTC/ABAG and BAAQMD and probably some State action to facilitate deep progress in these areas.

## VII.1. Renewable Energy Sources

### Renewable Energy Sources Recommendations

1. Opt up all Berkeley's municipal, commercial and residential accounts to EBCE's<sup>5</sup> 100% Renewable electricity with a policy of no added cost for CARE customers and an outreach campaign to enroll all eligible customers in the CARE program in 2019.
2. Partner with all cities in CCAs to influence state legislators, the Governor, and CPUC Commissioners to develop guiding legislation, policies, and rules that support the continued existence of CCAs.

### Discussion

It is critical to move toward 100% clean energy generation sources as soon as possible in order to fully realize GHG emission reductions through "fuel switching" from combustion to electricity in all spheres. There is long established worldwide consensus that the path to climate stabilization requires, in this order:

1. Deep reductions in energy demand through conservation and efficiency,
2. Conversion to clean electricity generation, and
3. Massive electrification.

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<sup>5</sup> A regional approach to increase reliance on renewable energy sources is possible through our new energy provider: East Bay Community Energy (EBCE). EBCE was initiated under a state law passed in 2002 that allowed government jurisdictions to create agencies (called Community Choice Aggregators or CCAs) to purchase power on their residents' behalf as a way to provide energy options to Californians. As a local government agency, EBCE is not for profit and is entirely devoted to the community. Even before EBCE was providing electricity, it was developing a plan to invest locally in energy development. In July 2018, the Board of EBCE adopted a groundbreaking Local Development Business Plan which spells out strategies for local clean energy, energy efficiency, and energy storage projects specifically to help address the environmental, economic, and social justice needs of the East Bay community.

Once established, a CCA is authorized to automatically enroll all accounts in its jurisdiction in the new energy program. Customers have the option of changing the product they are enrolled in or switching back to PG&E. EBCE currently offers three electricity supply products to its residential, commercial and municipal customers:

- Bright Choice - a mix of electricity generated by fossil fuels, renewable sources and large scale hydro, which the State of California does not classify as renewable. It is offered at a slightly lower in price than electricity from PG&E;
- Brilliant 100 - a mix of renewable energy and large hydropower at the same price as PG&E power; and
- Renewable 100 - 100% renewable energy at a slightly higher price.

Both Berkeley (through BESO and other programs) and California (largely through frequent Energy Code updates) have long standing, successful conservation and efficiency requirements. We are national leaders in this and continue to press forward with program improvements and new initiatives. Now that a 100% renewable option is available from EBCE, Berkeley can immediately convert the entire city to clean electricity generation, and turn its focus to the challenge to ‘electrifying everything.’ Shifting accounts to 100% renewable will reduce community-wide GHG emissions by a whopping 10%.<sup>6</sup>

Under the Climate Emergency Resolution, Council has signaled the intention to act boldly. Berkeley has already fallen significantly behind in achieving its 2050 GHG emission reduction goal as set forth in the 2009 Climate Action Plan.<sup>7</sup> Opting all its EBCE customers to the Renewable 100 plan is the single most impactful and timely action the City can take in 2019, both because of immediate emission reductions, and to avoid GHG emissions from future increases in demand due to electrification. It is critical to do this now because by the end of 2020, EBCE will be required to sign long term contracts for 65% of its supply portfolio. Once these long term contracts are signed, it will be more difficult for EBCE to shift the sources of its power mix. For these reasons, the Energy Commission recommends that Berkeley move to 100% renewable electricity in 2019.

While EBCE energy mix options were being established last spring, the Berkeley City Council, as did most EBCE cities, chose to enroll all residential and commercial accounts in Bright Choice. Berkeley enrolled its municipal accounts in Brilliant 100. The City of Albany enrolled all accounts in Brilliant 100, Hayward enrolled its residential accounts in Brilliant 100, and the City of Piedmont enrolled all accounts in Renewable 100. We note that ten jurisdictions in Los Angeles and Ventura counties served by Clean Power Alliance (CPA, a CCA) were enrolled in Green Power, its 100% renewable product, as the default. These ten jurisdictions cover a third of CPA’s one million customers.<sup>8</sup>

CPA, like EBCE, also has a Community Advisory Committee to help prioritize local renewable energy development and job creation, rebates and incentives. For California’s progressive cities and counties, enrollment in 100% renewable energy is a climate action whose time has clearly come. Because 35% of EBCE’s power purchase agreements are not required to be long term and electrification will increase demand, we anticipate ample opportunities for EBCE to make significant investments in local

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<sup>6</sup> Berkeley Climate Action Plan Annual Progress Update, Office of Energy and Sustainable Development, Planning Department, Slide 5, December 6, 2018

<sup>7</sup> Berkeley Climate Action Plan Annual Progress Update, Office of Energy and Sustainable Development, Planning Department, Slide 14, December 7, 2017

<sup>8</sup> Clean Power Exchange, Alliance will provide clean, competitive energy, January 12, 2019 <https://cleanpowerexchange.org/alliance-will-provide-clean-competitive-energy/>

energy development. As the local development market matures, there will be rolling opportunities to incorporate locally generated power into long term contracts.

There were initial concerns that new EBCE customers would opt out and go back to PG&E. There were also worries that customers would opt out if enrolled in a cleaner mix of energy generation priced at the same or slightly higher cost than PG&E rates. Both of these fears have been shown to be unfounded for the inner East Bay cities of Alameda County. In fact, among all Alameda County cities in EBCE, only the City of Livermore, at 5.56%, has had an opt out rate greater than 2.07%.<sup>9</sup> Piedmont's experience in making Renewable 100 the default level is instructive. As of December 2018, 6.8% of customers opted down to Brilliant 100 or Bright Choice, and only 2.07% opted out and went back to PG&E. The takeaway is that few customers took any action, and of those who did, the overwhelming majority (77.7%) chose to stay in EBCE.

Concerns have also been raised that opting all customers to the 100% Renewable product would harm low-income customers. The Energy Commission recommends that EBCE follow CPA's lead in which "customers in 100 percent renewable energy communities who are enrolled in CARE, FERA or Medical Baseline will get Green Power at no extra charge."<sup>10</sup> We understand that EBCE is reporting strong net revenues which could be allocated to subsidize CARE customers. Alternatively, non-CARE customers could absorb the additional cost. Furthermore, the value of the non-binding nature of the enrollments is that price sensitive customers can opt down. Unlike an increase in property taxes, nonCARE customers who cannot afford to pay any more for power can simply opt down to the lower priced option.

It has recently come to light that Bright Choice power may in fact have a higher carbon content than electricity provided by PG&E.<sup>11</sup> The City Council has the opportunity right now, while the nascent EBCE is locking in long term contracts for power, to opt all accounts to fossil fuel free power to ensure that joining the CCA does in fact reduce citywide GHGs.

The political landscape for CCAs is fraught with heavy opposition from PG&E and its entrenched allies in State government even as they supply electricity that is cleaner and cheaper than their for-profit counterparts.<sup>12</sup> Berkeley needs to partner with all Bay

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<sup>9</sup> EBCE Enrollment Update, December 5, 2018

<sup>10</sup> Clean Power Exchange, Alliance will provide clean, competitive energy, January 12, 2019 <https://cleanpowerexchange.org/alliance-will-provide-clean-competitive-energy/>

<sup>11</sup> See comments in: <https://www.berkeleyside.com/2018/12/11/why-does-your-december-electricity-bill-look-different>

<sup>12</sup> [A 2016 UCLA study](#) found that CCAs in California offered 25% more renewable energy compared to the investor-owned utility (IOU) in the same area resulting in an estimated reduction of 600,000 metric tons of CO2 in 2016.

Area cities in CCAs to work with our elected representatives to defeat legislative threats and overcome obstacles at the California Public Utilities Commission. Also, the CCA's themselves need to ensure unity and coordinated responses to initiatives aimed at undermining success.

## VII.2. Affordable Densification of Cities

### Affordable Densification Recommendations

1. Work with MTC/ABAG, BART cities and counties to reframe and expand Transit Oriented Development concepts to conform with internationally used approaches that look beyond infill at already heavily used transit hubs, and prioritize infill housing everywhere developed in concert with expanded transportation strategies and expanded services (educational, recreational, commercial and environmental enhancement).
2. Work with Bay Area cities and counties to develop a regional funding mechanism to subsidize low income and affordable housing in all jurisdictions.
2. Explore viability of reducing R-1 zoning to increase housing availability, opportunities for home ownership and improve transit access through increasing densification. In addition, support adoption of such transit oriented development throughout the region to reduce development pressure on open spaces, provide more housing near jobs, and provide the density to support expansion of regional.

### Discussion

In order to provide affordable densification we need massive housing construction, housing subsidies and expanded transit opportunities. The high cost of living in the Bay Area includes the high cost of construction. If we want to reduce vehicle miles traveled (VMT) and the unhealthy stress of long commutes we must find ways to subsidize housing for average people, because at the present time people living on average incomes who do not already own homes cannot afford to live in the Bay Area either as renters or homeowners, forcing many into ever longer vehicular commutes. This is something that needs to be addressed by both the region and the state. There is too much disparity in wealth across the region for the problem to be completely solved by individual cities.

A desire for walkable neighborhoods and transit access has contributed to gentrification in Berkeley and San Francisco. This new gentrification is fueled by the migration of young professionals from the suburbs to these two cities in particular because they both have ample neighborhood scale services. Remarkably, the median price paid per square foot of living space is no longer significantly higher in most R-1 zones where access to transit is often limited.<sup>13</sup> This indicates that the hunger for the amenities of a more urban lifestyle is widespread. It's quite possible that there is an

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<sup>13</sup> ([https://www.trulia.com/real\\_estate/Berkeley-California/market-trends/](https://www.trulia.com/real_estate/Berkeley-California/market-trends/))

untapped openness to neighborhood-scale services and transit development in existing suburbs too. This possibility needs to be explored. Any such nascent cultural shifts should be identified and reinforced. The suburbs have already absorbed job growth in the form of large business parks. Likewise, rails to trails conversions have acculturated suburban residents to walking and biking where convenient. Managed thoughtfully, initiatives to increase suburban infill housing coupled with increased transit, active transportation options and some small scale services could be welcome developments.

The push for housing densification in the Bay Area has relied on a concept of transit-oriented development (TOD) defined by MTC as [emphases added]:

“the clustering of homes, jobs, shops and services near *rail stations, ferry terminals or bus stops with high-frequency service*”

defined by BART as:

“mixed-use, higher density development *adjacent to frequent transit.*”

and directed by Berkeley’s General Plan to:

“[e]ncourage and maintain zoning that allows greater commercial and residential density and reduced residential parking requirements in *areas with above-average transit service* such as Downtown Berkeley.”

This perspective pre-supposes that densification is not a serious goal beyond existing heavily used transit corridors, or beyond cities that are already dense. Plan Bay Area forecasts the need for 800,000 new housing units by 2040. It seems doubtful that so much new housing can be built only around existing transit lines. Recent state legislation for infill housing fell victim to this kind of limited thinking.

In other parts of the world, TOD includes community scale planning with new transit service in mind, not just placing new homes near existing heavily used transit. We need to expand the mindset of housing development in the Bay Area to one of transit *coordinated* development (TCD). We need suburban infill housing developed in concert with public transit strategies, and educational, recreational and commercial services. Infill housing and transit alone do not address human needs for social, commercial and fitness activities. Enhancement of ecological surroundings is also important. A comprehensive TCD approach would improve the quality of life in many ways, serve as an attractor to development and significantly reduce GHG emissions.

Note that a substantial amount of new housing units in the suburbs will need to be subsidized for the reasons described above. Affordable and workforce housing is critical for every Bay Area city and county. Plan Bay Area has set forth affordable housing goals for the whole region, but so far every city is failing. Taking a comprehensive TCD approach would make such infill projects more relevant and attractive to existing residents.

One action cities such as Berkeley can take is to change zoning restrictions to eliminate R-1 zoning. Berkeley's General Plan institutionalizes R-1 low density housing:

"These areas are generally characterized by single-family homes. Appropriate uses for these areas include: residential, community services, schools, home occupations, recreational uses, and open space and institutional facilities. Building intensity will range from one to 10 dwelling units per net acre, not including secondary units, and the *population density will generally not exceed 22 persons per acre.*"[Emphasis added.]

The recent move to allow Accessory Dwelling Units is too restrictive to increase density to the extent needed on the land that is most available. It also preserves privilege, in failing to foster home ownership for additional residents.

Berkeley's R-1 zoning is visually correlated with the legacy of red-lining. Its perpetuation restricts growth in areas with the most open land that could support densification. There is quite a lot of aging housing stock in the Berkeley that needs significant renovation, including in R-1 zones. Under current policies, large houses in R-1 cannot be subdivided to allow for more occupants. As a result when modernized they grow larger and more luxurious, a sort of "deep gentrification." It's well documented, but rarely acknowledged, that such consumption drives GHG emission increases.

If the zoning was changed and subsidies provided, we could see small scale condo development like is happening in areas with higher density zoning, and much lower average household CO2e emissions because all the infill would be natural gas free as well as house more people. We could also reverse gentrification and truly become a city that prioritizes diversity. Increased density in R-1 areas would facilitate increased transit service and car sharing, and reduce congestion in shopping corridors. The fact is, many people actually spend little free time in their homes and gardens, preferring to recreate elsewhere, and even when self or contractually employed, preferring to go to work spaces and coffee shops with other people. Children in R-1 zones don't generally play in their neighborhoods, but are shuttled daily to many activities, increasing VMT. Densifying housing in R-1 areas could eventually prompt further zoning changes along the more major roads already served by public transit leading to infill services and commercial development there as well such as the two small and well used commercial districts in Kensington. The result could very well be both environmentally preferable and lead to an increase in our city-wide happiness quotient. Human happiness is correlated with low economic disparity. Our zoning ordinances should be reviewed to see how they amplify disparity and/or inhibit community happiness and act as a bias toward creating GHGs.

### **VII.3. Low Emissions Public Transportation Infrastructure**

#### **Public Transportation Recommendations**



*The Energy Commission would like to coordinate recommendations with the Transportation and Public Works Commissions for accelerating a reduction in fossil fuel vehicles in Berkeley. To begin the process, the Energy Commission makes the following recommendations.*

1. Work with AC Transit to convert all public transit to EVs.
2. Work with AC Transit and major employers to expand existing bus service and add all manner of appropriately sized bus and shuttle services, including into the suburbs.
3. Work to create dedicated bus/shuttle-only lanes on all bridges, freeways and major streets.
4. Work to normalize ride sharing.
5. Work with MTC, regional transit providers and the state to augment subsidies such that public transit is affordable for all.
6. Lobby the state to regulate ride hailing services to reduce overall per capita VMT.

### **Discussion**

MTC distributes enormous sums of money and wields huge power over regional transportation decisions but has not seriously addressed how the region can mitigate climate pollutants from transportation. As a start we need to press MTC to set clean transportation goals commensurate with the damage to our climate that dirty transportation has wrought and the urgency to make drastic emission cuts by 2030. The goal setting process must include a planning document showing the path to take, and policy commitment to achieve the goals.

The Bay Area's freeways are already some of the most crowded in the nation. As housing affordability has worsened, more people are commuting farther distances to their Bay Area jobs. According to MTC, time spent in weekly traffic in the Bay Area shot up 80% between 2010 and 2016. All this traffic is increasing transportation emissions, with no end in sight. Clearly there is a need for increased transportation options, and they need to be carbon free. To expand clean public transits as quickly as possible, light rail is not likely to play a large role. EV buses and shuttles can be built and routed in the time frame we need.

Given the number of tech workers (living all over the region, including the suburbs) who now take buses to their jobs, it is clear that old ideas about who will use bus transit is completely obsolete.

Like housing, transportation is an equity issue. All driving services, public or private, should be required to provide a living wage to drivers. Likewise, we cannot expand public transportation services without massive investment to assure affordability for all. This is a wealthy region that can afford such investments. Significant wealth generated

in this region is also sent to Sacramento. We need the state to assist in subsidizing the transition to clean, affordable public transit available to all.

**On June 12, the Berkeley City Council also passed item 49 “Declaration of a Climate Emergency” which refers “to the Energy Commission to study and report back to Council on a path for Berkeley to become a “Carbon Sink” as quickly as possible, and to propose a deadline for Berkeley to achieve this goal.”**

### **Carbon Sink Recommendations**

1. Plant more trees.
2. Apply compost (and biochar where possible) to city parks, median strips and generally all planted areas.
3. Support use of low carbon construction materials both in municipal buildings and commercial and residential projects.
4. Support urban farming: for example through recently adopted urban farming policies and also planting suitable edible perennials in public spaces.
5. Support citywide programs, such as the Ecology Center’s farmers market program, that give all residents access to fresh, organic, regionally grown foods.

### **Discussion**

Carbon sequestration is an essential component of comprehensive state, national and global efforts to meet climate change reduction goals. The October 9, 2018 UN IPCC report recommends that at least 1000 gigatons of CO<sub>2</sub> be removed from the atmosphere and sequestered by the end of the century. A wide range of strategies are being looked at to remove and sequester atmospheric carbon. The most promising strategies, biological sequestration, rely on natural processes, including afforestation and carbon farming. The California Air Resources Board is already providing Cap and Trade funds to support and expand these promising approaches to carbon sequestration.

Because of the density of habitation, Berkeley is unlikely to be able to be a carbon sink until annual emissions have been reduced by about 99%. Citywide CO<sub>2</sub> emissions totaled 640,000 metric tons in 2015. With roughly 6 square miles of space not covered with buildings and roads, only a very small fraction of these annual emissions could be offset with biological sequestration.<sup>14</sup>

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<sup>14</sup> Background for Carbon Sink section:

*Carbon sequestering buildings:* While using rapidly renewable materials such as wood, straw and bamboo can sequester carbon in buildings, the amount is quickly offset by the vastly greater energy intensity of metals, plastics and concrete required in taller buildings and

While not having significant climate benefits, carbon sequestering strategies such as afforestation and application of biochar to the soil can have health and resilience benefits for the city residents improving air quality and local sources of food.

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seismically active zones. In Berkeley, the effects of low carbon footprint construction can at best lower the carbon footprint of an individual building, which is important. However, it cannot provide a means to offset carbon emissions in the city generally.

*Biological sequestration in soil:* It is practical to sequester carbon from the atmosphere in two ways, changing farming practices to capture more carbon in soils, and reversing deforestation. (It is also possible to capture CO<sub>2</sub> from the air but because of the low concentration of CO<sub>2</sub> in the air, the cost is prohibitive. Sequestering the captured CO<sub>2</sub> is also expensive, , requiring either mineralization or pressurization in a natural cavern (think Aliso Canyon) which is not present in Berkeley.)

Berkeley is 10.5 square miles. If 40% is impervious surfaces, then approximately 6.3 square miles would be available for carbon sequestration.

( [https://en.wikipedia.org/wiki/Impervious\\_surface#Total\\_impervious\\_area](https://en.wikipedia.org/wiki/Impervious_surface#Total_impervious_area) ) If the City and its residents were to implement ambitious carbon building land management practices, the land could optimistically sequester 2 metric tons of CO<sub>2</sub> per acre annually or about 8000 metric tons of CO<sub>2</sub>. ( Soil Carbon Restoration: Can Biology do the Job? by Jack Kittredge, policy director, NOFA/Mass [www.nofamass.org](http://www.nofamass.org) August 14, 2015) This compares to annual emissions of approximately 640,000 metric tons.

*Purchasing carbon offsets:* Carbon offsets cost between \$5.50 and \$29 per ton of CO<sub>2</sub>. Taking the average, it would cost \$1.1 mill to offset 640,000 metric tons or about \$90 per resident. ( <https://www.whatitcosts.com/carbon-offsets-cost-prices/> ) However, purchasing carbon offsets should be discouraged since it transfers money away from Berkeley without addressing our local objective of becoming fossil free.





Office of the City Manager

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ACTION CALENDAR

June 30, 2020

*(Continued from June 16, 2020)*

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: Proposed Amendment to Berkeley's Minimum Wage Ordinance: Berkeley Municipal Code Chapter 13.99

RECOMMENDATION

Adopt first reading of an Ordinance amending Berkeley Municipal Code Chapter 13.99, revising Section 13.99.040 to reinstate the exemption for youth job training programs, and freezing the youth wages at \$14.50 per hour for FY21, then increase the wage annually according to the CPI as will occur with the Berkeley Minimum wage.

FISCAL IMPACTS OF RECOMMENDATION

On July 1, 2019, Berkeley's minimum wage increased to \$14.50 per hour and on July 1, 2020, it will increase to \$15.75. If youth job training programs are not exempted from Berkeley's Minimum Wage Ordinance (MWO), additional funds will be needed to meet the demand for the City's YouthWorks program, operated by the Health, Housing & Community Services Department (HHCS) in FY21, and non-profit agencies that serve youth through training programs will be adversely impacted. Due to COVID-19, the YouthWorks winter and extended programs ended early and as such additional funds for FY2020 are not needed.

CURRENT SITUATION AND ITS EFFECTS

In August 2016 City Council adopted amendments to Berkeley Municipal Code Chapter 13.99, which included eliminating an exemption for youth job training programs from increases in the minimum wage, and setting a separate graduated wage rate for youth job training programs until it reached the City's regular minimum wage rate schedule. Prior to this action, the YouthWorks program had been following the State minimum wage.

In November 2018 staff submitted a recommendation to Council to freeze the youth job training wage rate at \$13.25. Council voted instead to allocate \$86,924 in additional funding for the YouthWorks program for FY2019 and to refer additional allocations of funding to the FY20 budget process. No additional funding for FY20 was added to the program during the FY20-21 budget process and Council set funding for YouthWorks at \$575,270 for FY20 and \$543,725 for FY21.

Adopting this recommendation will also avoid a wage compaction issue, discussed in the Rationale For Recommendation section of this report.

### BACKGROUND

The City of Berkeley YouthWorks program provides year-round access to temporary jobs for youth ages 14-25. The summer and winter programs provide after-school jobs for up to 7 weeks in duration, and transition age youth (aged 18-25) may work up to 6 months provided they are engaged in an academic pursuit, including vocational training. The goal of the YouthWorks program is to provide a variety of employment opportunities that allow participants the opportunity to build their employability skills. In addition to the hands-on training youth receive at their worksites, they also receive training in resume building, workplace skills and financial literacy, and continued staff involvement with the employers throughout the placement to address issues as they arise.

All youth work in City departments and community-based agencies. This spring, YouthWorks and the Berkeley Fire Department will partner on a new Vegetation Management Crew (VMC) program, providing hands-on training for up to five transition-age youth. Although the start of the program has been delayed due to COVID-19, there are at least three participants ready to begin as soon as the YouthWorks program can resume.

Youth work an average of 145 hours in the summer and 80 hours in the winter. They receive paid orientation in addition to paid workplace skills and sexual harassment training. This additional support is typically not provided with regular jobs.

Council first adopted the Minimum Wage Ordinance (MWO) (B.M.C. 13.99) on June 24, 2014. The ordinance exempted job training program participants up to 25 years of age in youth job training programs operated by Non-Profit Corporations or governmental agencies (B.M.C. 13.99.130). Because of the exemption, the city's YouthWorks program adhered to the State of California's Minimum Wage, which is currently \$13 per hour and which will incrementally increase to \$15.00 per hour by January 1, 2022 (for large employers) and thereafter will increase according to the Consumer Price Index (CPI) which has been averaging approximately 3% annually.

On August 31, 2016, City Council amended the Minimum Wage Ordinance (B.M.C. 13.99) to increase Berkeley's minimum wage. The amendment removed exemptions for job training programs for youth.

Other training programs in Berkeley impacted by the Minimum Wage Ordinance include Biotech Partners, Berkeley High School's Workability, Berkeley Youth Alternatives, the Ecology Center's Youth Environment Academy, UC Theatre Concert Career Pathways and Youth Spirit Artworks. Except for the Workability program, the above-named programs receive funding from the City of Berkeley and it is likely that these entities will

need additional funding to accommodate youth wage rate increases. Other jurisdictions have implemented similar exemptions such as the City of Emeryville which has a “learner” exemption that applies to workers of any age. The City of Richmond has exempted their city-operated YouthWorks Program.

This recommendation in no way is meant as a diminishment of the importance of the YouthWorks program and the positive impact participants have in their workplaces. Rather, it distinguishes training programs from other minimum wage jobs which do not have the training and support components integral to our success.

**ENVIRONMENTAL SUSTAINABILITY**

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

**RATIONALE FOR RECOMMENDATION**

In addition to the annual financial impacts to the City’s budget, there is concern that the increase will create wage compaction between youth workers and other City workers who may be earning the same wage, but who have more responsibility and a longer tenure than the youth workers. This is especially apparent in the City’s Recreation programs, wherein youth workers would earn the same wage as Playground Leader Trainees starting in FY22, as shown below in Table 2.

**Table 1: Schedule for Berkeley & State Minimum Wage Rates 2020-2023**

|                                                                       | FY20    | FY21    | FY22    | FY23    |
|-----------------------------------------------------------------------|---------|---------|---------|---------|
| CA Minimum Wage (26 employees or more) eff. 1/1 of each year          | \$13    | \$14    | \$15    | \$15    |
| CoB Minimum Wage eff. 7/01 of each year*                              | \$15.59 | \$16.07 | \$16.54 | \$17.04 |
| YouthWorks wage rate eff. 7/01 of each year*                          | \$14.50 | \$15.75 | \$16.54 | \$17.04 |
| Playground Leader Trainee wage                                        | \$15.59 | \$16.07 | \$16.54 | \$17.04 |
| <i>*These wage rates are projections based on CPI increase of 3%.</i> |         |         |         |         |

YouthWorks does not provide permanent employment for young people. It is a job training program providing soft skills and coaching which is focused on preparing young people to obtain jobs in the regular wage market. Most participants in YouthWorks work up to 7 weeks during the summer or winter months, and earn an average of \$1,416. The goal of the program is to graduate participants into more permanent employment.

**ALTERNATIVE ACTIONS CONSIDERED**

Council could freeze wages for youth employment programs at \$15.75, the level it is scheduled to reach on July 1, 2020 (FY21). This action would require additional funding for the YouthWorks program for FY21. Council could also take no action and allow the

Berkeley Minimum Wage to increase according to schedule. This will require annual increases to the YouthWorks budget.

CONTACT PERSON

Delfina Geiken, Employment Programs Administrator, HHCS, 510-981-7551

Kristen Lee, Manager, Housing & Community Services Division, HHCS, 510-981-7427

Attachments:

- 1: Ordinance – Track changes
- 2: Ordinance – Clean version



ORDINANCE NO. -N.S.

AMENDING SECTION 13.99.040 OF THE BERKELEY MUNICIPAL CODE  
REGARDING MINIMUM WAGE

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

Section 1. That Berkeley Municipal Code Sub-Section 13.99.040.C is amended to read as follows:

C.

For the Employer YouthWorks and for job training participants up to 25 years of age in youth job training programs operated by a Nonprofit Corporation or a governmental entity, the Minimum Wage shall remain at \$14.50, and will increase thereafter based on the ~~State of California wage~~ Consumer Price Index-annual increases.

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.

ORDINANCE NO. -N.S.

AMENDING SECTION 13.99.040 OF THE BERKELEY MUNICIPAL CODE  
REGARDING MINIMUM WAGE

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

Section 1. That Berkeley Municipal Code Sub-Section 13.99.040.C is amended to read as follows:

C. For the Employer YouthWorks and for job training participants up to 25 years of age in youth job training programs operated by a Nonprofit Corporation or a governmental entity, the Minimum Wage shall remain at \$14.50 and will increase thereafter based on the Consumer Price Index annual increases.

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**  
 June 30, 2020  
 (Continued from June 16, 2020)

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: Mark Numainville, City Clerk  
 Subject: Placing Charter Amendment Measure on the November 3, 2020 Ballot to Repeal the Residency Requirement for Sworn Members of the Berkeley Fire Department

**RECOMMENDATION**

1. Adopt a Resolution submitting an Amendment to Article VII of the City Charter regarding the residency requirement for sworn members of the Fire Department to a vote of the electors at the November 3, 2020 General Municipal Election.
2. Designate, by motion, specific members of the Council to file ballot measure arguments on this measure as provided for in Elections Code Section 9282.

**FISCAL IMPACTS OF RECOMMENDATION**

Amending the Charter to remove the residency requirement would not have a significant fiscal impact on the budget of the Fire Department or the General Fund.

The table below shows the year-by-year costs for elections since 2012. Significant cost increases occurred in 2012 and 2014 due primarily to general year-over-year increases, and the addition of two more required languages (Vietnamese and Tagalog). The cost increase in 2016 is due to a new, permanent surcharge from the Registrar of Voters to fund the County’s voting equipment replacement account.

| Date                     | Election         |                  |                  |                 |                  |
|--------------------------|------------------|------------------|------------------|-----------------|------------------|
|                          | Nov. 2012        | Nov. 2014        | Nov. 2016        | Mar. 2017       | Nov. 2018        |
| <b>No. of Measures</b>   | 10               | 7                | 11               | 0               | 4                |
| <b>No. of Candidates</b> | 26               | 23               | 29               | 2               | 30               |
| <b>General Costs</b>     | \$367,884        | \$392,331        | \$706,901        | -               | \$385,246        |
| <b>RCV Costs</b>         | \$101,041        | \$189,148        | \$181,954        | -               | \$185,578        |
| <b>Total Costs</b>       | <b>\$468,925</b> | <b>\$581,479</b> | <b>\$888,855</b> | <b>\$85,628</b> | <b>\$570,824</b> |

### CURRENT SITUATION AND ITS EFFECTS

The Berkeley Fire Department (Department), as well as fire departments across California, face an increasing challenge in recruiting and retaining qualified paramedics and Emergency Medical Technicians (EMTs). The Department engages actively in career development through Berkeley High School, the Berkeley Adult School, and college recruitment programs such as Ignite Academy. Even so, applications are at an historic low. This is partially attributed to the residency requirement and to the high cost of living in the Bay Area.

All City employees are Disaster Service Workers who need to respond in emergencies, however, sworn members of the Department are the only positions singled out in the residency requirement in the Charter. Removing the residency requirement will treat all employees equally and support recruitment and retention efforts.

### BACKGROUND

In the wake of the 1991 Tunnel Fire, Berkeley developed a number of plans to help in future disasters. One of them was adding a residency requirement to the 1994 ballot for firefighters. At the time, urban fire departments were less familiar with state-wide mutual aid and California's emergency management system was in its infancy. The measure passed and the following language was added to the Charter:

“Any sworn member of the fire department who is hired subsequent to January 1, 1995, may not reside greater than a radius of forty (40) air miles from the boundaries of the City of Berkeley.”

Since then, Berkeley has dramatically increased its participation in and understanding of the mutual aid system. Also, in 2018 the California fire service began pre-positioning firefighters and apparatus in areas forecast to have high fire danger weather. This has dramatically reduced the need for firefighters to live within forty (40) miles for emergency callback. In other disasters such as earthquakes or even on normal days in the Bay Area, recall time to the City will be dependent on traffic conditions and damaged infrastructure more than miles traveled.

### ENVIRONMENTAL SUSTAINABILITY

While it is a requirement of all sworn members of the Department to have a valid California driver's license, removing the residency requirement in the Charter will expand the area in which sworn members of the Department can reside thereby increasing fuel consumption and emissions due to commuting.

### RATIONALE FOR RECOMMENDATION

Berkeley's 133 firefighters are required to live in a city whose limits are within 40 air miles of Berkeley's city limit. The limitation imposed on sworn members of the Department concentrates them in an area where property values and the cost of living has dramatically outpaced wages, which makes it difficult to recruit and retain a qualified workforce. Further, by repealing the residency requirement, sworn members of the Department will likely reside in a broader geographic area, which reduces the impacts of a regional disaster such as a fire or earthquake on the Department's workforce.

ALTERNATIVE ACTIONS CONSIDERED

None

CONTACT PERSON

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

Attachments:

1: Resolution

Exhibit A: Text of Measure

RESOLUTION NO. -N.S.

SUBMITTING TO THE BERKELEY ELECTORATE AN AMENDMENT TO THE RESIDENCY REQUIREMENTS FOR SWORN MEMBERS OF THE BERKELEY FIRE DEPARTMENT IN ARTICLE VII OF THE BERKELEY CITY CHARTER ON THE NOVEMBER 3, 2020 BALLOT

WHEREAS, the Berkeley City Council has elected to submit to the voters at the November 3, 2020 General Municipal Election, a measure to amend Article VII of the Berkeley Charter related to the residency requirement for sworn members of the Berkeley Fire Department; and

WHEREAS, in accordance with the provisions of Section 10002 and 10403 of the Elections Code of the State of California, the Alameda County Board of Supervisors is requested to consolidate the City of Berkeley General Municipal Election with the Statewide General Election to be held November 3, 2020; and

WHEREAS, the City of Berkeley hereby requests that the Alameda County Board of Supervisors permit the Registrar of Voters of Alameda County to perform services in connection with said election at the request of the City Clerk. These services to include all necessary services related to official ballot creation, sample ballot and voter information pamphlet preparation, vote-by-mail, polling places, poll workers, voter registration, voting machines, canvass operations, and any and all other services necessary for the conduct of the consolidated election; and

WHEREAS, the Council desires to submit this measure to be placed upon the ballot at said consolidated election.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the Board of Supervisors of Alameda County is hereby requested to include on the ballots and sample ballots the measure enumerated above to be voted on by the voters of the qualified electors of the City of Berkeley.

BE IT FURTHER RESOLVED that the full text of the measure shall be printed in the Voter Information Pamphlet mailed to all voters in the City of Berkeley.

BE IT FURTHER RESOLVED that the above charter amendment requires a majority vote threshold for passage.

BE IT FURTHER RESOLVED that the City Clerk is hereby directed to cause the posting, publication and printing of notices, pursuant to the requirements of the Charter of the City of Berkeley, the Government Code and the Elections Code of the State of California.

BE IT FURTHER RESOLVED that the City Clerk is hereby directed to obtain printing, supplies and services as required.

BE IT FURTHER RESOLVED that the City Clerk is hereby authorized to enter into any contracts necessary for election consulting services, temporary employment services, printing services, and any such other supplies and services as may be required by the statutes of the State of California and the Charter of the City of Berkeley for the conduct of the November General Municipal Election.

BE IT FURTHER RESOLVED that Pursuant to Elections Code Section 9285 (b), the City Council hereby adopts the provisions of Elections Code Section 9285 (a) providing for the filing of rebuttal arguments for city ballot measures.

BE IT FURTHER RESOLVED that the City will reimburse the Registrar of Voters for the costs associated with placing the measure on the ballot.

BE IT FURTHER RESOLVED that said proposed Charter Amendment measure shall appear and be printed upon the ballots to be used at said election as follows:

| <b>CITY OF BERKELEY CHARTER AMENDMENT</b>                                                                                                                                                            |     |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----|
| Shall the measure amending the City Charter to repeal the requirement that firefighters hired after January 1, 1995 must live within a radius of forty air miles of the City of Berkeley be adopted? | YES |
|                                                                                                                                                                                                      | NO  |

BE IT FURTHER RESOLVED that the text of the Charter Amendment be shown as Exhibit A, attached hereto and made a part hereof.

Exhibits

A: Text of Charter Amendment

**AMENDMENT TO ARTICLE VII OF THE BERKELEY CITY CHARTER TO ELIMINATE  
THE RESIDENCY REQUIREMENT FOR SWORN MEMBERS OF THE FIRE  
DEPARTMENT**

The People of the City of Berkeley hereby amend Section 37a of the Charter of the City of Berkeley as follows:

Section 1. Section 37a of Article VII of the Charter of the City of Berkeley is amended as follows:

**Section 37a. Repealed.Residency requirement for sworn members of the fire department.**

~~Any sworn member of the fire department who is hired subsequent to January 1, 1995, may not reside greater than a radius of forty (40) air miles from the boundaries of the City of Berkeley.~~





Office of the City Manager

ACTION CALENDAR  
June 30, 2020  
(Continued from June 16, 2020)

To: Honorable Mayor and Members of the City Council  
From: Dee Williams-Ridley, City Manager  
Submitted by: Savita Chaudhary, Director, Information Technology  
Subject: Contract: CycloMedia Technology, Inc. for Geographic Information System Infrastructure Asset Data Acquisition

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to execute a contract with CycloMedia Technology Incorporated for Geographic Information System infrastructure asset data acquisition, for an amount not to exceed \$187,401 for the period commencing on May 15, 2020 to June 30, 2022.

FISCAL IMPACTS OF RECOMMENDATION

One time funding for this project in the amount of \$187,401 is available in the Department of Information Technology’s Fiscal Year (FY) 2020 IT Cost Allocation and Public Works’ Measure BB Local Streets and Roads fund.

|              |                                    |
|--------------|------------------------------------|
| \$136,401.00 | 680-35-362-377-6002-000-472-612990 |
| \$ 51,000.00 | 134-54-624-695-0000-000-431-612990 |

**\$187,401.00 Total FY 2020 Professional Services**

CURRENT SITUATION AND ITS EFFECTS

The City desires to engage CycloMedia Technology, Inc. to acquire current 360-degree street level imagery to provide a single, highly accurate, authoritative source of location-based data that can be utilized by all City departments for captured street level imagery. This initiative will extract the following infrastructure assets to create accurate and current Geographic Information Systems (GIS) data inventories:

- Bus pads / stops
- Pavement marking
- Maintenance Access Holes
- Storm drains
- Pavement Striping
- Signs
- Curb paint color
- Street trees
- Parking meters
- Traffic lights
- Pedestrian Signal

Several city projects and strategic initiatives will benefit from capturing high quality and accurate street level imagery including:

- Emergency operations situational awareness
- Improved planning and development using imagery
- Remote asset condition assessment (building faces and road surfaces)
- Improved remediation planning (accurate measurements of repair and replace operations)
- Improved community engagement for planning, proposals and visualization
- Improved communication across internal stakeholders with common access to imagery and associated data

The dataset results in a high definition, three-dimensional map, and related data showing precise measurements for distances, clearances, elevations, and other aspects of critical infrastructure. Staff expects to use the images to perform bike lane assessments, identifying damaged infrastructure, inventory city trees, adjust parking lines and signage, as well as inventory city traffic signals.

On October 10, 2019, the City Manager executed a contract with NEXGEN Asset Management for software hosting, implementation, maintenance and related services for a Computerized Maintenance Management System and Enterprise Asset Management (CMMS/EAM) system. Geographic Information System (GIS) provides the digital asset inventory necessary for an effective CMMS/EAM.

The imagery and extracted data will provide many tools, enable our city staff to better serve the public and the efficiency gains expected are as follows:

- Save time, effort, and money by doing virtual inspections and automated asset management
- Optimize asset inventory & condition assessment (Public Works)
- Optimize and update building and zoning review processes (Planning)
- Respond to emergencies with knowledge and confidence through better situational awareness (Public Safety)
- Monitor, analyze and document existing street conditions (Transportation)

The contract with CycloMedia supports the City Strategic Plan goal of providing state-of-the-art, well-maintained infrastructure, amenities, and facilities.

#### BACKGROUND

On November 02, 2016, the City Manager signed the original contract with Geographic Technologies Group (GTG) to develop a GIS Master Plan. On September 08, 2017, the City Manager amended the original contract to include additional tasks including to conduct a comprehensive GIS data assessment.

On August 15, 2019, the City issued a Request for Proposals (RFP) for 360-degree street level imagery under Specification No.19-11279-C. CycloMedia Technology, Inc. met the City's operational, technology, and fiscal requirements.

Geographic Information Systems (GIS) supports the activities of the City and its community. The City of Berkeley Enterprise GIS empowers staff and the community to make decisions that impact the future of the City of Berkeley in a conversant and logical approach.

The City maintains a vast portfolio of public infrastructure assets in the public right-of-way: 134 traffic lights, over 8,000 street lights with 3,200 city-owned street light poles, 653 miles of streets, 388 miles of sanitary sewers, 78 miles of storm sewers, 2500 street signs, 35,000 trees, 300 miles of walkways, 325 retaining walls, and over 2000 parking meters. The 2017 GIS Master Plan and 2018 GIS Data Assessment report both found that many of these assets are not represented or are not current in the City's GIS.

The mapping functionality also addresses a series of requirements from the City's insurer, California Joint Powers Insurance Authority. The City needs comprehensive plans and periodic inspections for its signage, trees, and traffic signals.

The 360-degree imagery data and the data extracted will feed the asset inventories for the NEXGEN work order and asset management system. These asset inventories will then be maintained in the NEXGEN System and integrated with GIS data layers.

The asset information collected will create an inventory for reporting, maintenance and future planning requirements. The data can also be used for activities such as making accurate and precise measurements for distances, clearances, elevations, surface areas and other aspects of critical infrastructure.

#### ENVIRONMENTAL SUSTAINABILITY

An improved GIS will enable staff to view detailed images from throughout the city on their computers rather than going out into the field thus saving significant time and reducing the number of trips field employees have to visit a site to address an issue which reduces greenhouse gas emissions associated with travel time. The data is hosted remotely so there is no hardware overhead. This supports the reduction of carbon footprint and the goals of the City's Climate Action Plan.

#### RATIONALE FOR RECOMMENDATION

CycloMedia Technology, Inc. has over 30 years of professional experience and innovation in street level imagery collection and analysis, including Light Detection and Ranging (LiDAR) and asset extraction, and with hundreds of satisfied customers in the US and worldwide. CycloMedia Technology, Inc. has served clients similar in population to the City of Berkeley, including the City of Redlands, the City of Torrance, and has provided statewide services to Pacific Gas & Electric (PG&E).

Additionally, improving the quality and accuracy of the City's GIS information will support the implementation of the new CMMS/EAM system. The data collected will be used to create new asset layers in GIS which the NEXGEN CMMS/EAM system will utilize and allow work orders to be tracked against these assets and allow for new preventative maintenance schedules.

ALTERNATIVE ACTIONS CONSIDERED

Staff considered hiring contractors to use GPS in the field to create and update the infrastructure asset GIS data. This method is costly and time consuming. Cyclomedia's unique and patented processing techniques allow positionally-accurate GIS data to be collected in a cost-effective way and over a shorter period of time than a "boots on the ground" GPS field survey.

CONTACT PERSON

Savita Chaudhary, Director, Information Technology, 510-981-6541

Attachments:

1: Resolution

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

CONTRACT: GEOGRAPHIC INFORMATION SYSTEM (GIS) INFRASTRUCTURE  
ASSET DATA ACQUISITION

WHEREAS, the City of Berkeley identified the need create accurate and current Geographic Information Systems (GIS) infrastructure asset data inventories; and

WHEREAS, the City of Berkeley desires to acquire current 360-degree street level imagery and extract infrastructure assets to create GIS data inventories; and

WHEREAS, on August 15, 2019, the City issued a Request for Proposals (RFP) for 360-degree street level imagery under Specification No.19-11279-C and the RFP review committee evaluated the proposal and determined that the Cyclomedia Technology, Inc. proposal met the City's operational, technological, and fiscal requirements; and

WHEREAS, funding for this project in the amount of \$187,401 is available in the Department of Information Technology's Fiscal Year (FY) 2020 IT Cost Allocation and Public Works' Measure BB Local Streets and Roads fund.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is hereby authorized to execute a contract with CycloMedia Technology, Inc. for Geographic Information System (GIS) infrastructure asset data acquisition, for amount not to exceed \$187,401 for the projected period commencing on May 15, 2020 to June 30, 2022.





Office of the City Manager

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ACTION CALENDAR  
June 30, 2020

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: Teresa Berkeley-Simmons, Budget Manager  
 Subject: FY 2021 Budget Adoption

RECOMMENDATION

Adopt a resolution:

1. Adopting the FY 2021 Budget as contained in the City Manager's FY 2021 Proposed Budget Update presented to Council on May 12, 2020, June 9, 2020, and as amended by subsequent Council action.
2. Authorizing the City Manager to provide applicable advances to selected community agencies receiving City funds in FY 2021, as reflected in Attachment 2, and as amended by subsequent Council action.

FISCAL IMPACTS OF RECOMMENDATION

The proposed City expenditure budget for all funds in FY 2021 is \$521,674,251 (gross appropriations) and \$439,737,989 (net appropriations). The General Fund (010) total is \$201,359,664 and the balance of \$320,314,587 represents the other non-discretionary funds. This fiscal information will be reflected in a separate Annual Appropriation Ordinance on the City Council's agenda this evening.

CURRENT SITUATION AND ITS EFFECTS

The City Council adopted the FY 2020 and FY 2021 Biennial Budget (Biennial Budget) and the FY 2020 and FY 2021 Capital Improvement Program Budget (CIP Budget) on June 25, 2019. The Biennial Budget was a 2-year balanced budget. The Proclamation of Local Emergency for the purposes of responding to COVID-19 was issued on March 3, 2020.

The economic and financial impacts of the COVID-19 pandemic on Berkeley's finances was significant and resulted in a projected General Fund deficit estimated at \$28.7 million in FY 2021. To resolve this General Fund shortfall departments worked to identify General Fund savings that represent 10%, 12%, and 15% of their FY 2021

General Fund budget. In addition, staff was guided by the following Budget Strategies Principles:

1. *Continue serving the community.* Public health and safety functions, as well as essential municipal services will be preserved to the maximum extent possible. In so doing, the City will make every effort to avoid service and workforce reductions.
2. *Live within our means.* Strive for long-term sustainability that aligns available resources with needs and the City's values that embrace a commitment to advancing racial, social, and just equity, serving those who are most in need, and environmental sustainability.
3. *Identify expenditures that can be deferred.* Take a deferment first approach by thoroughly assessing expenditures with a special emphasis on large capital projects, equipment purchases, and new projects.
4. *Pursue other revenue and assistance.* Vigorously pursue cost recovery efforts, secure alternative sources of revenue, and be positioned to capitalize on federal and state assistance.
5. *Manage use of, and replenish, reserves.* In drawing on reserves, the City will adopt a long-term orientation to ensure that funds are available for the duration of the economic downturn. The City will look to its existing policies to ensure that any reserves that are utilized are restored when the economy improves.
6. *Be data-driven and transparent.* Budget decisions will be informed by data and be transparent. Staff will work collaboratively with the Budget and Finance Committee with on-going communication and updates provided to the entire City Council.

It is important departments develop thoughtful ideas for deferrals that are realistic and result in minimum negative impact to services and operations. City staff scrutinized all projects (capital and non-capital) and personnel expenditures that have been allocated funding through the budget process to determine what can be deferred to free up resources to address the deficit. A preliminary list of projects was discussed with the Budget & Finance Policy Committee on May 19, 2020, and the full City Council on May 26, 2020. Staff met frequently with the Budget & Finance Policy Committee. Below are the dates and topics that were discussed.



| FY 2021 Budget Update Development Timeline |                                   |                                                                                                                                                                                                                                   |
|--------------------------------------------|-----------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| April 27, 2020                             | Budget & Finance Policy Committee | <ul style="list-style-type: none"> <li>FY 2021 Budget Update Status</li> </ul>                                                                                                                                                    |
| May 4, 2020                                | Budget & Finance Policy Committee | <ul style="list-style-type: none"> <li>General Fund Revenues</li> <li>Measure P Revenues and Allocations</li> </ul>                                                                                                               |
| May 11, 2020                               | Budget & Finance Policy Committee | <ul style="list-style-type: none"> <li>Budget Development Timeline</li> <li>Center Street Parking Garage</li> <li>Response to Questions (May 4, 2020)</li> </ul>                                                                  |
| May 19, 2020                               | Budget & Finance Policy Committee | <ul style="list-style-type: none"> <li>Amending the General Fund Reserves Policy</li> <li>General Fund Capital Projects and Other Non-Personnel Deferrals</li> </ul>                                                              |
| May 26, 2020                               | Budget & Finance Policy Committee | <ul style="list-style-type: none"> <li>General Fund Personnel Deferrals</li> </ul>                                                                                                                                                |
| June 4, 2020                               | Budget & Finance Policy Committee | <ul style="list-style-type: none"> <li>Council Budget Referrals</li> <li>City Auditor's Recommendations for the General Fund Reserves</li> <li>Marina Update</li> <li>Homeless Services</li> </ul>                                |
| June 9, 2020                               | Budget & Finance Policy Committee | <ul style="list-style-type: none"> <li>City Manager FY 2021 Deferral Recommendations</li> <li>Reserves Policy</li> <li>Response to Budget Questions</li> <li>Strategic Plan Impacts</li> <li>Homeless Services Reports</li> </ul> |
| June 18, 2020                              | Budget & Finance Policy Committee | <ul style="list-style-type: none"> <li>FY 2021 Budget Update</li> <li>Response to Budget Questions</li> </ul>                                                                                                                     |
| June 25, 2020                              | Budget & Finance Policy Committee | <ul style="list-style-type: none"> <li>Discussion on budget recommendations continues</li> </ul>                                                                                                                                  |

On June 9, 2020, the following balancing measures were presented to the Budget and Finance Policy Committee.

| <b>Balancing Measures (dollars in millions)</b>           |                  |
|-----------------------------------------------------------|------------------|
| Original General Fund Deficit Based on the Adopted Budget | \$ 25.60         |
| Downtown PBID                                             | \$ 0.01          |
| Increased Insurance Costs                                 | \$ 1.17          |
| Center Street Garage Debt Service                         | \$ 1.91          |
| <b>Revised General Fund Deficit as of 5/19/20</b>         | <b>\$ 28.69</b>  |
| <i>Additional General Fund Allocations</i>                |                  |
| Measure P                                                 | \$ 5.12          |
| Measure U1                                                | \$ 3.50          |
| COVID-19 Ongoing Response                                 | \$ 1.00          |
| Families at La Quinta                                     | \$ 0.03          |
| Vegetation Management                                     | \$ 0.25          |
| Waterfront Immediate Capital Needs                        | \$ 0.55          |
| <b>Sub-total</b>                                          | <b>\$ 10.45</b>  |
| <b>Total FY 21 General Fund Shortfall</b>                 | <b>\$ 39.14</b>  |
| <i>Proposed Solutions to Resolve the Shortfall</i>        |                  |
| FY 21 Proposed Deferrals @ 15%                            | \$ 26.51         |
| Filled Positions in Police Department                     | \$ (2.66)        |
| Use of General Fund Reserves (1/3)                        | \$ 11.38         |
| <b>Total General Fund Solutions</b>                       | <b>\$ 35.23</b>  |
| <b>Unresolved Shortfall</b>                               | <b>\$ (3.91)</b> |

In addition, staff presented the FY 2021 Budget Update material to the full City Council. On May 12, 2020, was the first of two public hearings. On June 2, 2020, was the second public hearing. On June 16, 2020, Department Directors presented their department's budget deferrals and impacts to the full City Council. The updated General Fund Reserves Policy was also adopted by the City Council that night.

Conclusion

The shortfall resulting from the impacts of the pandemic is unprecedented. The City has numerous revenue streams that depend on economic activities and the “Shelter in Place” order practically stopped most economic activity. The revenue streams that trail consumer and retail activity feel the brunt of this cessation and the economic outcome is largely dependent on the development of the virus itself.

In developing the FY 2021 Mid-Biennial Budget update, City staff acknowledges that there is a significant amount of uncertainty including limited data to accurately determine the fiscal impacts of the pandemic on City revenues. There is a lot that City staff doesn't know at this point in time. More data and time are necessary to determine the long-term effects of the COVID-19 pandemic on the City's budget, which will be critical to inform the FY 2022; FY 2023 Biennial Budget process that will commence November 2020. For this reason, City staff is committed to providing timely updates to City Council and reevaluating the City's budget and projections on a reoccurring basis. In addition, staff is recommending a second round of budget deliberation in November. The discussion would align with the adoption of the First Amendment to the FY 2021 Appropriation Ordinance.

FISCAL IMPACT

See information described above.

ENVIRONMENTAL SUSTAINABILITY

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

Teresa Berkeley-Simmons, Budget Manager, City Manager's Office, 981-7000

## Attachments:

1. Resolution: Adopting FY 2021 Budget  
Exhibit A: Community Agency Contracts Advance

RESOLUTION NO.

ADOPTING THE CITY OF BERKELEY BUDGET UPDATE FOR  
FISCAL YEAR 2021

WHEREAS, on May 12, 2020, the City Manager presented to the City Council the FY 2021 Proposed Budget Update; and

WHEREAS, the City Council held a series of meetings to consider the FY 2021 Proposed Budget Update, including public hearings held on May 12, 2020 and June 2, 2020; and

WHEREAS, members of the City Council presented recommended revisions to the Proposed Biennial Budget at the Council meetings on June 23, 2020 and June 30, 2020; and

WHEREAS, in addition to formal budget adoption, City Council action is required to authorize advances for select community agencies receiving funds in FY 2021. The advances are to be equivalent to 25% of the agency's allocation.

NOW THEREFORE, BE IT RESOLVED, that the Council of the City of Berkeley adopted the FY 2021 Budget contained in the City Manager's FY 2021 Proposed Budget Update presented to Council on May 12, 2020 and as amended by subsequent Council action on June 16, 2020, June 23, 2020 and June 30, 2020.

BE IT FURTHER RESOLVED that the appropriations constituting the FY 2021 Adopted Budget will be reflected in a separate FY 2021 Annual Appropriation Ordinance, as required by Charter.

BE IT FURTHER RESOLVED, that the City Manager is authorized to execute contracts and /or amendments, as necessary, to provide advances to selected community agencies receiving City funds in FY 2021.

BE IT FURTHER RESOLVED, that the City Manager is authorized to use the following invoicing/reporting system in contract administration, but maintains the discretion to amend these requirements depending on risk factors associated with past performance, the amount and type of funding an agency receives, and/or whether or not an agency is a new grantee:

Agencies receiving under \$50,000 in General Fund to provide the following services:

1. Drop-In services only with no intensive case management, meal programs, outreach programs, or recreation programs:
  - Statements of Expense are required quarterly and a General Ledger is required at fiscal year-end; and
  - An end-of-year narrative summary of accomplishments.
2. All other agencies receiving General Fund only:
  - Statements of Expense are required quarterly and a General Ledger is required at fiscal year-end; and
  - Program Reports are required semi-annually.
3. Agencies with State and/or Federal Funding:
  - Statements of Expense are required quarterly and a General Ledger is required at fiscal year-end; and
  - Program Reports are required quarterly.

BE IT FURTHER RESOLVED, that the City Manager is authorized to refuse to execute or amend a contract with any agency that has not provided required contract exhibits and documentation within 60 days of award of funding.

BE IT FURTHER RESOLVED, that the City Manager is authorized to execute other resultant agreement and amendments with other agencies relating to receipt and expenditure under CDBG or CSBG Program in accordance with the proposals for community agency funding approved through the budget process and as outlined in Exhibit E. A record copy of said contracts and any amendments are on file with the Office of the City Clerk.

Exhibits

A: Community Agency Advances

## FY 2021 COMMUNITY AGENCY ADVANCES

| AGENCY NAME                                                 | LEAD DEPT | FY 2021 ALLOCATION | FY 2021 ADVANCE  |
|-------------------------------------------------------------|-----------|--------------------|------------------|
| Alameda County Homeless Action Center                       | HHCS      | 197,759            | 49,440           |
| Alameda County Network of Mental Health Clients             | HHCS      | 67,737             | 16,934           |
| Bananas                                                     | HHCS      | 388,637            | 97,159           |
| Bay Area Community Land Trust                               | HHCS      | 5,200              | 1,300            |
| Bay Area Community Resources                                | HHCS      | 94,964             | 23,741           |
| Bay Area Community Services                                 | HHCS      | 2,050,773          | 512,693          |
| Bay Area Hispano Institute for Advancement                  | HHCS      | 103,590            | 25,898           |
| Bay Area Outreach and Recreation Program                    | HHCS      | 43,592             | 10,898           |
| Berkeley Community Gardening Collaborative                  | HHCS      | 11,895             | 2,974            |
| Berkeley Community Media                                    | IT        | 230,710            | 57,678           |
| Berkeley Convention & Visitors Bureau                       | OED       | 422,500            | 105,625          |
| Berkeley Food & Housing Project                             | HHCS      | 547,700            | 136,925          |
| Berkeley Free Clinic                                        | HHCS      | 15,858             | 3,965            |
| Berkeley High School Bridge Program                         | HHCS      | 79,000             | 19,750           |
| Berkeley Project                                            | PRW       | 32,000             | 8,000            |
| Berkeley Youth Alternatives                                 | HHCS      | 60,000             | 15,000           |
| Biotech Partners                                            | HHCS      | 91,750             | 22,938           |
| Bonita House                                                | HHCS      | 39,804             | 9,951            |
| Bread Project                                               | HHCS      | 57,850             | 14,463           |
| Building Opportunities for Self Sufficiency                 | HHCS      | 295,316            | 73,829           |
| Center for Independent Living                               | HHCS      | 159,660            | 39,915           |
| Covenant House California (YEAH!)                           | HHCS      | 318,388            | 79,597           |
| Dorothy Day                                                 | HHCS      | 756,501            | 189,125          |
| East Bay Community Law Center                               | HHCS      | 283,644            | 70,911           |
| Easy Does It                                                | HHCS      | 1,341,961          | 335,490          |
| Eden Council for Hope and Opportunity                       | HHCS      | 35,000             | 8,750            |
| Ephesians Children's Center                                 | HHCS      | 103,920            | 25,980           |
| Family Violence Law Center                                  | HHCS      | 61,842             | 15,461           |
| Fred Finch Youth Center                                     | HHCS      | 89,255             | 22,314           |
| Habitat for Humanity East Bay/Silicon Valley                | HHCS      | 250,000            | 62,500           |
| Healthy Black Families, Inc.                                | HHCS      | 43,808             | 10,952           |
| Inter-City Services                                         | HHCS      | 101,351            | 25,338           |
| J-Sei                                                       | HHCS      | 9,110              | 2,278            |
| Lifelong Medical Care                                       | HHCS      | 568,010            | 142,003          |
| McGee Avenue Baptist Church                                 | HHCS      | 17,844             | 4,461            |
| Multicultural Institute                                     | HHCS      | 101,739            | 25,435           |
| Nia House Learning Center                                   | HHCS      | 39,999             | 10,000           |
| Pacific Center for Human Growth                             | HHCS      | 23,245             | 5,811            |
| Rebuilding Together                                         | HHCS      | 122,850            | 30,713           |
| RISE Program                                                | HHCS      | 216,039            | 54,010           |
| Rising Sun                                                  | HHCS      | 67,828             | 16,957           |
| SEEDS Community Resolution Center                           | HHCS      | 22,553             | 5,638            |
| Stiles Hall                                                 | HHCS      | 90,000             | 22,500           |
| Sugar - Sweetened Beverage Berkeley Unified School District | HHCS      | 950,000            | 237,500          |
| Sugar - Sweetened Beverage Product Panel of                 | HHCS      | 950,000            | 237,500          |
| Supplybank.org                                              | HHCS      | 25,000             | 6,250            |
| The Suitcase Clinic                                         | HHCS      | 9,828              | 2,457            |
| Through the Looking Glass                                   | HHCS      | 52,206             | 13,052           |
| Toolworks Inc. Supportive Housing                           | HHCS      | 47,665             | 11,916           |
| UC Berkeley                                                 | HHCS      | 130,000            | 32,500           |
| Women's Daytime Drop-In Center                              | HHCS      | 267,071            | 66,768           |
| YMCA of the East Bay - Y Scholar Program                    | HHCS      | 90,875             | 22,719           |
| <b>Total</b>                                                |           | <b>12,183,827</b>  | <b>3,045,957</b> |

HHCS = Health, Housing &amp; Community Services

IT = Information Technology

**FY 2021 COMMUNITY AGENCY ADVANCES**

| AGENCY NAME | LEAD DEPT | FY 2021 ALLOCATION | FY 2021 ADVANCE |
|-------------|-----------|--------------------|-----------------|
|-------------|-----------|--------------------|-----------------|

OED = Office of Economic Development

PRW = Parks Recreation & Waterfront







Office of the City Manager

ACTION CALENDAR  
June 30, 2020

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: Teresa Berkeley-Simmons, Budget Manager  
 Subject: FY 2021 Annual Appropriations Ordinance

RECOMMENDATION

Adopt first reading of an Ordinance adopting the FY 2021 Annual Appropriations Ordinance (AAO) in the amount of \$521,674,251 (gross appropriations) and \$439,737,989 (net appropriations).

FISCAL IMPACTS OF RECOMMENDATION

The FY 2021 Annual Appropriations Ordinance authorizes gross appropriations of \$521,674,251 and net appropriations of \$439,737,989. The General Fund totals \$201,359,664 and the balance of \$320,314,587 represents the other non-discretionary funds.

BACKGROUND

The City Charter states that at the time of budget adoption that the Council passes an annual appropriations ordinance, which shall be based upon the budget submitted by the City Manager and as amended by the City Council. The AAO establishes the expenditure limits by fund for FY 2021. Exhibit A provides a Fund-by-Fund summary of these limits for FY 2021.

The FY 2021 Annual Appropriations Ordinance is a Strategic Plan Priority, advancing our goal to provide an efficient and financially-healthy City government.

ENVIRONMENTAL SUSTAINABILITY

There are no identifiable environmental effects or opportunities associated with the act of adopting the budget/appropriations ordinance/amendments. Actions included in the budget will be developed and implemented in a manner that is consistent with the City's environmental sustainability goals and requirements.

RATIONALE FOR RECOMMENDATION

The recommendation allows the City to set the adopted funding limits for FY 2021.

CONTACT PERSON

Rama Murty, Senior Management Analyst, City Manager's Office, 981-7000

Attachments:

1: Ordinance

Exhibit A: Annual Appropriation Ordinance Summary of Appropriations by Fund

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

ADOPTING THE ANNUAL APPROPRIATIONS ORDINANCE BASED ON THE ADOPTED BUDGET FOR FISCAL YEAR 2021 AS PROPOSED BY THE CITY MANAGER AND PASSED BY THE CITY COUNCIL

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

Section 1. That the Annual Appropriations Ordinance based on the budget for FY 2021 submitted by the City Manager and passed by the City Council be adopted as follows and as summarized in Exhibit A:

|                                                |                    |
|------------------------------------------------|--------------------|
| A. General Fund (Funds 001-099)                | 201,359,664        |
| B. Special Funds ( Funds 100-199)              | 84,410,115         |
| C. Grant Funds (Funds 300-399)                 | 29,619,853         |
| D. Capital Projects Funds (Funds 500-550)      | 17,269,583         |
| E. Debt Service Fund (Funds 551-599)           | 9,777,705          |
| F. Enterprise Funds (Funds 600-669)            | 127,429,541        |
| G. Internal Service Funds (Funds 146, 670-699) | 40,927,983         |
| H. Successor Agency (Funds 760-769)            | 57,120             |
| I. Agency Funds (Funds 771-799)                | 4,726,478          |
| J. Other Funds (Funds 800-899)                 | 6,096,209          |
| <u>K. Total</u>                                |                    |
| Total General Fund                             | 201,359,664        |
| Add: Total Other Than General Fund             | 320,314,587        |
| <b>Gross Revenue Appropriated</b>              | <b>521,674,251</b> |
| Less: Dual Appropriations                      | -41,008,279        |
| Less: Revolving/Internal Service Funds         | -40,927,983        |
| <b>Net Revenue Appropriated</b>                | <b>439,737,989</b> |

Section 2. The City Manager is hereby permitted, without further authority from the City Council, to make the following transfers by giving written notice to the Director of Finance:

- a. From the General Fund to the General Fund – Stability Reserve Fund; Catastrophic Reserve Fund; Paramedic Tax Fund; Health State Aid Realignment; Fair Election Fund; Capital Improvement Fund; Phone System Replacement; Equipment Replacement Fund; Public Liability Fund; Catastrophic Loss Fund; Police Employee Retiree Health Assistance Plan; Safety Members Pension Fund; and Sick Leave Entitlement Fund.
- b. To the General Fund from the General Fund – Stability Reserves Fund; Catastrophic Reserves Fund; Community Development Block Grant Fund; Street Lighting Assessment District Fund; Zero Waste Fund; Marina Operations and Maintenance Fund; Sanitary Sewer Operation Fund; Clean Storm Water Fund; Permit Service Center Fund; Parking Meter Fund; Unified Program (CUPA); IT Cost Allocation Fund; and Health State Aid Realignment Fund.
- c. To the First Source Fund from the Parks Tax Fund; Capital Improvement Fund; and the Marina Fund.
- d. From UC Settlement Fund to General Fund and Clean Storm Water Fund.
- e. From Capital Improvement Fund to PERS Savings Fund; Berkeley Repertory Theater Fund; and 2010 COP (Animal Shelter) Fund.
- f. To the Public Art Fund from the Parks Tax Fund; Capital Improvement Fund; and the Marina Fund.
- g. To CFD#1 District Fire Protection Bond (Measure Q) from Special Tax Bonds CFD#1 ML-ROOS.
- h. To Private Sewer Lateral Fund from Sanitary Sewer Operation Fund.
- i. To Catastrophic Loss Fund from Permit Service Center Fund.
- j. To Catastrophic Loss Fund from Unified Program (CUPA) Fund.
- k. To the Building Purchases and Management Fund from General Fund; Health (General) Fund; Rental Housing Safety Program Fund; Measure B Local Streets & Road Fund; Employee Training Fund; Zero Waste Fund; Sanitary Sewer Operation Fund; Clean Storm Water Fund; Permit Service Center Fund; Off Street Parking Fund; Parking Meter Fund; Unified Program (CUPA) Fund; Building Purchases & Management Fund; Building Maintenance Fund; Central Services Fund; and Health State Aide Realignment Trust Fund.
- l. To Equipment Replacement Fund from General Fund; Mental Health Services Act Fund; Health (Short/Doyle) Fund; Vector Control Fund; Paramedic Tax Fund; Playground Camp Fund; State Transportation Tax Fund; Rental Housing Safety Program Fund; Parks Tax Fund; Street Light Assessment District Fund; Zero Waste Fund; Marina Operations/Maintenance Fund; Sanitary Sewer Operation Fund; Clean Storm Water Fund; Permit Service Center Fund; Parking Meter Fund;

Equipment Maintenance Fund; Building Maintenance Fund; and Central Services Fund.

- m. To the Equipment Maintenance Fund from General Fund; Health (General) Fund; Mental Health Services Act Fund; Health (Short/Doyle) Fund; Vector Control Fund; Paramedic Tax Fund; Library - Discretionary Fund; Playground Camp Fund; State Transportation Tax Fund; Rental Housing Safety Program Fund; Rent Stabilization Board Fund; Parks Tax Fund; Street Light Assessment District Fund; FEMA Fund; Zero Waste Fund; Marina Operations/Maintenance Fund; Sanitary Sewer Operation Fund; Clean Storm Water Fund; Permit Service Center Fund; Off Street Parking Fund; Parking Meter Fund; Equipment Maintenance Fund; Building Maintenance Fund; and Central Services Fund.
- n. To the Building Maintenance Fund from the General Fund; Health (General) Fund; Health (Short/Doyle) Fund; Measure B Local Street & Road Fund; Parks Tax Fund; Street Light Assessment District Fund; Zero Waste Fund; Sanitary Sewer Operation Fund; Clean Storm Water Fund; Off Street Parking Fund; Parking Meter Fund; Equipment Maintenance Fund; Building Maintenance Fund; and Mental Health State Aid Realignment Fund.
- o. To the Central Services Fund from the General Fund; First Source Fund; Health (Short/Doyle) Fund; Library-Discretionary Fund; Playground Camp Fund; Rent Stabilization Board Fund; Zero Waste Fund; Marina Operations/Maintenance Fund; Sanitary Sewer Operation; Building Purchases & Management Fund; Building Maintenance Fund; Central Services Fund; and Mental Health State Aid Realignment Fund.
- p. To Information Technology Cost Allocation Plan Fund from General Fund; Target Case Management/Linkages Fund; Health (Short/Doyle); Library Fund; Playground Camp Fund; State Transportation Tax Fund; CDBG Fund; Rental Housing Safety Program; Rent Stabilization Board Fund; Parks Tax Fund; Street Light Assessment District Fund; Zero Waste Fund; Marina Operations/Maintenance Fund; Sanitary Sewer Operation; Clean Storm Water Fund; Permit Service Center Fund; Off Street Parking Fund; Parking Meter Fund; Unified Program (CUPA) Fund; Equipment Maintenance Fund; Building Maintenance Fund; Information Technology Cost Allocation Plan Fund; Health State Aid Realignment Trust Fund; and Mental Health State Aid Realignment Fund.
- q. To the Workers' Compensation Self-Insurance Fund from General Fund; Special Tax for Severely Disabled Measure E Fund; First Source Fund; HUD Fund; ESGP Fund; Health (General) Fund; Target Case Management/Linkages Fund; Mental Health Service Act Fund; Health (Short/Doyle) Fund; EPSDT Expansion Proposal Fund; Senior Nutrition (Title III) Fund; C.F.P. Title X Fund; Fund Raising Activities Fund; Berkeley Unified School District Grant; Vector Control Fund; Paramedic Tax Fund; Alameda County Grants Fund; Senior Supportive Social Services Fund;

Family Care Support Program Fund; Domestic Violence Prevention – Vital Statistics Fund; Affordable Housing Mitigation; Inclusionary Housing Program; Library – Discretionary Fund; Playground Camp Fund; Community Action Program Fund; State Proposition 172 Public Safety Fund; State Transportation Tax Fund; CDBG Fund; Rental Housing Safety Program; Measure B Local State & Road Fund; Measure B Bike & Pedestrian Fund; Measure B – Paratransit Fund; Measure F Alameda County Vehicle Registration Fee Streets & Roads Fund; Measure BB – Paratransit Fund; Fair Election Fund; Measure U1 Fund; One-Time Grant: No Cap Expense Fund; Rent Stabilization Board Fund; Parks Tax Fund; Measure GG – Fire Prep Tax Fund; Street Lighting Assessment District Fund; Employee Training Fund; Private Percent – Art Fund; Measure T1 – Infrastructure & Facilities Fund; FUND\$ Replacement Fund; Capital Improvement Fund; FEMA Fund; CFD #1 District Fire Protect Bond Fund; Special Tax Bonds CFD#1 ML-ROOS Fund; Shelter+Care HUD Fund; Shelter+Care County Fund; Zero Waste Fund; Marina Operations/Maintenance Fund; Sanitary Sewer Operation Fund; Clean Storm Water Fund; Private Sewer Lateral Fund; Permit Service Center Fund; Off-Street Parking Fund; Parking Meter Fund; Unified Program (CUPA) Fund; Building Purchases & Management Fund; Equipment Replacement Fund; Equipment Maintenance Fund; Building Maintenance Fund; Central Services Fund; Workers' Compensation Fund; Public Liability Fund; Information Technology Cost Allocation Plan Fund; Health State Aid Realignment Trust Fund; Tobacco Control Trust Fund; Mental Health State Aid Realignment Fund; Alameda Abandoned Vehicle Abatement Authority; and Bio-Terrorism Grant Fund.

- r. To the Sick Leave and Vacation Leave Accrual Fund from General Fund; Special Tax for Severely Disabled Measure E Fund; First Source Fund; HUD Fund; ESGP Fund; Health (General) Fund; Target Case Management/Linkages Fund; Mental Health Service Act Fund; Health (Short/Doyle) Fund; EPSDT Expansion Proposal Fund; Senior Nutrition (Title III) Fund; C.F.P. Title X Fund; Fund Raising Activities Fund; Berkeley Unified School District Grant; Vector Control Fund; Paramedic Tax Fund; Alameda County Grants Fund; Senior Supportive Social Services Fund; Family Care Support Program Fund; Domestic Violence Prevention – Vital Statistics Fund; Affordable Housing Mitigation; Inclusionary Housing Program; Library – Discretionary Fund; Playground Camp Fund; Community Action Program Fund; State Proposition 172 Public Safety Fund; State Transportation Tax Fund; CDBG Fund; Rental Housing Safety Program; Measure B Local State & Road Fund; Measure B Bike & Pedestrian Fund; Measure B – Paratransit Fund; Measure F Alameda County Vehicle Registration Fee Streets & Roads Fund; Measure BB – Paratransit Fund; Fair Election Fund; Measure U1 Fund; One-Time Grant: No Cap Expense Fund; Rent Stabilization Board Fund; Parks Tax Fund; Measure GG – Fire Prep Tax Fund; Street Lighting Assessment District Fund; Employee Training Fund; Private Percent – Art Fund; Measure T1 – Infrastructure & Facilities Fund; FUND\$ Replacement Fund; Capital Improvement Fund; FEMA Fund; CFD #1 District Fire Protect Bond Fund; Special Tax Bonds CFD#1 ML-ROOS Fund; Shelter+Care HUD Fund; Shelter+Care County Fund; Zero Waste Fund; Marina Operations/Maintenance Fund; Sanitary Sewer Operation Fund; Clean Storm

Water Fund; Private Sewer Lateral Fund; Permit Service Center Fund; Off-Street Parking Fund; Parking Meter Fund; Unified Program (CUPA) Fund; Building Purchases & Management Fund; Equipment Replacement Fund; Equipment Maintenance Fund; Building Maintenance Fund; Central Services Fund; Workers' Compensation Fund; Public Liability Fund; Information Technology Cost Allocation Plan Fund; Health State Aid Realignment Trust Fund; Tobacco Control Trust Fund; Mental Health State Aid Realignment Fund; Alameda Abandoned Vehicle Abatement Authority; and Bio-Terrorism Grant Fund.

- s. To the Payroll Deduction Trust Fund from General Fund; Special Tax for Severely Disabled Measure E Fund; First Source Fund; HUD Fund; ESGP Fund; Health (General) Fund; Target Case Management/Linkages Fund; Mental Health Service Act Fund; Health (Short/Doyle) Fund; EPSDT Expansion Proposal Fund; Senior Nutrition (Title III) Fund; C.F.P. Title X Fund; Fund Raising Activities Fund; Berkeley Unified School District Grant; Vector Control Fund; Paramedic Tax Fund; Alameda County Grants Fund; Senior Supportive Social Services Fund; Family Care Support Program Fund; Domestic Violence Prevention – Vital Statistics Fund; Affordable Housing Mitigation; Inclusionary Housing Program; Library – Discretionary Fund; Playground Camp Fund; Community Action Program Fund; State Proposition 172 Public Safety Fund; State Transportation Tax Fund; CDBG Fund; Rental Housing Safety Program; Measure B Local State & Road Fund; Measure B Bike & Pedestrian Fund; Measure B – Paratransit Fund; Measure F Alameda County Vehicle Registration Fee Streets & Roads Fund; Measure BB – Paratransit Fund; Fair Election Fund; Measure U1 Fund; One-Time Grant: No Cap Expense Fund; Rent Stabilization Board Fund; Parks Tax Fund; Measure GG – Fire Prep Tax Fund; Street Lighting Assessment District Fund; Employee Training Fund; Private Percent – Art Fund; Measure T1 – Infrastructure & Facilities Fund; FUND\$ Replacement Fund; Capital Improvement Fund; FEMA Fund; CFD #1 District Fire Protect Bond Fund; Special Tax Bonds CFD#1 ML-ROOS Fund; Shelter+Care HUD Fund; Shelter+Care County Fund; Zero Waste Fund; Marina Operations/Maintenance Fund; Sanitary Sewer Operation Fund; Clean Storm Water Fund; Private Sewer Lateral Fund; Permit Service Center Fund; Off-Street Parking Fund; Parking Meter Fund; Unified Program (CUPA) Fund; Building Purchases & Management Fund; Equipment Replacement Fund; Equipment Maintenance Fund; Building Maintenance Fund; Central Services Fund; Workers' Compensation Fund; Public Liability Fund; Information Technology Cost Allocation Plan Fund; Health State Aid Realignment Trust Fund; Tobacco Control Trust Fund; Mental Health State Aid Realignment Fund; Alameda Abandoned Vehicle Abatement Authority; and Bio-Terrorism Grant Fund.

Section 3. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of Council Chambers, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.

**Attachment for Annual Appropriations Ordinance - Fiscal Year 2021****REVOLVING FUNDS/INTERNAL SERVICE FUNDS**

Appropriations are identified with revolving and internal service funds. Such funds derive revenue by virtue of payment from other fund sources as benefits are received by such funds, and the total is reflected in the "Less Revolving Funds and Internal Service Funds" in item I. The funds are:

**Revolving/Internal Service Funds**

|                                           |               |
|-------------------------------------------|---------------|
| Employee Training Fund                    | 1,231,292     |
| Equipment Replacement Fund                | 5,415,733     |
| Equipment Maintenance Fund                | 7,926,789     |
| Building Maintenance Fund                 | 4,304,795     |
| Central Services Fund                     | 384,569       |
| Workers' Compensation Fund                | 6,422,651     |
| Public Liability Fund                     | 1,922,551     |
| Information Technology Fund               | 13,319,603    |
| Subtotal Revolving/Internal Service Funds | \$ 40,927,983 |

**DUAL APPROPRIATIONS - WORKING BUDGET**

Dual appropriations are identified with revenues generated by one fund and transferred to another fund. Both funds are credited with the applicable revenue, and the total is reflected in the "Less Dual Appropriations" in item I. The dual appropriations are:

## Transfers to the General Fund

Indirect Cost Reimbursement

|                                       |              |
|---------------------------------------|--------------|
| CDBG Fund                             | 143,373      |
| Street Light Assessment District Fund | 115,865      |
| Zero Waste Fund                       | 2,326,015    |
| Marina Enterprise Fund                | 415,427      |
| Sanitary Sewer Fund                   | 1,071,882    |
| Clean Storm Water Fund                | 252,015      |
| Permit Service Center Fund            | 1,874,805    |
| Unified Program (CUPA) Fund           | 87,242       |
| Subtotal Transfers to General Fund:   | \$ 6,286,624 |



|                                                                                                  |                      |
|--------------------------------------------------------------------------------------------------|----------------------|
| Transfer to Safety Members Pension Fund from General Fund                                        | 551,804              |
| Transfer to Paramedic Tax Fund from General Fund                                                 | 703,103              |
| Transfer to Health State Aid Realignment from General Fund                                       | 1,953,018            |
| Transfer to Fair Election Fund from General Fund                                                 | 501,833              |
| Transfer to Capital Improvement Fund (CIP) from General Fund                                     | 4,950,905            |
| Transfer to Phone System Replacement - VOIP from General Fund                                    | 160,000              |
| Transfer to Equipment Replacement Fund from General Fund                                         | 1,081,699            |
| Transfer to Public Liability Fund from General Fund                                              | 1,695,888            |
| Transfer to Catastrophic Loss Fund from General Fund                                             | 2,295,334            |
| Transfer to IT Cost Allocation Fund from General Fund                                            | 431,802              |
| Transfer to Police Employee Retiree Health Assistance Plan from General Fund                     | 400,136              |
| Transfer to Sick Leave Entitlement Fund from General Fund                                        | 201,501              |
| Transfer to General Fund from General Fund Stabilization Reserves Fund                           | 6,900,000            |
| Transfer to General Fund from General Fund Catastrophic Reserves Fund                            | 4,500,000            |
| Transfer to General Fund from UC Settlement Fund                                                 | 907,554              |
| Transfer to Clean Storm Water Fund from UC Settlement Fund                                       | 302,519              |
| Transfer to General Fund from Health State Aid Realignment Fund                                  | 2,643,280            |
| Transfer from CIP Fund to PERS Savings Fund                                                      | 151,632              |
| Transfer to Berkeley Repertory Theater Debt Service Fund from CIP Fund                           | 499,802              |
| Transfer from CIP Fund to 2010 COP (Animal Shelter) Fund                                         | 402,613              |
| Transfer to Private Sewer Lateral Fund from Sewer Fund                                           | 90,501               |
| Transfer to Catastrophic Loss Fund from Permit Service Center Fund                               | 50,555               |
| Transfer to Catastrophic Loss Fund from Unified Program (CUPA) Fund                              | 5,082                |
| Transfer to General Fund from Parking Meter Fund                                                 | 1,742,288            |
| Transfer to General Fund from IT Cost Allocation Fund                                            | 1,037,439            |
| Transfer from Special Tax Bonds CFD#1 ML-ROOS to CFD#1 District Fire Protect Bond<br>(Measure Q) | 452,759              |
| Transfer to First Source Fund from Parks Tax Fund                                                | 11,625               |
| Transfer to First Source Fund from Capital Improvement Fund                                      | 29,943               |
| Transfer to First Source Fund from Marina Fund                                                   | 1,875                |
| Transfer to Public Art Fund from Parks Tax Fund                                                  | 17,437               |
| Transfer to Public Art Fund from Capital Improvement Fund                                        | 44,915               |
| Transfer to Public Art Fund from Marina Fund                                                     | 2,813                |
| Subtotal Transfers to Other Funds:                                                               | 34,721,655           |
| Sub-Total Dual Appropriations                                                                    | \$ 41,008,279        |
| <b>Grand Total Dual Appropriations</b>                                                           | <b>\$ 81,936,262</b> |

## SUMMARY OF APPROPRIATIONS BY FUND

| ERMA<br>Fund # Fund                      | FY 2021<br>Adopted |
|------------------------------------------|--------------------|
| 11 General Fund Discretionary            | 188,467,160        |
| 16 Measure U1 - Housing                  | 1,492,504          |
| 98 General Fund - Stabilization Reserves | 6,900,000          |
| 99 General Fund - Catastrophic Reserves  | 4,500,000          |
| 101 Library - Tax                        | 21,567,259         |
| 103 Library - Grants                     | 64,089             |
| 104 Library - Friends & Gift             | 150,000            |
| 105 Library - Foundation                 | 100,000            |
| 106 Asset Forfeiture                     | 201,000            |
| 107 Special Tax Measure E                | 1,361,402          |
| 108 First Source Fund                    | 48,083             |
| 110 Sec 108 Loan Gty Asst.               | 553,408            |
| 111 Fund Raising Activities              | 53,557             |
| 113 Sports Field (Vendor Oper)           | 189,807            |
| 115 Animal Shelter                       | 52,480             |
| 116 Paramedic Tax                        | 4,223,699          |
| 119 Domestic Violence Prev - Vit Stat    | 26,462             |
| 120 Affordable Housing Mitigation        | 49,690             |
| 121 Affordable Child Care                | 13,275             |
| 122 Inclusionary Housing Program         | 148,044            |
| 123 Condo Conversion                     | 37,520             |
| 125 Playground Camp                      | 1,982,688          |
| 126 State-Prop 172 Pub.Safety            | 929,177            |
| 127 State Transportation Tax             | 6,041,284          |
| 128 CDBG                                 | 2,464,552          |
| 129 Rental Housing Safety Program        | 1,893,929          |
| 130 Measure B - Local St & Road          | 4,112,067          |
| 131 Measure B - Bike and Pedestrian      | 578,279            |
| 132 Measure B - Paratransit              | 490,125            |
| 133 Measure F Alameda County VRF St & Rd | 799,084            |
| 134 Measure BB - Local St & Road         | 4,651,014          |
| 135 Measure BB - Bike & Pedestrian       | 493,297            |
| 136 Measure BB - Paratransit             | 387,847            |
| 138 Parks Tax                            | 13,911,368         |
| 140 Measure GG - Fire Prep Tax           | 4,828,024          |
| 142 Streetlight Assesment District       | 2,684,633          |
| 143 Berkeley Bus Ec Dev                  | 156,387            |
| 145 Bayer (Miles Lab)                    | 8,500              |
| 146 Employee Training                    | 774,643            |
| 147 UC Settlement                        | 1,231,292          |
| 148 Private Percent - Art Fund           | 22,380             |
| 149 Private Party Sidewalks              | 100,000            |
| 150 Public Art Fund                      | 65,164             |
| 152 Vital & Health Statistics Trust Fund | 29,893             |
| 156 Hlth State Aid Realign Trust         | 4,026,998          |
| 157 Tobacco Cont.Trust                   | 334,284            |

## SUMMARY OF APPROPRIATIONS BY FUND

| ERMA<br>Fund # Fund                         | FY 2021<br>Adopted |
|---------------------------------------------|--------------------|
| 158 Mental Health State Aid Realign         | 2,944,117          |
| 159 Citizens Option Public Safety Trust     | 258,921            |
| 161 Alameda Cty Abandoned Vehicle Abatement | 99,852             |
| 165 Fair Elections                          | 501,833            |
| 309 OTS DUI Enforcement Education Prg.      | 129,500            |
| 310 HUD/Home                                | 648,769            |
| 311 ESGP                                    | 228,126            |
| 312 Health (General)                        | 2,213,682          |
| 313 Target Case Management Linkages         | 868,851            |
| 314 Alameda County Tay Tip                  | 35,812             |
| 315 Mental Health Service Act               | 9,033,861          |
| 316 Health (Short/Doyle)                    | 3,823,059          |
| 317 EPSDT Expansion Proposal                | 386,235            |
| 318 Alcoholic Bev Ctr OTS/UC                | 52,804             |
| 319 Youth Lunch                             | 101,900            |
| 320 Sr. Nutrition Title III                 | 104,516            |
| 321 CFP Title X                             | 164,021            |
| 324 BUSD Grant                              | 310,992            |
| 325 Vector Control                          | 328,281            |
| 326 Alameda County Grants                   | 615,987            |
| 327 Senior Supportive Social Services       | 55,720             |
| 328 Family Care Support Program             | 68,254             |
| 329 CA Integrated Waste Management          | 5,244              |
| 333 CALHOME                                 | 363,100            |
| 334 Community Action                        | 268,007            |
| 336 One-Time Grant: No Cap Exp              | 1,554,923          |
| 338 Bay Area Air Quality Management         | 60,000             |
| 339 MTC                                     | 125,000            |
| 340 FEMA                                    | 1,238,435          |
| 341 Alameda Cty Waste Mgt.                  | 285,000            |
| 343 State Dept Conserv/Recylg               | 28,000             |
| 347 Shelter+Care HUD                        | 5,532,630          |
| 348 Shelter+Care County                     | 572,258            |
| 349 JAG Grant                               | 52,500             |
| 350 Bioterrorism Grant                      | 364,386            |
| 501 Capital Improvement Fund                | 8,064,694          |
| 502 Phone System Replacement                | 358,000            |
| 503 FUND\$ Replacement                      | 6,481,658          |
| 504 PEG-Public, Education & Government      | 100,000            |
| 511 Measure T1 - Infra & Facil.             | 2,265,231          |
| 552 09 Measure FF Debt Service              | 1,621,745          |
| 553 2015 GORBS                              | 2,604,905          |
| 554 2012 Lease Revenue Bonds BJPFA          | 502,298            |
| 555 2015 GORBS - 2002 G.O. Refunding Bonds  | 481,211            |
| 556 2015 GORBS (2007, Series A)             | 181,150            |
| 557 2015 GORBS (2008 Measure I)             | 610,791            |

## SUMMARY OF APPROPRIATIONS BY FUND

| ERMA<br>Fund # Fund                           | FY 2021<br>Adopted |
|-----------------------------------------------|--------------------|
| 558 2010 COP (Animal Shelter)                 | 403,685            |
| 559 Measure M GO Street & Water Imps          | 1,641,863          |
| 560 Infrastructure & Facilities Measure T1    | 1,730,057          |
| 601 Zero Waste                                | 50,012,836         |
| 608 Marina Operation                          | 6,988,739          |
| 611 Sewer                                     | 23,850,686         |
| 612 Private Sewer Lateral FD                  | 200,568            |
| 616 Clean Storm Water                         | 5,290,391          |
| 621 Permit Service Center                     | 20,855,324         |
| 622 Unified Program (CUPA)                    | 896,131            |
| 627 Off Street Parking                        | 6,484,575          |
| 631 Parking Meter                             | 9,640,151          |
| 636 Building Purchases and Management         | 3,210,140          |
| 671 Equipment Replacement                     | 5,415,733          |
| 672 Equipment Maintenance                     | 7,926,789          |
| 673 Building Maintenance Fund                 | 4,304,795          |
| 674 Central Services                          | 384,569            |
| 676 Workers Compensation                      | 6,422,651          |
| 678 Public Liability                          | 1,922,551          |
| 680 Information Technology                    | 13,319,603         |
| 762 Successor Agency - Savo DSF               | 57,120             |
| 774 Sustainable Energy Fin District           | 28,719             |
| 776 Thousand Oaks Underground                 | 98,177             |
| 777 Measure H - School Tax                    | 500,000            |
| 778 Measure Q - CFD#1 Dis. Fire Protect Bond  | 452,792            |
| 779 Spl Tax Bds. CFD#1 ML-ROOS                | 1,226,320          |
| 781 Berkeley Tourism BID                      | 422,500            |
| 782 Elmwood Business Improvement District     | 30,000             |
| 783 Solano Ave BID                            | 25,000             |
| 784 Telegraph Avenue Bus. Imp. District       | 515,637            |
| 785 North Shattuck BID                        | 182,647            |
| 786 Downtown Berkeley Prop & Improv. District | 1,244,686          |
| 801 Rent Board                                | 6,096,209          |
| GROSS EXPENDITURE:                            | 521,674,251        |
| Dual Appropriations                           | (41,008,279)       |
| Revolving & Internal Service Funds            | (40,927,983)       |
| NET EXPENDITURE:                              | 439,737,989        |



Department of Finance

ACTION CALENDAR  
June 30, 2020

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Henry Oyekanmi, Director, Finance Department

Subject: Borrowing of Funds and the Sale and Issuance of FY 2020-21 Tax and Revenue Anticipation Notes

RECOMMENDATION

Adopt a Resolution approving the borrowing of \$43,000,000 and the sale and issuance of Fiscal Year 2020-21 Tax and Revenue Anticipation Notes.

FISCAL IMPACTS OF RECOMMENDATION

Each year, the City (as do many local agencies) issues Tax and Revenue Anticipation Notes (“Notes”) to help with its working capital needs during the first six months of the fiscal year. The reason for this issuance is that the City does not receive property tax revenues until December, thereby creating a negative cash flow in the General Fund. This annual issuance also enables the General Fund to recoup some of the interest earnings lost in advancing money to grant funds pending grant reimbursements, since the interest rate earned on any note proceeds invested will exceed the cost of borrowing.

The City’s General Fund cash flow has become more volatile due to (1) The City now receives property tax in December and April; and (2) also receives the payment of Vehicle In Lieu fees in December and May with the property taxes, instead of monthly.

The money will be deposited in the General Fund and used by the City for any purpose for which it is authorized to expend General Fund monies. The interest earned on these monies will be allocated to the General Fund. The repayment of principal and interest on the Notes are to be made from General Fund taxes and other revenues.

CURRENT SITUATION AND ITS EFFECTS

The General Fund advances grant funds in the amounts needed to pay for their expenditures, until these funds receive reimbursement from the granting agencies. During the first six months of the fiscal year until property tax receipts are received, General Fund operating expenditures exceed revenues. Under the interpretation of Sections 53850-53858 of the California Government Code and federal tax law by the City’s Bond Counsel, Jones Hall, the City may borrow an amount not to exceed the maximum anticipated cash

flow deficit plus five percent of working capital reserve if all the note proceeds, including investment earnings, are deemed spent within 6 months of the date of the issue of the Notes. This method of financing involves the sale of the Notes and is a traditional means used by local governments to ensure a consistent cash flow during the fiscal year. This year the City will borrow Note funds of \$43,000,000 to help with working capital needs in the first six months of the fiscal year and, when expenditures exceed incoming revenues. In the last six months of the fiscal year, the Notes will be repaid from General Fund taxes and other revenues, mainly property taxes and business license taxes.

For Fiscal Year 2020-21, the City will require a Note sale of an amount not to exceed forty-three million dollars (\$43,000,000). The interest rate on the Notes will depend on competitive rates at the time of the sale.

### DISCLOSURE

The attached Preliminary Official Statement has been reviewed and approved for transmittal to the City Council by the City's financing team. The distribution of the Preliminary Official Statement by the City is subject to federal securities laws, including the Securities Act of 1933 and the Securities Exchange Act of 1934. These laws require the Preliminary Official Statement to include all facts that would be material to an investor in the Notes. Material information is information that there is a substantial likelihood would have actual significance in the deliberations of the reasonable investor when deciding whether to buy or sell the Notes. If the City Council concludes that the Preliminary Official Statement includes all facts that would be material to an investor in the Notes, it must adopt a resolution that authorizes staff to execute a certificate to the effect that the Preliminary Official Statement has been "deemed final."

The Securities and Exchange Commission (the "SEC"), the agency with regulatory authority over the City's compliance with the federal securities laws, has issued guidance as to the duties of the City Council with respect to its approval of the Preliminary Official Statement. In its "Report of Investigation in the Matter of County of Orange, California as it Relates to the Conduct of the Members of the Board of Supervisors" (Release No. 36761 / January 24, 1996) (the "Release"), the SEC indicated that, if a member of the City Council has knowledge of any facts or circumstances that an investor would want to know about prior to investing in the Notes, whether relating to their repayment, tax-exempt status, undisclosed conflicts of interest with interested parties, or otherwise, he or she should endeavor to discover whether such facts are adequately disclosed in the Preliminary Official Statement. In the Release, the SEC indicated that the steps that a member of the City Council could take include becoming familiar with the Preliminary Official Statement and questioning staff and consultants about the disclosure of such facts.

The information about the sources of payment for the Notes, including the City's financial and operating data, is set forth in the sections of the Preliminary Official Statement entitled "SECURITY FOR AND SOURCES OF PAYMENT FOR THE NOTES" and "APPENDIX A - CERTAIN INFORMATION CONCERNING THE CITY OF BERKELEY."

The information about the tax-exempt status of the Notes is set forth in the section of the Preliminary Official Statement entitled "TAX MATTERS."

RATIONALE FOR RECOMMENDATION

The General Fund advances grant funds the amounts needed to pay for their expenditures, until these funds receive reimbursement from the granting agencies. During the first six months of the fiscal year, General Fund operating expenditures exceed revenues. As a result, the General Fund's working capital is depleted during this period, and borrowing these funds will alleviate that situation.

ENVIRONMENTAL SUSTAINABILITY

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

CONTACT PERSON

Henry Oyekanmi, Director of Finance, Finance Department, 981-7326

Attachments:

1. Resolution
2. Draft Form of Official Notice of Sale
3. Form of Bond Counsel Opinion
4. Form of the Preliminary Official Statement

**\*\*\* PLEASE DO NOT PLACE THIS ITEM ON THE CONSENT CALENDAR  
PURSUANT TO GOVERNMENT CODE SECTION 53635.7\*\*\***

RESOLUTION NO. \_\_\_\_\_-N.S.

APPROVING THE BORROWING OF FUNDS FOR FISCAL YEAR 2020-21 AND THE  
ISSUANCE AND SALE OF 2020-21 TAX AND REVENUE ANTICIPATION NOTES

WHEREAS, pursuant to Article 7.6 (commencing with section 53850) of Chapter 4 of Part 1 of Division 2 of Title 5 of the California Government Code (the "Law"), this City Council (the "Council") has found and determined that moneys are needed for the requirements of the City, a municipal corporation and charter city duly organized and existing under the laws of the State of California, to satisfy obligations payable from the General Fund of the City (the "General Fund"), and that it is necessary that said sum be borrowed for such purpose at this time by the issuance of temporary notes therefor in anticipation of the receipt of taxes, income, revenue, cash receipts and other moneys to be received by the City for the General Fund during or allocable to the fiscal year of the City beginning July 1, 2020 and ending June 30, 2021 ("Fiscal Year 2020-21"); and

NOW THEREFORE, BE IT RESOLVED that the Council of the City of Berkeley approves the following:

*Section 1. Limitation on Maximum Amount.* The principal amount of notes issued pursuant hereto, when added to the interest payable thereon, shall not exceed eighty-five percent (85%) of the estimated amount of the uncollected taxes, income, revenue, cash receipts and other moneys of the City for the General Fund attributable to Fiscal Year 2020-21, and available for the payment of said notes and the interest thereon (as hereinafter provided).

*Section 2. Authorization and Terms of Notes.* Solely for the purpose of anticipating taxes, income, revenue, cash receipts and other moneys to be received by the City for the General Fund during or allocable to Fiscal Year 2020-21, and not pursuant to any common plan of financing, the City hereby determines to and shall borrow the principal amount of not-to-exceed Forty-Three Million Dollars (\$43,000,000) by the issuance of temporary notes under the Law, designated "City of Berkeley, California 2020-21 Tax and Revenue Anticipation Notes" (the "Notes"). The Notes shall be dated the date of initial delivery, shall mature (without option of prior redemption) no later than thirteen months after their date of issuance, and shall bear interest, payable at maturity and computed on a 30-day month/360-day year basis, at a rate not in excess of five percent (5%) per annum. Both the principal of and interest on the Notes shall be payable in lawful money of the United States of America, as described below.

*Section 3. Form of Notes; Book Entry Only System.* The Notes shall be issued in fully registered form, without coupons, and shall be substantially in the form and substance set forth in Exhibit A attached hereto and by reference incorporated herein, the blanks in said form to be filled in with appropriate words and figures. The Notes shall be



numbered from 1 consecutively upward in order of issuance, shall be in the denomination of \$5,000 each or any integral multiple thereof.

“CUSIP” identification numbers shall be imprinted on the Notes, but such numbers shall not constitute a part of the contract evidenced by the Notes and any error or omission with respect thereto shall not constitute cause for refusal of any purchaser to accept delivery of and pay for the Notes. In addition, failure on the part of the City to use such CUSIP numbers in any notice to the registered owners of the Notes shall not constitute an event of default or any violation of the City’s contract with such owners and shall not impair the effectiveness of any such notice.

Except as provided below, the owner of all of the Notes shall be The Depository Trust Company, New York, New York (“DTC”), and the Notes shall be registered in the name of Cede & Co., as nominee for DTC. The Notes shall be initially executed and delivered in the form of a single fully registered Note in the full aggregate principal amount of the Notes. The City may treat DTC (or its nominee) as the sole and exclusive owner of the Notes registered in its name for all purposes of this Resolution, and the City shall not be affected by any notice to the contrary. The City shall not have any responsibility or obligation to any participant of DTC (a “Participant”), any person claiming a beneficial ownership interest in the Notes under or through DTC or a Participant (a “Beneficial Owner”), or any other person not shown on the register of the City as being an owner, with respect to the accuracy of any records maintained by DTC or any Participant or the payment by DTC or any Participant by DTC or any Participant of any amount in respect of the principal or interest with respect to the Notes. The City shall pay all principal and interest with respect to the Notes only to DTC or its nominee, and all such payments shall be valid and effective to fully satisfy and discharge the City’s obligations with respect to the principal and interest with respect to the Notes to the extent of the sum or sums so paid. Except under the conditions noted below, no person other than DTC shall receive a Note. Upon delivery by DTC to the City of written notice to the effect that DTC has determined to substitute a new nominee in place of Cede & Co., the term “Cede & Co.” in this Resolution shall refer to such new nominee of DTC.

If the City determines that it is in the best interest of the Beneficial Owners that they be able to obtain Notes and delivers a written certificate to DTC to that effect, DTC shall notify the Participants of the availability through DTC of Notes. In such event, the City shall issue, transfer and exchange Notes as requested by DTC and any other owners in appropriate amounts. DTC may determine to discontinue providing its services with respect to the Notes at any time by giving notice to the City and discharging its responsibilities with respect thereto under applicable law. Under such circumstances (if there is no successor securities depository), the City shall be obligated to deliver Notes to the Beneficial Owners as described in this Resolution. Whenever DTC requests the City to do so, the City will cooperate with DTC in taking appropriate action after reasonable notice to (a) make available one or more separate Notes evidencing the Notes to any DTC Participant having Notes credited to its DTC account or (b) arrange for another securities depository to maintain custody of Certificates evidencing the Notes.

Notwithstanding any other provision of this Resolution to the contrary, so long as any Note is registered in the name of Cede & Co., as nominee of DTC, all payments with respect to the principal and interest with respect to such Note and all notices with respect to such Note shall be made and given, respectively, to DTC as provided as in the representation letter delivered on the date of issuance of the Notes.

*Section 4. Use of Proceeds.* The proceeds of the sale of the Notes shall be deposited in a segregated account in the General Fund and used and expended by the City for any purpose for which it is authorized to expend funds from the General Fund.

*Section 5. Security.* The principal amount of the Notes, together with the interest thereon, shall be payable from taxes, income, revenue, cash receipts and other moneys which are received by the City for the General Fund for Fiscal Year 2020-21. As security for the payment of the principal of and interest on the Notes the City hereby pledges the first “unrestricted moneys” (as hereinafter defined) to be received by the City as follows: (a) an amount equal to fifty percent (50%) of the principal amount of the Notes in the month of January, 2021; (b) an amount equal to fifty percent (50%) of the principal amount of the Notes in the month of May, 2021; and (c) an amount sufficient to pay interest as due on the Notes at their maturity, in the month of June, 2021 (such pledged amounts being hereinafter called the “Pledged Revenues”). The principal of the Notes and the interest thereon shall constitute a first lien and charge thereon and shall be payable from the Pledged Revenues. To the extent not so paid from the Pledged Revenues, the Notes shall be paid from any other moneys of the City lawfully available therefor. In the event that there are insufficient “unrestricted moneys” received by the City to permit the deposit into the Special Account (as hereinafter defined) of the full amount of the Pledged Revenues to be deposited in any month by the last business day of such month, then the amount of any deficiency shall be satisfied and made up from any other moneys of the City lawfully available for the repayment of the Notes and interest thereon. The term “unrestricted moneys” shall mean taxes, income, revenue, cash receipts, and other moneys received by the City for the General Fund for Fiscal Year 2020-21 and which are generally available for the payment of current expenses and other obligations of the City.

*Section 6. Special Account.* There is hereby created, within the General Fund, a special account to be designated the “2020-21 Tax and Revenue Anticipation Note Special Account” (the “Special Account”) and applied as directed in this Resolution. Any money placed in the Special Account shall be for the benefit of the owners of the Notes and, until the Notes and all interest thereon are paid or until provision has been made for the payment of the Notes at maturity with interest to maturity, the moneys in the Special Account shall be applied solely for the purposes for which the Special Account is created.

During the months of January, May, and June, 2021, the City shall deposit all Pledged Revenues in the Special Account. On the maturity date of the Notes, the City shall transfer to DTC the moneys in the Special Account necessary to pay the principal of and interest on the Notes at maturity and to the extent said moneys are insufficient therefor an amount of moneys from the General Fund which will enable payment of the full principal of and interest on the Notes at maturity. DTC will thereupon make payments

of principal of and interest on the Notes to the DTC Participants who will thereupon make payments to the Beneficial Owners of the Notes. Any moneys remaining in the Special Account after the Notes and the interest thereon have been paid, or provision for such payment has been made, shall be transferred to the General Fund.

*Section 7. Deposit and Investment of Special Account.* All moneys held by the City in the Special Account, if not invested, shall be held in time or demand deposits as public funds and shall be secured at all times by bonds or other obligations which are authorized by law as security for public deposits, of a market value at least equal to the amount required by law.

Moneys in the Special Account shall, to the greatest extent possible, be invested by the City directly, or through an investment agreement, in investments as permitted by the laws of the State of California as now in effect and as hereafter amended, and the proceeds of any such investments shall be deposited in the Special Account.

*Section 8. Execution of Notes.* The Mayor of the City, the City Manager, or the Director of Finance (each an "Authorized Officer") is hereby authorized to execute the Notes by manual or facsimile signature, and the City Clerk of the City is hereby authorized to countersign the same by manual or facsimile signature (although at least one of such signatures shall be manual) and to affix the seal of the City thereto by facsimile impression thereof, and said officers are hereby authorized to cause the blank spaces thereof to be filled in as may be appropriate.

*Section 9. Transfer of Notes.* Any Note may, in accordance with its terms, but only if the City determines to no longer maintain the book entry only status of the Notes, DTC determines to discontinue providing such services and no successor securities depository is named or DTC requests the City to deliver Note certificates to particular DTC Participants, be transferred, upon the books required to be kept pursuant to the provisions of Section 11 hereof, by the person in whose name it is registered, in person or by his duly authorized attorney, upon surrender of such Note for cancellation at the office of the City Clerk, accompanied by delivery of a written instrument of transfer in a form approved by the City, duly executed.

Whenever any Note or Notes shall be surrendered for transfer, the City shall execute and the Paying Agent shall authenticate and deliver a new Note or Notes, for like aggregate principal amount.

*Section 10. Exchange of Notes.* Any Note may, in accordance with its terms, but only if the City determines to no longer maintain the book entry only status of the Notes, DTC determines to discontinue providing such services and no successor securities depository is named or DTC requests the City to deliver Note certificates to particular DTC Participants, be exchanged at the office of the City Clerk for a like aggregate principal amount of Notes of authorized denominations and of the same maturity.

*Section 11. Note Register.* The City shall keep or cause to be kept sufficient books for the registration and transfer of the Notes if the book entry only system is no longer in effect and, in such case, the City Clerk shall register or transfer or cause to be registered or transferred, on said books, Notes as herein before provided. While the book entry only system is in effect, such books need not be kept as the Notes will be represented by one Note registered in the name of Cede & Co., as nominee for DTC.

*Section 12. Temporary Notes.* The Notes may be initially issued in temporary form exchangeable for definitive Notes when ready for delivery. The temporary Notes may be printed, lithographed or typewritten, shall be of such denominations as may be determined by the City, and may contain such reference to any of the provisions of this Resolution as may be appropriate. Every temporary Note shall be executed by the City upon the same conditions and in substantially the same manner as the definitive Notes. If the City issues temporary Notes it will execute and furnish definitive Notes without delay, and thereupon the temporary Notes may be surrendered, for cancellation, in exchange therefor at the office of the City Clerk and the City Clerk shall deliver in exchange for such temporary Notes an equal aggregate principal amount of definitive Notes of authorized denominations. Until so exchanged, the temporary Notes shall be entitled to the same benefits pursuant to this Resolution as definitive Notes executed and delivered hereunder.

*Section 13. Notes Mutilated, Lost, Destroyed or Stolen.* If any Note shall become mutilated the City, at the expense of the owner of said Note, shall execute and deliver a new Note of like maturity and principal amount in exchange and substitution for the Note so mutilated, but only upon surrender to the City Clerk of the Note so mutilated. Every mutilated Note so surrendered to the City Clerk shall be canceled and delivered to, or upon the order of, the City. If any Note shall be lost, destroyed or stolen, evidence of such loss, destruction or theft may be submitted to the City and, if such evidence be satisfactory to the City and indemnity satisfactory to it shall be given, the City, at the expense of the owner, shall execute and deliver a new Note of like maturity and principal amount in lieu of and in substitution for the Note so lost, destroyed or stolen. The City may require payment of a sum not exceeding the actual cost of preparing each new Note issued under this Section 13 and of the expenses which may be incurred by the City in the premises. Any Note issued under the provisions of this Section 13 in lieu of any Note alleged to be lost, destroyed or stolen shall constitute an original additional contractual obligation on the part of the City whether or not the Note so alleged to be lost, destroyed or stolen be at any time enforceable by anyone, and shall be equally and proportionately entitled to the benefits of this Resolution with all other Notes issued pursuant to this Resolution.

*Section 14. Covenants and Warranties.* It is hereby covenanted and warranted by the City that all representations and recitals contained in this Resolution are true and correct, and that the City and its appropriate officials have duly taken all proceedings necessary to be taken by them, and will take any additional proceedings necessary to be taken by them, for the prompt collection and enforcement of the taxes, income, revenue, cash receipts and other moneys pledged hereunder in accordance with law and for carrying out the provisions of this Resolution.

*Section 15. Tax Covenants.*

(a) *No Arbitrage.* The City shall not take, nor permit nor suffer to be taken any action with respect to the proceeds of the Notes which, if such action had been reasonably expected to have been taken, or had been deliberately and intentionally taken, on the date of issuance of the Notes (the "Closing Date") would have caused the Notes to be "arbitrage bonds" within the meaning of section 148 of the Internal Revenue Code of 1986 (the "Code").

(b) *Rebate Requirement.* The City shall take any and all actions necessary to assure compliance with section 148(f) of the Code, relating to the rebate of excess investment earnings, if any, to the federal government.

(c) *Private Activity Note Limitation.* The City shall assure that proceeds of the Notes are not so used as to cause the Notes to satisfy the private business tests of section 141(b) of the Code.

(d) *Private Loan Financing Limitation.* The City shall assure that proceeds of the Notes are not so used as to cause the Notes to satisfy the private loan financing test of section 141(c) of the Code.

(e) *Federal Guarantee Prohibition.* The City shall not take any action or permit or suffer any action to be taken if the result of the same would be to cause any of the Notes to be "federally guaranteed" within the meaning of section 149(b) of the Code.

(f) *Maintenance of Tax-Exemption.* The City shall take all actions necessary to assure the exclusion of interest on the Notes from the gross income of the owners of the Notes to the same extent as such interest is permitted to be excluded from gross income under the Code as in effect on the Closing Date.

*Section 16. Official Statement.* The City Council hereby approves the Official Statement describing the Notes, in substantially the form on file with the City Clerk, together with any changes therein or additions thereto deemed advisable by an Authorized Officer. The City Council authorizes and directs an Authorized Officer on behalf of the City to deem "final" pursuant to Rule 15c2-12 under the Securities Exchange Act of 1934 (the "Rule") the Official Statement prior to its distribution. The execution of the Official Statement, which shall include such changes and additions thereto deemed advisable by an Authorized Officer and such information permitted to be excluded from the Official Statement pursuant to the Rule, shall be conclusive evidence of the approval of the Official Statement by the City.

An Authorized Officer is authorized and directed to execute the Official Statement and a statement that the facts contained in the Official Statement, and any supplement or amendment thereto (which shall be deemed an original part thereof for the purpose of

such statement) were, at the time of sale of the Notes, true and correct in all material respects and that the Official Statement did not, on the date of sale of the Notes, and does not, as of the date of delivery of the Notes, contain any untrue statement of a material fact with respect to the City or omit to state material facts with respect to the City required to be stated where necessary to make any statement made therein not misleading in the light of the circumstances under which it was made. An Authorized Officer shall take such further actions prior to the signing of the Official Statement as are deemed necessary or appropriate to verify the accuracy thereof. The Official Statement is approved for distribution in the offering and sale of the Notes.

*Section 17. Sale of Notes.* An underwriter (the “Underwriter”) to be designated by an Authorized Officer will purchase the Notes. An Authorized Officer is hereby authorized to designate the Underwriter, in consultation with the City’s municipal advisor, NHA Advisors, LLC (the “Municipal Advisor”) in one of the following ways:

(a) *Limited Negotiated.* An Authorized Officer may direct the Municipal Advisor to contact a limited number of Underwriters and negotiate the sale of the Notes. An Authorized Officer is hereby authorized to cause Jones Hall, A Professional Law Corporation, as bond counsel to the City (“Bond Counsel”), to prepare and to execute and deliver a Note Purchase Agreement in connection with a negotiated sale of the notes in such form (including designation of the Underwriter) as an Authorized Officer shall approve, such approval to be conclusively evidenced by his or her execution and delivery thereof.

(b) *Public Sale.* An Authorized Officer, in consultation with the Municipal Advisor, may determine to sell the Notes by competitive bid and award the sale of the Notes as set forth in an Official Notice of Sale (the “Official Notice of Sale”), the form of which is attached to this Resolution and is hereby approved, and which Bond Counsel is hereby authorized to finalize, consistent with this Resolution. If an Authorized Officer determines to proceed with a competitive bid, (a) Bond Counsel is hereby directed to arrange for the publication of a notice of intention of the sale of the Notes in accordance with Section 53692 of the Government Code and (b) an Authorized Officer is hereby directed to execute the Official Notice of Sale; to open the bids at the time and place specified in the Official Notice of Sale; to receive and record the receipt of all bids made pursuant to the Official Notice of Sale; to cause said bids to be examined for compliance with the Official Notice of Sale; to cause computations to be made as to which bidder has bid the lowest true interest cost, as provided in the Official Notice of Sale; to announce the bidder of the lowest true interest cost; and to award the sale to said bidder.

An Authorized Officer is further authorized to determine the maximum principal amount of the Notes and the maximum interest rate on the Notes not to exceed the maximum principal amount and interest rate set forth in Section 2.

*Section 18. Engagement of Professional Services.* The City hereby approves the engagement of Jones Hall, A Professional Law Corporation as Bond Counsel and

Disclosure Counsel and NHA Advisors, LLC as Municipal Advisor to the City in connection with the issuance and sale of the Notes. The City Attorney is authorized to execute a legal services agreement with Jones Hall, with Jones Hall's compensation to be contingent upon issuance of the Notes, and Jones Hall's compensation is not set by law but is negotiable.

*Section 19. Preparation of Notes; Official Action.* Jones Hall, A Professional Law Corporation, as bond counsel, is directed to cause suitable Notes to be prepared showing on their face that the same bear interest at the rate specified in the offer submitted by the successful bidder or bidders, and to cause the blank spaces therein to be filled in to comply with the provisions of this Resolution, and to procure their execution by the proper officers, and to cause the Notes to be delivered when so executed to DTC on behalf of the successful bidder or bidders therefor upon the receipt of the purchase price by the City Treasurer in accordance with such successful bid or bids.

An Authorized Officer is further authorized and directed to make, execute and deliver such certificates, agreements and other closing documents as are necessary to consummate the transactions contemplated by this Resolution.

*Section 20. Effective Date.* This Resolution shall take effect upon its adoption.

EXHIBIT A

FORM OF NOTE

No. 1

\*\*\*\*\*\$ \_\_\_\_\_ \*\*\*\*

CITY OF BERKELEY, CALIFORNIA

2020-21 TAX AND REVENUE ANTICIPATION NOTE

|                       |                       |                    |               |
|-----------------------|-----------------------|--------------------|---------------|
| <b>INTEREST RATE:</b> | <b>MATURITY DATE:</b> | <b>ISSUE DATE:</b> | <b>CUSIP:</b> |
| %                     | _____,<br>2021        | _____,<br>2020     |               |

REGISTERED OWNER: CEDE & CO.

PRINCIPAL SUM: \*\*\*\*\* \_\_\_\_\_ DOLLARS\*\*\*\*\*

The CITY OF BERKELEY, a municipal corporation, duly organized and existing under and by virtue of the Constitution and laws of the State of California (the "City"), for value received hereby promises to pay to the Registered Owner stated above, or registered assigns (the "Owner"), on the Maturity Date stated above, the Principal Sum stated above, in lawful money of the United States of America, and to pay interest thereon in like lawful money at the rate per annum stated above, payable on the Maturity Date stated above, calculated on the basis of 360-day year composed of twelve 30-day months. Both the principal of and interest on this Note shall be payable at maturity to the Owner.

It is hereby certified, recited and declared that this Note is one of an authorized issue of Notes in the aggregate principal amount of \_\_\_\_\_ Dollars (\$ \_\_\_\_\_), all of like tenor, issued pursuant to the provisions of Resolution No. \_\_\_\_\_ of the City Council of the City duly passed and adopted on June 30, 2020 (the "Resolution"), and pursuant to Article 7.6 (commencing with section 53850) of Chapter 4, Part 1, Division 2, Title 5, of the California Government Code, and that all things, conditions and acts required to exist, happen and be performed precedent to and in the issuance of the Notes exist, have happened and have been performed in regular and due time, form and manner as required by law, and that this Note, together with all other indebtedness and obligations of the City, does not exceed any limit prescribed by the Constitution or statutes of the State of California.



The principal amount of the Notes, together with the interest thereon, shall be payable from taxes, income, revenue, cash receipts and other moneys which are received by the City for the General Fund of the City for Fiscal Year 2020-21. As security for the payment of the principal of and interest on the Notes the City has pledged the first “unrestricted moneys” (as hereinafter defined) to be received by the City as follows: (a) an amount equal to fifty percent (50%) of the principal amount of the Notes in the month of January, 2021; (b) an amount equal to fifty percent (50%) of the principal amount of the Notes in the month of May, 2021; and (c) an amount sufficient to pay interest as due on the Notes at their maturity, in the month of June, 2021 (such pledged amounts being hereinafter called the “Pledged Revenues”). The principal of the Notes and the interest thereon shall constitute a first lien and charge thereon and shall be payable from the Pledged Revenues. To the extent not so paid from the Pledged Revenues, the Notes shall be paid from any other moneys of the City lawfully available therefor. In the event that there are insufficient “unrestricted moneys” received by the City to permit the deposit into the Special Account (as hereinafter defined) of the full amount of the Pledged Revenues to be deposited in any month by the last business day of such month, then the amount of any deficiency shall be satisfied and made up from any other moneys of the City lawfully available for the repayment of the Notes and interest thereon. The term “unrestricted moneys” shall mean taxes, income, revenue, cash receipts, and other moneys received by the City for the General Fund of the City for Fiscal Year 2020-21 and which are generally available for the payment of current expenses and other obligations of the City.

The Notes are issuable as fully registered Notes, without coupons, in denominations of \$5,000 and any integral multiple thereof. Subject to the limitations and conditions as provided in the Resolution, Notes may be exchanged for a like aggregate principal amount of Notes of other authorized denominations and of the same maturity.

The Notes are not subject to redemption prior to maturity.

This Note is transferable by the Owner hereof, but only under the circumstances, in the manner and subject to the limitations provided in the Resolution. Upon registration of such transfer a new Note or Notes, of authorized denomination or denominations, for the same aggregate principal amount and of the same maturity will be issued to the transferee in exchange herefor.

The City may treat the Owner hereof as the absolute owner hereof for all purposes, and the City shall not be affected by any notice to the contrary.

Unless this Note is presented by an authorized representative of The Depository Trust Company to the issuer or its agent for registration of transfer, exchange or payment, and any certificate issued is registered in the name of Cede & Co. or such other name as requested by an authorized representative of The Depository Trust Company and any payment is made to Cede & Co., ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL since the registered owner hereof, Cede & Co., has an interest herein.

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## OFFICIAL NOTICE OF SALE

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### 2020-21 TAX AND REVENUE ANTICIPATION NOTES

\$ \_\_\_\_\_\*  
City of Berkeley  
(Alameda County, California)

**NOTICE IS HEREBY GIVEN** that electronic bid proposals (see "TERMS OF SALE --- Electronic Bids" below) for the purchase of the captioned notes (the "Notes") will be received by the City Berkeley, California (the "City"), through BiDCOMP™/Parity® ("Parity") on:

**TUESDAY, JULY 14, 2020**

between 8:00 a.m. and 8:30 a.m. California Time.

Further information may be obtained from the municipal advisor to the City, NHA Advisors, 4040 Civic Center Drive, Suite 200, San Rafael, California 94903, Attn: Rob Schmidt, telephone: (415) 785-2025 ext. 2006, email: rob@NHAadvisors.com.

**POSTPONEMENT:** The City reserves the right to postpone or change the time or sale date upon notice delivered via Bloomberg News Service or Thomson Municipal Market Monitor (www.tm3.com).

**ISSUE AND DENOMINATION; BOOK ENTRY ONLY SYSTEM; CUSIP NUMBER:** The Notes consist of fully registered notes, without coupons. The Notes will be issued in minimum denominations of \$5,000. The Notes will be issued in a book entry only system with no physical distribution of the Notes made to the public. The Depository Trust Company, New York, New York ("DTC"), will act as depository for the Notes, which will be immobilized in its custody. The Notes will be registered in the name of Cede & Co., as nominee for DTC, on behalf of the participants in the DTC system and the subsequent beneficial owners of the Notes. Pursuant to MSRB Rule G-34, the City's Municipal Advisor will apply for CUSIP number assignment prior to the award of the issue, but the cost shall be payable by the underwriter.

**DATE AND MATURITY:** The Notes will be dated the date of delivery (expected to be July 28, 2020), and will mature on July 27, 2021 (the "Maturity Date").

**INTEREST RATE:** The maximum interest rate bid for the Notes may not exceed five percent (5%) per annum, payable upon maturity of the Notes. Bidders must specify the rate of interest which the Notes shall bear, provided that: (i) bids must be for all Notes; and (ii) the Notes shall bear interest from its date to its stated maturity at the interest rate specified in the bid.

**REDEMPTION:** The Notes are not subject to call and redemption prior to maturity.

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\* Preliminary, subject to change

**PAYMENT:** Both principal of and interest on the Notes will be payable on the Maturity Date, in lawful money of the United States of America, to DTC which will immediately credit the account of the successful bidder or bidders as participants in the DTC system.

**PURPOSE OF ISSUE:** The Notes are to be issued by the City and are authorized pursuant to the provisions of Article 7.6 (commencing with Section 53850) of Chapter 4 of Part 1 of Division 2 of Title 5 of the California Government Code and the provisions of resolutions of the City for any purpose for which the City is authorized to expend moneys.

**SECURITY:** The Notes are an obligation of the City and are secured by a pledge of and first lien and charge against the first “unrestricted moneys,” as hereinafter defined, to be received by the City, (a) in an amount equal to 50% of the principal amount of the Notes to be received by the City in January 2021, (b) in an amount equal to 50% of the principal amount of the Notes to be received by the City in May 2021, and (c) in an amount equal to all interest due on the Notes at maturity to be received by the City in June 2021. The term “unrestricted moneys” mean taxes, income, revenue and other moneys intended as receipts for the general fund of the City and which are generally available for the payment of current expenses and other obligations of the City.

Said pledged moneys shall be deposited by the City in a special fund established, created and maintained by the City. Moneys shall be withdrawn from said fund for the sole purpose of paying the principal of and the interest on the Notes at their maturity.

By statute, the Notes are declared to be general obligations of the City, and to the extent not paid from said pledged moneys shall be paid, with the interest thereon, from any other moneys of the City lawfully available therefor. Under provisions of the California Constitution, the City is generally prohibited from incurring any indebtedness or liability exceeding in any year the income and revenue provided for such year, without the assent of two-thirds of its qualified electors voting at an election called for such purpose.

**RATING:** Moody’s Investors Service has given the Notes a rating of “\_\_\_\_\_.”

## TERMS OF SALE

**BEST BID:** *Bids must be for all of the Notes.* The Notes will be awarded on the basis of the lowest net interest cost including premium offered in the proposals. No bid for less than par will be entertained. In the event two or more bids setting forth identical interest rates and premium per dollar principal amount, if any, and aggregating a principal amount in excess of the principal amount of unawarded Notes are received, the City's Finance Director, pursuant to delegation by the Council, reserves the right to exercise his discretion and judgment in making the award and may award the Notes on a pro rata basis in such denominations as he shall determine.

**ELECTRONIC BIDS:** Solely as an accommodation to bidders, the City will accept bids in electronic form solely from Ipreo, a KKR portfolio company, through its BiDCOMP Competitive Bid Calculation System and Parity Electronic Bid Submission System ("Ipreo"). For information about Ipreo, bidders may contact Ipreo at 395 Hudson Street, New York, New York 10014, telephone (212) 849-5023. If any provision of this Notice of Sale conflicts with information provided by Ipreo, this Notice of Sale shall control. Each bidder submitting an electronic bid understands and agrees by doing so that it is solely responsible for all arrangements with Ipreo, that the City does not encourage the use of Ipreo, and that Ipreo is not acting as an agent of the City. Instructions for submitting electronic bids must be obtained from Ipreo, and the City does not assume any responsibility for ensuring or verifying bidder compliance with Ipreo procedures. Ipreo has advised the City that bidders must subscribe to Ipreo if such bidders intend to use Ipreo to submit bids. The City shall be entitled to assume that any bid received via Ipreo has been made by a duly authorized agent of the bidder.

Neither the City, the Municipal Advisor nor Bond Counsel has any responsibility for proper functioning of the Ipreo system, for any error contained in any bid submitted electronically, or for failure of any bid to be transmitted, received or opened at the official time for receipt of bids. The official time for receipt of bids will be determined by the City at the place of bid opening, and the City will not be required to accept the time kept by Parity as the official time. The City assumes no responsibility for informing any bidder prior to the deadline for receiving bids that its bid is incomplete, or not received.

**PROMPT AWARD:** The City Representative, pursuant to delegation by the City, will take action awarding the sale of the Notes or reject all bids not later than forty-eight (48) hours after the expiration of time herein prescribed for the receipt of bids and until such expiration of time all bids received shall be irrevocable. Unless such time of award is waived by the successful bidder, the award may be made after the expiration of the specified time if the bidder shall not have given to the City representative notice in writing of the withdrawal of such proposal. Notice of the award will be given promptly to the successful bidder.

**ESTABLISHMENT OF ISSUE PRICE:** (a) The winning bidder shall assist the City in establishing the issue price of the Notes and shall execute and deliver to the City at closing an "issue price" or similar certificate setting forth the reasonably expected initial offering price to the public of the Notes, together with the supporting pricing wires or equivalent communications, substantially in the form attached hereto as Exhibit 1, with such modifications as may be appropriate or necessary, in the reasonable judgment of the winning bidder, the City and Bond Counsel. All actions to be taken by the City under this Notice of Sale to establish the issue price of the Notes may be taken on behalf of the City by the City's municipal advisor identified herein and any notice or report to be provided to the City may be provided to the City's municipal advisor.

(b) The City intends that the provisions of Treasury Regulation Section 1.148-1(f)(3)(i) (defining "competitive sale" for purposes of establishing the issue price of the Notes) will apply to the initial sale of the Notes (the "competitive sale requirements") because:

- (1) the City shall disseminate this Notice of Sale to potential underwriters in a manner that is reasonably designed to reach potential underwriters;
- (2) all bidders shall have an equal opportunity to bid;
- (3) the City may receive bids from at least three underwriters of municipal bonds who have established industry reputations for underwriting new issuances of municipal bonds; and
- (4) the City anticipates awarding the sale of the Notes to the bidder who submits a firm offer to purchase the Notes at the highest price (or lowest interest cost), as set forth in this Notice of Sale.

Any bid submitted pursuant to this Notice of Sale shall be considered a firm offer for the purchase of the Notes, as specified in the bid. **By submitting a bid for the Notes, each bidder certifies that it has an established industry reputation for underwriting new issuances of municipal bonds.** The City will not accept bids from firms without an established industry reputation for underwriting new issuances of municipal bonds.

(c) In the event the City receives less than three bids that conform to the parameters contained herein such that the competitive sale requirements are not satisfied, the City intends to treat the initial offering price of the Notes set forth in the bid submitted by the winning bidder (the "initial offering price") as the issue price of the Notes (the "hold-the-offering-price rule"). Consequently, each bidder should assume for purposes of making its bid that the City will treat the initial offering price of the Notes as of the date that the Notes are awarded by the City to the successful bidder ("sale date") as the issue price of the Notes. The City will advise the winning bidder within one hour of receipt of bids if the hold-the-offering-price rule will apply. In the event that the competitive sale requirements are not satisfied and issue price is established pursuant to the hold-the-offering-price rule, the issue price certificate shall be modified as necessary in the reasonable judgment of Bond Counsel and the City.

(d) By submitting a bid, the successful bidder shall, on behalf of the underwriters participating in the purchase of the Notes, (i) confirm that the underwriters have offered or will offer the Notes to the public on or before the sale date at the initial offering price set forth in the bid submitted by the winning bidder, and (ii) agree that the underwriters will neither offer nor sell the Notes to any person at a price that is higher than the initial offering price for the Notes during the period starting on the sale date and ending on the earlier of the following:

- (1) the close of the fifth business day after the sale date; or
- (2) the date on which the underwriters have sold at least 10% of the Notes to the public at a price that is no higher than the initial offering price for the Notes.

The winning bidder shall promptly advise the City when the underwriters have sold 10% of the Notes to the public at a price that is no higher than the initial offering price if that occurs prior to the close of the fifth (5th) business day after the sale date.

(e) The City acknowledges that, in making the representation set forth above, the successful bidder will rely on (i) the agreement of each underwriter to comply with the hold-the-offering-price rule, as set forth in an agreement among underwriters and the related pricing wires, (ii) in the event a selling group has been created in connection with the initial sale of the Notes to the public, the agreement of each dealer who is a member of the selling group to comply with the hold-the-offering-price rule, as set forth in a selling group agreement and the related pricing wires, and (iii) in the event that an underwriter is a party to a retail distribution agreement that was

employed in connection with the initial sale of the Notes to the public, the agreement of each broker-dealer that is a party to such agreement to comply with the hold-the-offering-price rule, as set forth in the retail distribution agreement and the related pricing wires. The City further acknowledges that each underwriter shall be solely liable for its failure to comply with its agreement regarding the hold-the-offering-price rule and that no underwriter shall be liable for the failure of any other underwriter, or of any dealer who is a member of a selling group, or of any broker-dealer that is a party to a retail distribution agreement to comply with its corresponding agreement regarding the hold-the-offering-price rule as applicable to the Notes.

(f) By submitting a bid, each bidder confirms that:

(1) any agreement among underwriters, any selling group agreement and each retail distribution agreement (to which the bidder is a party) relating to the sale of the Notes to the public, together with the related pricing wires, contains or will contain language obligating each underwriter, each dealer who is a member of the selling group, and each broker-dealer that is a party to such retail distribution agreement, as applicable, to

(A) report the prices at which it sells to the public the Notes until it is notified by the successful bidder that either the 10% test has been satisfied as to the Notes or all Notes have been sold to the public and

(B) comply with the hold-the-offering-price rule, if and for so long as directed by the successful bidder and in the related pricing wires, and

(2) any agreement among underwriters relating to the sale of the Notes to the public, together with the related pricing wires, contains or will contain language obligating each underwriter that is a party to a retail distribution agreement to be employed in connection with the initial sale of the Notes to the public to require each broker-dealer that is a party to such retail distribution agreement to

(A) report the prices at which it sells to the public the unsold Notes allotted to it until it is notified by the successful bidder or such underwriter that either the 10% test has been satisfied as to the Notes or all the Notes have been sold to the public and

(B) comply with the hold-the-offering-price rule, if and for so long as directed by the successful bidder or such underwriter and as set forth in the related pricing wires.

Sales of any Notes to any person that is a related party to an underwriter shall not constitute sales to the public for purposes of this Official Notice of Sale.

(g) For purposes of this Official Notice of Sale:

(1) "public" means any person (including an individual, trust, estate, partnership, association, company, or corporation) other than an underwriter or a related party,

(2) "underwriter" means (A) any person that agrees pursuant to a written contract with the City (or with the lead underwriter to form an underwriting syndicate) to participate in the initial sale of the Notes to the public and (B) any person that agrees pursuant to a written contract directly or indirectly with a person described in clause (A) to participate in the initial sale of the Notes to the public (including a member of a selling

group or a party to a retail distribution agreement participating in the initial sale of the Notes to the public),

(3) a purchaser of any of the Notes is a "related party" to an underwriter if the underwriter and the purchaser are subject, directly or indirectly, to (A) at least 50% common ownership of the voting power or the total value of their stock, if both entities are corporations (including direct ownership by one corporation of another), (B) more than 50% common ownership of their capital interests or profits interests, if both entities are partnerships (including direct ownership by one partnership of another), or (C) more than 50% common ownership of the value of the outstanding stock of the corporation or the capital interests or profit interests of the partnership, as applicable, if one entity is a corporation and the other entity is a partnership (including direct ownership of the applicable stock or interests by one entity of the other), and

In addition, the City reserves the right to cancel the public sale of the Notes if the City receives fewer than three bids that conform to the parameters contained herein such that the competitive sale requirements are not satisfied.

**NO GOOD FAITH DEPOSIT:** The City is not requiring the successful bidder to submit a good faith deposit.

**DELIVERY AND PAYMENT:** It is estimated that the delivery of the Notes will be made to DTC for the account of the successful bidders on or about July 28, 2020. Payment of the purchase price must be made in funds immediately available to the City by wire transfer or other means acceptable to the City.

**RIGHT OF REJECTION:** The City reserves the right, in its sole discretion, to reject any and all bids for the Notes and to waive any irregularity or informality in any bid.

**CHANGE IN TAX EXEMPT STATUS:** At any time before the Notes are tendered for delivery, any successful bidder may disaffirm and withdraw its proposal if the interest received by private holders from notes of the same type and character shall be declared to be taxable income under present federal income tax laws, either by ruling of the Internal Revenue Service or by a decision of any federal court, or shall be declared taxable or be required to be taken into account in computing any federal income taxes by the terms of any federal income tax law enacted subsequent to the date of this notice.

**CONTINUING DISCLOSURE:** In order to assist bidders in complying with S.E.C. Rule 15c2-12(b)(5), the City will undertake, pursuant to separate Continuing Disclosure Certificates, to provide notices of the occurrence of certain events, if material. A description of these undertakings is set forth in the preliminary official statement relating to the Notes (the "POS") and will also be set forth in a final official statement relating to the Notes (the "OS").

**ACKNOWLEDGMENT OF NO FIDUCIARY DUTY:** At closing, the City will execute a certificate to the effect that it acknowledges and agrees that (i) the purchase and sale of the Notes by the winning bidder (the "Purchaser") is an arm's-length commercial transaction between the City and the Purchaser, (ii) in connection with such transaction, the Purchaser is acting solely as a principal and not as an advisor, (including, without limitation, a Municipal Advisor (as such term is defined in Section 975(e) of the Dodd-Frank Wall Street Reform and Consumer Protection Act)), agent or a fiduciary of the City, (iii) the Purchaser has not assumed (individually or collectively) a fiduciary responsibility in favor of the City with respect to the offering of the Notes or the process leading thereto (whether or not the Purchaser, or any affiliate of an Purchaser, has advised or is currently advising the City on other matters) or any other obligation to the City except the obligation to purchase the Notes, (iv) the Purchaser has financial and other interests that differ

from those of the City and (v) the City has consulted with its own legal and municipal advisors to the extent it deemed appropriate in connection with the offering of the Notes.

**CLOSING PAPERS; LEGAL OPINION:** Each proposal will be conditioned upon the City furnishing to each successful bidder, without charge, concurrently with payment for and delivery of the Notes, the following closing papers, each dated the date of such delivery:

(a) The opinion of Bond Counsel, approving the validity of the Notes and stating that, subject to certain qualifications, under existing law, the interest on the Notes is excluded from gross income for federal income tax purposes, such interest is not an item of tax preference for purposes of the federal alternative minimum tax imposed on individuals and corporations, although for the purpose of computing the alternative minimum tax imposed on corporations (as defined for federal income tax purposes), such interest is taken into account in determining certain income and earnings, and is exempt from State of California personal income taxes, a copy of which opinion (certified by the official in whose office the original is filed) will be delivered with the Notes without cost to the purchaser.

(b) A certificate of the Finance Director or other appropriate official of the City that on the basis of the facts, estimates and circumstances in existence on the date of issue, it is not expected that the proceeds of the Notes will be used in a manner that would cause the Notes to be “arbitrage bonds” within the meaning of the Code;

(c) A certificate on behalf of the City that there is no litigation threatened or pending affecting the validity of the Notes;

(d) A certificate of the Finance Director or other appropriate official of the City, acting on behalf of the City solely in his or her official and not in his or her personal capacity, that at the time of the sale of the Notes and at all times subsequent thereto up to and including the time of the delivery of the Notes to the initial purchasers thereof, the OS did not, and does not, contain any untrue statement of a material fact or omit to state a material fact necessary which would make the statements misleading in the light of the circumstances under which they were made;

(e) The signature certificate of the officials of the City, showing that they have signed the Notes and impressed the seal of the City thereon, and that they were respectively duly authorized to execute the same; and

(f) The receipt of the City showing that the purchase price of the Notes has been received.

**OFFICIAL STATEMENT:** The City has approved a preliminary Official Statement relating to the Notes. Copies of such preliminary Official Statement will be distributed to any bidder, upon request, prior to the sale in a form “deemed final” by the City for purposes of Rule 15c2-12 under the Securities Exchange Act of 1934 (the “Rule”). Within seven business days from the sale date, the City will deliver to the purchaser copies of the final Official Statement, executed by an authorized representative of the City and dated the date of delivery thereof to the purchaser, in sufficient number to allow the purchaser to comply with paragraph (b)(4) of the Rule and to satisfy the Municipal Securities Rulemaking Board (the “MSRB”) Rule G-32 or any other applicable rules adopted by the MSRB, which shall include information permitted to be omitted by paragraph (b)(1) of the Rule and such other amendments or supplements as shall have been approved by the City (the “Final Official Statement”). The purchaser agrees that it will not confirm the sale of any Notes unless the confirmation of sale is accompanied or preceded by the delivery of a copy of the Final Official Statement. The City will furnish to the successful bidder, at no charge, an electronic copy of the Official Statement for use in connection with any resale of the Notes, and up to 20 printed copies upon request.



A letter of Jones Hall, A Professional Law Corporation, San Francisco, California, as disclosure counsel, will be addressed to the City and to the successful bidder, stating that, without passing upon or assuming any responsibility for the accuracy, completeness or fairness of the statements contained in the final Official Statement and making no representations that they have independently verified the accuracy, completeness or fairness of an such statements, based upon the information made available to them in the course of their participation in the preparation of the final Official Statement, nothing has come to such counsel's attention which would lead them to believe that the final Official Statement, including the cover page and all appendices thereto (but excluding therefrom financial statements and statistical data, and information regarding The Depository Trust Company, and its book entry system, as to which no opinion need be expressed) contains an untrue statement of a material fact or omits to state a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading

GIVEN pursuant to a resolution of the City adopted June 30, 2020.

Dated: July 1, 2020

EXHIBIT 1  
Issue Price Certificate

\$ \_\_\_\_\_  
CITY OF BERKELEY  
2020-21 TAX AND REVENUE ANTICIPATION NOTES

The undersigned, on behalf of [NAME OF UNDERWRITER] (“Underwriter”), hereby certifies as set forth below with respect to the sale of the above-captioned obligations (the “Notes”).

1. ***Reasonably Expected Initial Offering Price.***

(a) As of the Sale Date, the reasonably expected initial offering prices of the Notes to the Public by Underwriter are the prices listed in Schedule A (the “Expected Offering Prices”). The Expected Offering Prices are the prices for the Notes used by the Underwriter in formulating its bid to purchase the Notes. Attached as Schedule B is a true and correct copy of the bid provided by Underwriter to purchase the Notes.

(b) Underwriter was not given the opportunity to review other bids prior to submitting its bid.

(c) The bid submitted by Underwriter constituted a firm offer to purchase the Notes.

2. ***Defined Terms.***

(a) *Issuer* means the City of Berkeley.

(a) Reserved.

(b) *Public* means any person (including an individual, trust, estate, partnership, association, company, or corporation) other than an Underwriter or a related party to an Underwriter. The term “related party” for purposes of this certificate generally means any two or more persons who have greater than 50 percent common ownership, directly or indirectly.

(c) *Sale Date* means the first day on which there is a binding contract in writing for the sale of the Notes. The Sale Date of the Notes is July 14, 2020.

(d) *Underwriter* means (i) any person that agrees pursuant to a written contract with the Issuer (or with the lead underwriter to form an underwriting syndicate) to participate in the initial sale of the Notes to the Public, and (ii) any person that agrees pursuant to a written contract directly or indirectly with a person described in clause (i) of this paragraph to participate in the initial sale of the Notes to the Public (including a member of a selling group or a party to a retail distribution agreement participating in the initial sale of the Notes to the Public).

\* Preliminary, subject to change

The representations set forth in this certificate are limited to factual matters only. Nothing in this certificate represents Underwriter's interpretation of any laws, including specifically Sections 103 and 148 of the Internal Revenue Code of 1986, as amended, and the Treasury Regulations thereunder. The undersigned understands that the foregoing information will be relied upon by the Issuer with respect to certain of the representations set forth in the Certificate of Arbitrage and with respect to compliance with the federal income tax rules affecting the Notes, and by Jones Hall, A Professional Law Corporation in connection with rendering its opinion that the interest on the Notes is excluded from gross income for federal income tax purposes, the preparation of the Internal Revenue Service Form 8038-G, and other federal income tax advice that it may give to the Issuer from time to time relating to the Notes.

**[UNDERWRITER]**

By: \_\_\_\_\_

Name: \_\_\_\_\_

**Dated: [ISSUE DATE]**

SCHEDULE A

EXPECTED OFFERING PRICES

| <u>Maturity Date</u><br><u>(September 1)</u> | <u>Principal</u><br><u>Amount</u> | <u>Interest</u><br><u>Rate</u> | <u>Reoffering</u><br><u>Price</u> * |
|----------------------------------------------|-----------------------------------|--------------------------------|-------------------------------------|
|                                              | \$                                | %                              | %                                   |

\*

Stated as a percentage of par.

**SCHEDULE B**  
**COPY OF UNDERWRITER'S BID**  
(attached)

\_\_\_\_\_, 2020

City Council  
City of Berkeley  
2180 Milvia Street  
Berkeley, California 94704

**OPINION:** \$\_\_\_\_\_ City of Berkeley, California 2020-21  
Tax and Revenue Anticipation Notes

Members of the City Council:

We have acted as bond counsel to the City of Berkeley, California (the "City") in connection with the issuance by the City, of the tax and revenue anticipation notes captioned above, dated the date hereof (the "Notes"). In such capacity, we have examined such law and such certified proceedings, certifications and other documents as we deem necessary to render this opinion.

The Notes are issued pursuant to Article 7.6 (commencing with Section 53850) of Chapter 4, Part 1, Division 2, Title 5 of the California Government Code (the "Act"), and a resolution (the "Resolution") of the City Council of the City, adopted on June 30, 2020.

Regarding questions of fact material to our opinion, we have relied upon certified proceedings and other certifications of public officials and others furnished to us, without undertaking to verify the same by independent investigation.

Based on the foregoing, we are of the opinion that, under existing law:

1. The City is a duly created and validly existing municipal corporation and charter city with the power to adopt the Resolution, perform the agreements on its part contained therein and issue the Notes.
2. The Resolution constitutes a valid and binding obligation of the City, enforceable against the City.
3. Pursuant to the Act, the Resolution creates a first lien on funds pledged by the Resolution for the security of the Notes.
4. The Notes have been duly authorized and executed by the City and are valid and binding general obligations of the City.

5. The interest on the Notes is excluded from gross income for federal income tax purposes and is not an item of tax preference for purposes of the federal alternative minimum tax. The opinions set forth in the preceding sentence are subject to the condition that the City comply with all requirements of the Internal Revenue Code of 1986, as amended, that must be satisfied subsequent to the issuance of the Notes in order that the interest thereon be, and continue to be, excludable from gross income for federal income tax purposes. The City has made certain representations and covenants in order to comply with each such requirement. Inaccuracy of those representations, or failure to comply with certain of those covenants, may cause the inclusion of such interest in gross income for federal income tax purposes, which may be retroactive to the date of issuance of the Notes.

6. The interest on the Notes is exempt from personal income taxation imposed by the State of California.

We express no opinion regarding any other tax consequences arising with respect to the ownership, sale or disposition of, or the amount, accrual or receipt of interest on, the Notes.

The rights of the owners of the Notes and the enforceability of the Notes are limited by bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting creditors' rights generally, and by equitable principles, whether considered at law or in equity.

This opinion is given as of the date hereof, and we assume no obligation to revise or supplement this opinion to reflect any facts or circumstances that may hereafter come to our attention, or any changes in law that may hereafter occur. Our engagement with respect to this matter has terminated as of the date hereof.

Respectfully submitted,

A Professional Law Corporation

PRELIMINARY OFFICIAL STATEMENT DATED JULY 1, 2020

NEW ISSUE BOOK-ENTRY ONLY

**RATING**  
 Moody's: "\_\_\_\_"  
 See "RATING."

In the opinion of Jones Hall, A Professional Law Corporation, San Francisco, California, Bond Counsel, subject, however to certain qualifications described in this Official Statement, under existing law, interest on the Notes is excluded from gross income for federal income tax purposes, and such interest is not an item of tax preference for purposes of the federal alternative minimum tax. In the further opinion of Bond Counsel, interest on the Notes is exempt from California personal income taxes. See "TAX MATTERS."



\$ \_\_\_\_\_\*  
**CITY OF BERKELEY**  
**2020-21 TAX AND REVENUE ANTICIPATION NOTES**

**Dated: Date of Delivery**

**Due: July 27, 2021**

The notes captioned above (the "Notes") will be issued in denominations of \$5,000 or any integral multiple thereof. Principal and interest on the Notes will be payable upon maturity. The Notes are to be delivered as fully registered Notes, without coupons and, when delivered, will be registered in the name of Cede & Co., as nominee of The Depository Trust Company ("DTC"), New York, New York (as described in APPENDIX E – BOOK-ENTRY ONLY SYSTEM). DTC will act as securities depository of the Notes. Purchases will be made in book-entry form only, in the principal amount of \$5,000 or any integral multiple thereof. **The Notes are not subject to redemption prior to maturity.**

The Notes are by statute general obligations of the City of Berkeley, California (the "City"), payable solely from taxes, income, revenues, cash receipts and other moneys that are received by the City for the General Fund for fiscal year 2020-21 and that are generally available for the payment of current expenses and other obligations of the City (the "Unrestricted Moneys"). The Notes are secured by a pledge of Unrestricted Moneys to be received by the City in (a) an amount equal to fifty percent (50%) of the principal amount of the Notes in the month of January 2021; (b) an amount equal to fifty percent (50%) of the principal amount of the Notes in the month of May 2021; and (c) an amount sufficient to pay interest as due on the Notes at their maturity, in the month of June 2021 (such pledged amounts being hereinafter called the "Pledged Revenues"). The Pledged Revenues will be deposited into, and held by the City in, a special fund designated "City of Berkeley, California, 2020-21 Tax and Revenue Anticipation Notes Special Account," as established in the City's Resolution adopted on June 30, 2020.

Principal of and interest on the Notes are payable in lawful moneys of the United States of America upon maturity, and interest on the Notes will be computed on the basis of a 360-day year comprised of twelve 30-day months and accrues from the date of delivery.

The Notes are legal investments for commercial banks in California and are eligible to secure deposits of public moneys in California.

THIS COVER PAGE CONTAINS CERTAIN INFORMATION FOR QUICK REFERENCE ONLY. IT IS NOT A SUMMARY OF THIS ISSUE. INVESTORS MUST READ THE ENTIRE OFFICIAL STATEMENT TO OBTAIN INFORMATION ESSENTIAL TO THE MAKING OF AN INFORMED INVESTMENT DECISION.

The following firm, serving as municipal advisor to the City, has structured this issue.



**MATURITY SCHEDULE**

Interest Rate                      Reoffering Yield                      CUSIP†

The Notes are offered when, as and if issued and received by the Underwriter, subject to the approval of legality by Jones Hall, A Professional Law Corporation, San Francisco, California, Bond Counsel. Certain legal matters will be passed upon for the City by Jones Hall, A Professional Law Corporation, as Disclosure Counsel, and by the City Attorney. It is anticipated that the Notes, in definitive form, will be available for delivery through DTC in New York, New York on or about July 28, 2020.

Dated: July \_\_, 2020

† Preliminary; subject to change.

This Preliminary Official Statement and the information contained herein are subject to completion or amendment. Under no circumstances shall this Preliminary Official Statement constitute an offer to sell or a solicitation of an offer to buy nor shall there be any sale of these securities in any jurisdiction in which such offer solicitation or sale would be unlawful prior to registration or qualification under the securities laws of such jurisdiction.



## GENERAL INFORMATION ABOUT THIS OFFICIAL STATEMENT

No dealer, broker, salesman or other person has been authorized by the City to give any information or to make any representations with respect to the Notes other than those contained in this Official Statement and, if given or made, such information or representation must not be relied upon as having been authorized by the City. This Official Statement does not constitute an offer to sell nor the solicitation of an offer to buy, nor shall there be any sale of the Notes by any person to make such offer, solicitation or sale.

This Official Statement is not to be construed as a contract with the purchasers of the Notes. Statements contained in this Official Statement which involve estimates, forecasts or matters of opinion, whether or not expressly so described herein, are intended solely as such and are not to be construed as a representation of facts.

The information set forth in this Official Statement has been obtained from sources that are believed to be reliable, but is not guaranteed as to accuracy or completeness, and is not to be construed as a representation by the Underwriter. The information and expressions of opinion stated in this Official Statement are subject to change without notice and neither delivery of this Official Statement nor any sale made hereunder shall, under any circumstances, create any implication that there has been no change in the information or opinions set forth herein or in the affairs of the City since the date hereof. This Official Statement is submitted in connection with the sale of the Notes referred to herein and may not be reproduced or used, in whole or in part, for any purpose, unless authorized in writing by the City.

The Notes have not been registered under the Securities Act of 1933, as amended (the "**Securities Act**"), in reliance upon an exemption contained in such Act. The Notes have not been registered under the securities laws of any state.

IN CONNECTION WITH THIS OFFERING, THE UNDERWRITER MAY OVERALLOT OR EFFECT TRANSACTIONS THAT STABILIZE OR MAINTAIN THE MARKET PRICE OF THE NOTES AT LEVELS ABOVE THOSE WHICH MIGHT OTHERWISE PREVAIL IN THE OPEN MARKET. SUCH STABILIZING, IF COMMENCED, MAY BE DISCONTINUED AT ANY TIME. THE UNDERWRITER MAY OFFER AND SELL THE NOTES TO CERTAIN DEALERS AND BANKS AT PRICES LOWER THAN THE PUBLIC OFFERING PRICE STATED ON THE COVER PAGE HEREOF AND SAID PUBLIC OFFERING PRICE MAY BE CHANGED FROM TIME TO TIME BY THE UNDERWRITER.

Certain statements included or incorporated by reference in this Official Statement constitute "forward-looking statements" within the meaning of the United States Private Securities Litigation Reform Act of 1995, Section 21E of the Securities Exchange Act of 1934, as amended, and Section 27A of the Securities Act. Such statements are generally identifiable by the terminology used such as "plan," "expect," "estimate," "budget" or other similar words.

The Underwriter has provided the following sentence for inclusion in this Official Statement. The Underwriter has reviewed the information in this Official Statement in accordance with, and as part of, its responsibilities to investors under the federal securities laws as applied to the facts and circumstances of this transaction, but the Underwriter does not guarantee the accuracy or completeness of such information.

THE ACHIEVEMENT OF CERTAIN RESULTS OR OTHER EXPECTATIONS CONTAINED IN SUCH FORWARD-LOOKING STATEMENTS INVOLVE KNOWN AND UNKNOWN RISKS, UNCERTAINTIES AND OTHER FACTORS WHICH MAY CAUSE ACTUAL RESULTS, PERFORMANCE OR ACHIEVEMENTS DESCRIBED TO BE MATERIALLY DIFFERENT FROM ANY FUTURE RESULTS, PERFORMANCE OR ACHIEVEMENTS EXPRESSED OR IMPLIED BY SUCH FORWARD-LOOKING STATEMENTS. THE CITY DOES NOT PLAN TO ISSUE ANY UPDATES OR REVISIONS TO THOSE FORWARD-LOOKING STATEMENTS IF OR WHEN ITS EXPECTATIONS, OR EVENTS, CONDITIONS OR CIRCUMSTANCES ON WHICH SUCH STATEMENTS ARE BASED OCCUR.

Although the City maintains an internet website for various purposes, none of the information on that website is incorporated by reference in this Official Statement or is intended to assist investors in making any investment decision or to provide any continuing information with respect to the Notes or any other bonds or obligations of the City.

## CITY OF BERKELEY, CALIFORNIA

### ELECTED OFFICIALS

Jesse Arreguín, Mayor  
Rashi Kesarwani, Councilmember District 1  
Cheryl Davila, Councilmember District 2  
Ben Bartlett, Councilmember District 3  
Kate Harrison, Councilmember District 4  
Sophie Hahn, Councilmember District 5  
Susan Wengraf, Councilmember District 6  
Rigel Robinson, Councilmember District 7  
Lori Droste, Councilmember District 8

### CITY OFFICIALS

Dee Williams-Ridley  
*City Manager*

David White  
*Deputy City Manager*

Paul Buddenhagen  
*Deputy City Manager*

Farimah Brown  
*City Attorney*

Jenny Wong  
*City Auditor*

Henry Oyekanmi  
*Director of Finance*

### PROFESSIONAL SERVICES

#### Municipal Advisor

NHA Advisors, LLC  
San Rafael, California

#### Bond Counsel and Disclosure Counsel

Jones Hall, A Professional Law Corporation  
San Francisco, California

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## OFFICIAL STATEMENT

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## CITY OF BERKELEY 2020-21 TAX AND REVENUE ANTICIPATION NOTES

### INTRODUCTORY STATEMENT

**General.** This Official Statement, which includes the cover page, the appendices hereto and this Introductory Statement, is provided to furnish information in connection with the sale by the City of Berkeley, California (the “**City**”), of its 2020-21 Tax and Revenue Anticipation Notes (the “**Notes**”).

The Notes are issued in full conformity with the Constitution and laws of the State of California (the “**State**”), including Article 7.6, Chapter 4, Part 1, Division 2, Title 5 (commencing with Section 53850 of the Government Code of the State), (the “**Law**”) and under the Law are general obligations of the City payable solely from those taxes, income, revenues, cash receipts and other moneys that are received by the City for the General Fund for fiscal year 2020-21 and that are generally available for the payment of current expenses and other obligations of the City (the “**Unrestricted Moneys**”). The Notes are authorized by a resolution adopted by the City Council on June 30, 2020 (the “**Resolution**”). The City may, under the Law, issue the Notes only if the principal of and interest on the Notes will not exceed 85% of the estimated amount of the uncollected Unrestricted Moneys that will be available for the payment of said Notes. Proceeds from the sale of the Notes will be deposited into a segregated account in the General Fund and used and expended by the City for any purpose for which it is authorized to expend funds from the General Fund.

### THE NOTES

#### Description of the Notes

The Notes will be issued in the principal amount and at the interest rate shown on the cover page of this Official Statement. Principal of and interest on the Notes are payable in lawful moneys of the United States of America upon maturity, and interest on the Notes will be computed on the basis of a 360-day year comprised of twelve 30-day months and accrues from the date of delivery.

The Notes will be dated the date of delivery and will mature on July 27, 2021. The Notes are to be delivered as fully registered Notes, without coupons, and, when delivered, will be registered in the name of Cede & Co., as nominee of The Depository Trust Company (“**DTC**”), New York, New York. DTC will act as securities depository of the Notes. Purchases will be made in book-entry form only, in the principal amount of \$5,000 or any integral multiple thereof.

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\* Preliminary; subject to change.

## Purpose of Issue

Proceeds of the Notes will provide moneys to meet the City's General Fund cash flow requirements during the 2020-21 fiscal year commencing July 1, 2020, and ending June 30, 2021, including current expenses, capital expenditures, and the discharge of other obligations or indebtedness.

## Book-Entry Only System

DTC will act as securities depository for the Notes. The Notes will be issued as fully-registered certificates registered in the name of Cede & Co. (DTC's partnership nominee). One fully-registered certificate will be issued for each maturity of the Notes, each in the aggregate principal amount of such maturity, and will be deposited with DTC. See "APPENDIX E – BOOK-ENTRY ONLY SYSTEM."

So long as the Notes are registered in the name of Cede & Co., as nominee of DTC, all payments with respect to the principal and interest with respect to the Notes will be made to DTC as provided as in the representation letter delivered on the date of issuance of the notes. The City cannot and does not give any assurances that DTC, DTC Participants or others will distribute payments of principal, interest or premium, if any, with respect to the Notes paid to DTC or its nominee as the registered owner, or will distribute any prepayment notices or other notices, to the Beneficial Owners, or that they will do so on a timely basis or will serve and act in the manner described in this Official Statement. The City is not responsible or liable for the failure of DTC or any DTC Participant to make any payment or give any notice to a Beneficial Owner with respect to the Notes or an error or delay relating thereto.

## SECURITY FOR AND SOURCES OF PAYMENT OF THE NOTES

### Security for the Notes

The principal amount of the Notes, together with the interest thereon, is payable from Unrestricted Moneys, being the first taxes, income, revenue, cash receipts, and other moneys that are received by the City for the General Fund for fiscal year 2020-21 and which are generally available for the payment of current expenses and other obligations of the City. Estimated Unrestricted Moneys exceed estimated payment requirements by more than eight to one. See "THE NOTES – Available Sources of Payment."

As security for the repayment of principal of and interest on the Notes, the City has pledged to deposit into a special fund designated as the "2020-21 Tax and Revenue Anticipation Note Special Account" (the "**Special Account**") the first Unrestricted Moneys to be received by the City as follows: (a) an amount equal to fifty percent (50%) of the principal amount of the Notes in the month of January 2021; (b) an amount equal to fifty percent (50%) of the principal amount of the Notes in the month of May 2021; and (c) an amount sufficient to pay interest as due on the Notes at their maturity, in the month of June 2021 (such pledged amounts, the "**Pledged Revenues**"). The Notes are equally and ratably secured by the City's pledge of the Pledged Revenues.

The principal of the Notes and the interest thereon shall constitute a first lien and charge against and shall be paid from the first moneys received by the City from such Pledged Revenues, and to the extent not so paid shall be paid from any other moneys of the City lawfully available

therefor. In the event there are insufficient Unrestricted Moneys received by the City to permit the deposits into the Special Account of the full amount of the Pledged Revenues to be deposited in the applicable month, by the last business day of such month, then the amount of such deficiency shall be satisfied and made up from any other moneys of the City lawfully available for the payment of the Notes and the interest thereon.

All Pledged Revenues, as and when received, shall be deposited by the City into the Special Account, which will be held by the City for the payment of the principal of and interest on the Notes at maturity. Amounts deposited by the City into the Special Account shall be applied solely for the purpose of paying the principal of and interest on the Notes. Such amounts shall be invested by the City in legal investments, as permitted by Section 53601 of the Government Code of the State. See "CITY INVESTMENT POLICY AND PORTFOLIO."

### **Available Sources of Repayment**

The Notes, in accordance with State law, are general obligations of the City, but are payable only out of Unrestricted Moneys, which include the taxes, income, revenues, cash receipts and other moneys that are received by the City for the General Fund for fiscal year 2020-21 and that are generally available for payment of current expenses and other obligations of the City. The Constitution of the State substantially limits the City's ability to levy ad valorem taxes. See "CONSTITUTIONAL AND STATUTORY PROVISIONS AFFECTING CITY REVENUES AND APPROPRIATIONS." The City may, under existing law, issue the Notes only if the principal of, and interest on, the Notes will not exceed 85% of the estimated uncollected Unrestricted Moneys that will be available for the repayment of the Notes.

The Note coverage ratio is shown in the following table and is the ratio of estimated Unrestricted Moneys to the amount of Unrestricted Moneys needed to pay principal of and interest on the Notes.

The table below gives detail as to the sources of estimated Unrestricted Moneys and the Note Coverage Ratio.

**CITY OF BERKELEY**  
**Estimated Unrestricted Moneys**  
**Fiscal Year 2020-21**

| <u>Source</u>                                                | <u>Amount</u>     |
|--------------------------------------------------------------|-------------------|
| Available Cash Balance, July 1, 2020                         | \$35,094,668      |
| Taxes (including property tax, sales tax and other taxes)    | 145,748,856       |
| Other Revenue                                                | 60,618,612        |
| Proceeds of the Notes <sup>(1)*</sup>                        | 43,283,310        |
| Transfers In                                                 | <u>10,253,810</u> |
| TOTAL UNRESTRICTED MONEYS*                                   | \$294,999,256     |
| ESTIMATED PRINCIPAL PLUS INTEREST NEEDED FOR NOTE REPAYMENT* | \$81,319,586      |
| NOTE COVERAGE RATIO*                                         | 3.63x             |

\* Preliminary; subject to change.

(1) Excluding underwriter's discount and costs of issuance.

Source: *City of Berkeley Finance Department.*

### Monthly Cash Flows

The City has prepared the accompanying monthly General Fund cash flow statements covering fiscal year 2019-20 and the projected fiscal year 2020-21. The General Fund is used to finance the ordinary operations of the City and is available for any legal authorized purposes. While expenditures generally occur evenly throughout the fiscal year, cash receipts occur unevenly. As a result, the General Fund cash balance tends to show a deficit during parts of the fiscal year. The projections are based on the City's budget and current financial condition.





|                                                |                     |                      |                      |                      |                      |                     |                       |                     |                     |                     |                       |                       |                      |
|------------------------------------------------|---------------------|----------------------|----------------------|----------------------|----------------------|---------------------|-----------------------|---------------------|---------------------|---------------------|-----------------------|-----------------------|----------------------|
| Sales Tax                                      | 1,643,230           | 1,640,879            | 1,383,121            | 1,810,837            | 1,546,648            | 1,405,818           | 1,684,332             | 2,062,446           | 1,319,651           | 1,167,587           | 713,000               | 713,000               | 17,090,549           |
| Other Taxes                                    | 2,580,415           | 2,262,869            | 2,555,606            | 2,768,210            | 2,623,939            | 9,157,658           | 6,450,787             | 8,301,183           | 10,295,120          | 12,817,385          | 1,744,121             | 853,631               | 62,410,924           |
| License and Permits                            | 397,408             | 150,804              | 159,065              | 209,469              | 56,685               | 566,396             | 71,282                | 51,145              | 252,736             | 25,263              | 11,519                | 13,642                | 1,965,414            |
| Subventions & Grants                           | 36,954              | 3,944                | 172,562              | 92,192               | 87,153               | 66,306              | 5,251                 | 101,188             | 301,229             | 4,590               | 0                     | 190,486               | 1,061,855            |
| Service Fees                                   | 772,925             | 813,982              | 706,198              | 486,538              | 568,390              | 813,493             | 1,150,021             | 825,501             | 849,143             | 500,523             | 319,427               | 266,963               | 8,073,104            |
| Fines and Penalties                            | 205,817             | 640,908              | 212,404              | 435,241              | 79,353               | 977,099             | 490,272               | 563,214             | 645,526             | (17,280)            | (292,310)             | 17,602                | 3,957,845            |
| Miscellaneous                                  | 41,157              | 2,773                | 8,899                | 269,020              | 3,178                | 8,785               | 10,471                | 26,904              | 72,481              | 5,856               | 5,960                 | 5,960                 | 461,444              |
| Interest Income                                | 870,987             | 364,104              | 442,948              | 347,017              | 536,139              | 458,633             | 1,124,552             | (22,293)            | 547,027             | 885,219             | 535,000               | 1,596,784             | 7,686,120            |
| Rents and Royalties                            | 22,680              | 15,987               | 11,320               | 18,106               | 12,579               | 13,034              | 8,420                 | 23,511              | 18,657              | 0                   | 0                     | 0                     | 144,294              |
| Franchises                                     | 14,487              | 202,307              | 0                    | 14,146               | 190,474              | 0                   | 13,903                | 185,572             | 0                   | 1,020,465           | 184,219               | 0                     | 1,825,573            |
| Transfers In/Indirect Costs                    | 438,933             | 1,499,539            | 639,050              | 1,292,325            | 647,214              | 641,825             | 1,586,769             | 657,647             | 642,058             | 1,319,187           | 633,460               | 840,054               | 10,838,062           |
| CalPERS Prepayments from Other Departments     | 1,346,402           | 4,039,207            | 2,692,805            | 2,692,805            | 2,692,805            | 2,692,805           | 4,039,207             | 2,692,805           | 2,692,805           | 2,692,805           | 2,692,805             | 4,039,207             | 35,006,464           |
| TRAN Proceeds                                  | 35,000,000          | 0                    | 0                    | 0                    | 0                    | 0                   | 0                     | 0                   | 0                   | 0                   | 0                     | 0                     | 35,000,000           |
| <b>TOTAL RECEIPTS</b>                          | <b>\$45,539,912</b> | <b>\$19,837,049</b>  | <b>\$11,580,329</b>  | <b>\$17,785,712</b>  | <b>\$11,688,193</b>  | <b>\$51,979,127</b> | <b>\$18,878,503</b>   | <b>\$16,572,817</b> | <b>\$29,264,420</b> | <b>\$37,903,067</b> | <b>\$9,312,852</b>    | <b>\$12,237,329</b>   | <b>\$282,579,310</b> |
| <b>CASH DISBURSEMENTS</b>                      |                     |                      |                      |                      |                      |                     |                       |                     |                     |                     |                       |                       |                      |
| General Government                             | \$1,835,091         | \$3,519,894          | \$2,128,942          | \$2,406,101          | \$2,181,717          | \$2,297,283         | \$2,869,721           | \$2,474,999         | \$2,430,348         | \$2,152,501         | \$2,040,075           | \$3,211,235           | \$29,547,908         |
| Public Safety                                  | 4,006,075           | 12,155,632           | 8,871,555            | 9,485,368            | 8,898,714            | 9,796,912           | 12,768,593            | 9,446,995           | 8,998,380           | 9,104,338           | 8,392,832             | 13,356,396            | 115,281,787          |
| Highways and Streets                           | 101,429             | 274,302              | 182,338              | 175,170              | 148,276              | 183,039             | 218,314               | 154,040             | 153,184             | 222,465             | 155,908               | 242,898               | 2,211,361            |
| Health and Human Service                       | 1,896,582           | 1,263,521            | 849,757              | 1,593,940            | 1,274,542            | 1,297,850           | 2,135,855             | 1,475,803           | 2,655,710           | 1,897,156           | 1,744,239             | 3,993,463             | 22,078,418           |
| Culture - Recreation                           | 364,921             | 922,480              | 755,998              | 562,995              | 536,223              | 453,030             | 627,943               | 426,443             | 454,662             | 380,864             | 301,816               | 485,315               | 6,272,691            |
| Urban Redevelopment/Housing                    | 354,192             | 1,246,691            | 603,655              | 904,442              | 640,609              | 595,965             | 1,147,734             | 665,202             | 744,686             | 858,452             | 587,034               | 2,267,448             | 10,616,109           |
| Econ Dev & Assistance                          | 72,648              | 623,444              | 175,496              | 274,470              | 716,151              | 160,594             | 252,353               | 135,394             | 106,325             | 1,826,288           | 560,223               | 470,007               | 5,373,393            |
| Debt Service: Workers Comp Loan Repayment      | 0                   | 0                    | 0                    | 0                    | 0                    | 946,163             | 0                     | 0                   | 0                   | 0                   | 0                     | 0                     | 946,163              |
| Transfers Out/Other                            | 162,752             | 3,163,965            | 162,752              | 3,163,965            | 162,752              | 2,960,105           | 2,532,965             | 162,752             | 162,752             | 3,886,080           | 162,752               | 162,752               | 16,846,339           |
| Transfer Out to Pension Section 115 Trust Fund | 0                   | 0                    | 0                    | 0                    | 0                    | 0                   | 0                     | 0                   | 0                   | 0                   | 0                     | 1,246,784             | 1,246,784            |
| Transfer Out to Excess Property Transfer Tax   | 0                   | 0                    | 0                    | 0                    | 0                    | 2,526,916           | 1,263,458             | 0                   | 0                   | 856,506             | 0                     | 0                     | 4,646,879            |
| Transfer Out to Stabilization Reserve Fund     | 0                   | 0                    | 0                    | 0                    | 0                    | 320,000             | 160,000               | 0                   | 0                   | 160,000             | 0                     | 0                     | 640,000              |
| Transfer Out to Catastrophic Reserve Fund      | 0                   | 0                    | 0                    | 0                    | 0                    | 260,000             | 130,000               | 0                   | 0                   | 130,000             | 0                     | 0                     | 520,000              |
| Prepayment to CalPERS                          | 35,006,464          | 0                    | 0                    | 0                    | 0                    | 0                   | 0                     | 0                   | 0                   | 0                   | 0                     | 0                     | 35,006,464           |
| TRAN Principal Pledge                          | 0                   | 0                    | 0                    | 0                    | 0                    | 0                   | 17,390,000            | 0                   | 0                   | 0                   | 17,390,000            | 0                     | 34,780,000           |
| TRAN Interest Pledge                           | 0                   | 0                    | 0                    | 0                    | 0                    | 0                   | 0                     | 0                   | 0                   | 0                   | 0                     | 693,668               | 693,668              |
| Advances from GF/(Repayment to GF)             | (172,712)           | 16,541               | 593,544              | 1,836,799            | (552,343)            | (1,344,394)         | 2,200,781             | 1,173,032           | 862,562             | (2,560,982)         | (1,500,000)           | (552,829)             | (0)                  |
| <b>TOTAL DISBURSEMENTS</b>                     | <b>\$43,627,442</b> | <b>\$23,186,469</b>  | <b>\$14,324,037</b>  | <b>\$20,403,249</b>  | <b>\$14,006,640</b>  | <b>\$20,453,462</b> | <b>\$43,697,716</b>   | <b>\$16,114,659</b> | <b>\$16,568,609</b> | <b>\$18,913,667</b> | <b>\$29,834,877</b>   | <b>\$25,577,137</b>   | <b>\$286,707,964</b> |
| <b>Interfund Borrowings</b>                    | <b>\$0</b>          | <b>\$0</b>           | <b>\$0</b>           | <b>\$0</b>           | <b>\$0</b>           | <b>\$0</b>          | <b>\$0</b>            | <b>\$0</b>          | <b>\$0</b>          | <b>\$0</b>          | <b>\$0</b>            | <b>\$0</b>            | <b>\$0</b>           |
| <b>Net Cash Flow</b>                           | <b>\$1,912,470</b>  | <b>(\$3,349,420)</b> | <b>(\$2,743,708)</b> | <b>(\$2,617,538)</b> | <b>(\$2,318,447)</b> | <b>\$31,525,665</b> | <b>(\$24,819,212)</b> | <b>\$458,159</b>    | <b>\$12,695,811</b> | <b>\$18,989,401</b> | <b>(\$20,522,025)</b> | <b>(\$13,339,808)</b> | <b>(\$4,128,654)</b> |
| <b>Ending Balance</b>                          | <b>\$41,135,792</b> | <b>\$37,786,371</b>  | <b>\$35,042,663</b>  | <b>\$32,425,125</b>  | <b>\$30,106,679</b>  | <b>\$61,632,344</b> | <b>\$36,813,131</b>   | <b>\$37,271,290</b> | <b>\$49,967,101</b> | <b>\$68,956,501</b> | <b>\$48,434,476</b>   | <b>\$35,094,668</b>   | <b>\$35,094,668</b>  |

(1) Actual through May 31, 2020.

(2) Cash and investment balances provided in the table above represent the City's available cash balance (i.e., General Fund cash and investments less the Stabilization and Catastrophic Reserve Fund cash balances and short term liabilities).

Source: City of Berkeley.

**City of Berkeley  
FY 2020-21 Projected General Fund Cash Flows<sup>(1)</sup>  
(Including FY 2020-21 TRAN)**

|                                                 | July                 | August               | September            | October              | November             | December            | January               | February            | March               | April               | May                   | June                 | TOTAL                 |
|-------------------------------------------------|----------------------|----------------------|----------------------|----------------------|----------------------|---------------------|-----------------------|---------------------|---------------------|---------------------|-----------------------|----------------------|-----------------------|
| <b>Beginning Balance</b>                        | \$35,094,668         | \$30,447,722         | \$23,310,037         | \$17,952,146         | \$12,061,374         | \$7,856,945         | \$39,113,250          | \$10,825,289        | \$11,948,613        | \$22,444,209        | \$40,410,361          | \$18,956,322         | \$35,094,668          |
| <b>CASH RECEIPTS</b>                            |                      |                      |                      |                      |                      |                     |                       |                     |                     |                     |                       |                      |                       |
| Property Tax                                    | \$1,791,153          | \$6,772,832          | \$2,144,536          | \$6,070,799          | \$2,183,592          | \$29,055,754        | \$1,852,868           | \$911,879           | \$9,604,493         | \$14,439,356        | \$2,284,374           | \$3,056,129          | \$80,167,765          |
| Sales Tax                                       | 811,159              | 808,854              | 1,356,127            | 1,775,495            | 1,516,462            | 1,378,380           | 1,651,459             | 2,022,193           | 1,293,895           | 1,144,800           | 1,499,084             | 1,499,084            | 16,756,994            |
| Other Taxes                                     | 1,218,660            | 1,570,243            | 1,999,252            | 2,165,572            | 2,052,709            | 7,164,040           | 5,046,454             | 6,494,020           | 8,053,877           | 10,027,047          | 1,564,426             | 1,467,796            | 48,824,097            |
| License and Permits                             | 17,005               | 31,989               | 34,837               | 42,214               | 19,542               | 195,263             | 24,574                | 17,632              | 87,130              | 58,709              | 60,000                | 4,703                | 593,598               |
| Subventions & Grants                            | 26,269               | 2,804                | 122,668              | 65,536               | 61,953               | 47,135              | 3,733                 | 71,930              | 214,132             | 3,263               | 0                     | 135,409              | 754,832               |
| Service Fees                                    | 223,269              | 472,312              | 543,564              | 581,176              | 678,949              | 971,729             | 1,373,717             | 986,072             | 1,014,314           | 947,882             | 931,560               | 918,892              | 9,643,436             |
| Fines and Penalties                             | 63,023               | 115,628              | 168,232              | 270,837              | 323,441              | 583,860             | 673,441               | 626,046             | 626,046             | 678,650             | 626,046               | 505,209              | 5,260,458             |
| Miscellaneous                                   | 15,706               | 1,058                | 3,396                | 102,662              | 1,213                | 3,352               | 3,996                 | 10,267              | 27,660              | 2,235               | 2,275                 | 2,275                | 176,094               |
| Interest Income                                 | 323,097              | 135,066              | 164,313              | 128,728              | 198,883              | 170,132             | 385,158               | 23,730              | 202,922             | 328,376             | 198,461               | 1,910,836            | 4,169,702             |
| Rents and Royalties                             | 23,453               | 7,461                | 8,953                | 10,445               | 4,476                | 14,921              | 10,445                | 11,937              | 13,429              | 16,413              | 11,937                | 15,342               | 149,210               |
| Franchises                                      | 12,314               | 171,956              | 0                    | 12,024               | 161,898              | 0                   | 11,817                | 157,732             | 0                   | 867,372             | 156,582               | 0                    | 1,551,696             |
| Transfers In/Indirect Costs                     | 415,271              | 1,418,703            | 604,601              | 1,222,659            | 612,324              | 607,226             | 1,501,230             | 622,195             | 607,447             | 1,248,073           | 599,312               | 794,769              | 10,253,810            |
| CalPERS Prepayments from Other Departments      | 2,652,894            | 2,947,660            | 2,947,660            | 2,947,660            | 2,947,660            | 4,421,491           | 2,947,660             | 2,947,660           | 2,947,660           | 2,947,660           | 2,947,660             | 4,716,257            | 38,319,586            |
| TRAN Proceeds                                   | 43,283,310           | 0                    | 0                    | 0                    | 0                    | 0                   | 0                     | 0                   | 0                   | 0                   | 0                     | 0                    | 43,283,310            |
| <b>TOTAL RECEIPTS</b>                           | <b>\$50,876,583</b>  | <b>\$14,456,567</b>  | <b>\$10,098,138</b>  | <b>\$15,395,806</b>  | <b>\$10,763,105</b>  | <b>\$44,613,282</b> | <b>\$15,486,552</b>   | <b>\$14,903,294</b> | <b>\$24,693,005</b> | <b>\$32,709,837</b> | <b>\$10,881,718</b>   | <b>\$15,026,700</b>  | <b>\$259,904,588</b>  |
| <b>CASH DISBURSEMENTS</b>                       |                      |                      |                      |                      |                      |                     |                       |                     |                     |                     |                       |                      |                       |
| General Government                              | \$2,728,031          | \$2,981,234          | \$1,803,143          | \$2,037,888          | \$1,847,842          | \$1,945,723         | \$2,430,559           | \$2,096,242         | \$2,058,425         | \$1,823,097         | \$1,727,876           | \$2,719,810          | \$26,199,870          |
| Public Safety                                   | 4,838,852            | 14,682,528           | 10,715,762           | 11,457,174           | 10,748,567           | 10,269,758          | 10,814,576            | 8,001,292           | 7,621,330           | 7,711,073           | 7,108,451             | 11,312,426           | 115,281,787           |
| Highways and Streets                            | 85,907               | 232,325              | 154,434              | 148,363              | 125,585              | 155,028             | 184,904               | 130,467             | 129,742             | 188,420             | 132,048               | 205,726              | 1,872,950             |
| Health and Human Service                        | 1,606,342            | 1,070,161            | 719,716              | 1,350,015            | 1,079,495            | 1,099,236           | 1,808,998             | 1,249,956           | 2,249,299           | 1,606,828           | 1,477,313             | 3,382,331            | 18,699,689            |
| Culture - Recreation                            | 309,076              | 781,310              | 640,306              | 476,838              | 454,163              | 383,701             | 531,847               | 361,183             | 385,084             | 322,579             | 255,628               | 411,046              | 5,312,762             |
| Urban Redevelopment/Housing                     | 299,989              | 1,055,906            | 511,276              | 766,032              | 542,574              | 504,762             | 972,093               | 563,404             | 630,724             | 727,080             | 497,198               | 1,920,453            | 8,991,493             |
| Econ Dev & Assistance                           | 61,531               | 528,037              | 148,639              | 232,467              | 606,556              | 136,018             | 213,734               | 114,674             | 90,054              | 1,546,805           | 474,490               | 398,080              | 4,551,086             |
| Debt Service: Workers Comp Loan Repayment       | 946,163              | 0                    | 0                    | 0                    | 0                    | 0                   | 0                     | 0                   | 0                   | 0                   | 0                     | 0                    | 946,163               |
| Debt Service: 2016 Parking Revenue Bonds        | 1,910,250            | 0                    | 0                    | 0                    | 0                    | 0                   | 0                     | 0                   | 0                   | 0                   | 0                     | 0                    | 1,910,250             |
| Transfers Out/Other                             | 3,317,802            | 162,752              | 162,752              | 3,317,802            | 162,752              | 162,752             | 3,317,802             | 162,752             | 162,752             | 3,317,802           | 162,752               | 162,752              | 14,573,224            |
| Transfer Out to Pension Section 115 Trust Fund  | 0                    | 0                    | 0                    | 0                    | 0                    | 0                   | 0                     | 0                   | 0                   | 0                   | 0                     | 1,318,502            | 1,318,502             |
| Transfer Out of Excess of Property Transfer Tax | 0                    | 0                    | 0                    | 0                    | 0                    | 0                   | 0                     | 0                   | 0                   | 0                   | 0                     | 0                    | 0                     |
| Transfer Out to Stabilization Reserve Fund      | 0                    | 0                    | 0                    | 0                    | 0                    | 0                   | 0                     | 0                   | 0                   | 0                   | 0                     | 0                    | 0                     |
| Transfer Out to Catastrophic Reserve Fund       | 0                    | 0                    | 0                    | 0                    | 0                    | 0                   | 0                     | 0                   | 0                   | 0                   | 0                     | 0                    | 0                     |
| Business Continuity Grants                      | 800,000              | 0                    | 0                    | 0                    | 0                    | 0                   | 0                     | 0                   | 0                   | 0                   | 0                     | 0                    | 800,000               |
| San Pablo Parcel Loans                          | 550,000              | 0                    | 0                    | 0                    | 0                    | 0                   | 0                     | 0                   | 0                   | 0                   | 0                     | 0                    | 550,000               |
| Prepayment to CalPERS                           | 38,319,586           | 0                    | 0                    | 0                    | 0                    | 0                   | 0                     | 0                   | 0                   | 0                   | 0                     | 0                    | 38,319,586            |
| TRAN Principal Pledge                           | 0                    | 0                    | 0                    | 0                    | 0                    | 0                   | 21,500,000            | 0                   | 0                   | 0                   | 21,500,000            | 0                    | 43,000,000            |
| TRAN Interest Pledge                            | 0                    | 0                    | 0                    | 0                    | 0                    | 0                   | 0                     | 0                   | 0                   | 0                   | 0                     | 857,611              | 857,611               |
| Advances from GF/(Repayment to GF)              | (250,000)            | 100,000              | 600,000              | 1,500,000            | (600,000)            | (1,300,000)         | 2,000,000             | 1,100,000           | 870,000             | (2,500,000)         | (1,000,000)           | (520,000)            | 0                     |
| <b>TOTAL DISBURSEMENTS</b>                      | <b>\$55,523,529</b>  | <b>\$21,594,252</b>  | <b>\$15,456,029</b>  | <b>\$21,286,579</b>  | <b>\$14,967,534</b>  | <b>\$13,356,978</b> | <b>\$43,774,513</b>   | <b>\$13,779,970</b> | <b>\$14,197,409</b> | <b>\$14,743,685</b> | <b>\$32,335,756</b>   | <b>\$22,168,738</b>  | <b>\$283,184,972</b>  |
| <b>Interfund Borrowings</b>                     | <b>\$0</b>           | <b>\$0</b>           | <b>\$0</b>           | <b>\$0</b>           | <b>\$0</b>           | <b>\$0</b>          | <b>\$0</b>            | <b>\$0</b>          | <b>\$0</b>          | <b>\$0</b>          | <b>\$0</b>            | <b>\$0</b>           | <b>\$0</b>            |
| <b>Net Cash Flow</b>                            | <b>(\$4,646,946)</b> | <b>(\$7,137,685)</b> | <b>(\$5,357,890)</b> | <b>(\$5,890,773)</b> | <b>(\$4,204,429)</b> | <b>\$31,256,305</b> | <b>(\$28,287,960)</b> | <b>\$1,123,324</b>  | <b>\$10,495,596</b> | <b>\$17,966,152</b> | <b>(\$21,454,039)</b> | <b>(\$7,142,038)</b> | <b>(\$23,280,384)</b> |
| <b>Ending Balance</b>                           | <b>\$30,447,722</b>  | <b>\$23,310,037</b>  | <b>\$17,952,146</b>  | <b>\$12,061,374</b>  | <b>\$7,856,945</b>   | <b>\$39,113,250</b> | <b>\$10,825,289</b>   | <b>\$11,948,613</b> | <b>\$22,444,209</b> | <b>\$40,410,361</b> | <b>\$18,956,322</b>   | <b>\$11,814,284</b>  | <b>\$11,814,284</b>   |

(1) Cash and investment balances provided in the table above represent the City's available cash balance (i.e., General Fund cash and investments less the Stabilization and Catastrophic Reserve Fund cash balances and short term liabilities).  
Source: City of Berkeley.

## COVID-19 Global Pandemic

**Background.** The outbreak of COVID-19, a respiratory disease caused by a new strain of coronavirus (“**COVID-19**”), which was first detected in China and has spread to other countries, including the United States, was declared a pandemic by the World Health Organization, a national emergency by the President of the United State (the “**President**”) and a state of emergency by the Governor of the State (the “**Governor**”). There has been tremendous volatility in the markets in the United States and globally, resulting in significant declines and speculation of a national and global recession.

The President’s declaration of a national emergency on March 13, 2020 made available more than \$50 billion in federal resources to combat the spread of the virus. A multibillion-dollar COVID-19 relief package was signed into law by the President on March 18, 2020 providing for Medicaid expansion, unemployment benefits and paid emergency leave during the crisis. In addition, the Federal Reserve lowered its benchmark interest rate to nearly zero, introduced a large bond-buying program and established emergency lending programs to banks and money market mutual funds.

On March 19, 2020, the Governor issued a shelter-in-place order, Executive Order N-33-20, ordering all California residents to stay home except to get food, care for a relative, get necessary healthcare or go to an essential job. The stay at home order went into effect immediately and will stay in effect until further notice.

On March 27, 2020, the House approved a \$2 trillion relief package, including economic stimulus in the form of direct payment to certain Americans and billions of dollars to hospitals. In addition, the Federal Reserve has lowered its benchmark interest rate to nearly zero, introduced a large bond-buying program and established emergency lending programs to banks and money market mutual funds.

**Impacts on Global and Local Economies; Potential Declines in State Revenues.** The COVID-19 public health emergency is altering the behavior of businesses and people in a manner that will have negative impacts on global and local economies, including the economy of the State. Under the 2020-21 State Budget, approximately 70% of the State’s general fund revenue is projected to be derived from personal income tax receipts. Additionally, capital gains tax receipts are budgeted to account for about 10% of such receipts in fiscal year 2019-20. California’s Legislative Analyst’s Office published reports on March 18, 2020 and April 15, 2020 which anticipate that the economic uncertainty caused by the outbreak will significantly affect California’s near-term fiscal outlook, including lower capital gains-related tax revenue due to the volatility in the financial markets, and the likelihood that a recession is forthcoming due to pullback in activity across wide swaths of the economy. The City cannot predict the short or long-term impacts that COVID-19 will have on global, State-wide and local economies, which could impact City operations and local property values.

The City cannot predict the impacts that the COVID-19 emergency might have on the City’s finances or operations.

## CITY INVESTMENT POLICY AND PORTFOLIO

The authority to invest the City's funds is derived from a resolution adopted annually by the City Council delegating to the Director of Finance and the Treasurer of the City the authority to invest these funds within the guidelines of Section 53600 et seq. of the Government Code of the State (the "**Government Code**"). The Government Code also directs the City to present an annual investment policy (the "**Investment Policy**") for confirmation to the City Council. The City Council voted to affirm the Investment Policy and designate the investment authority on July 1, 2019. The Investment Policy may be revised by the City Council at any time.

The objectives of the Investment Policy are preservation of capital, liquidity and yield. The Investment Policy addresses the soundness of financial institutions in which the City may deposit funds, types of investment instruments permitted by the City and the Government Code, investment duration and the amount which may be invested in certain instruments. The Investment Policy also reflects and supports the City's policy positions on important social and environmental issues, as contained in formal City Council actions including the Nuclear-Free Berkeley Act, the Responsible Investment Ordinance, the Oppressive States Contract Resolution and Divestment from Publicly-Traded Fossil Fuel Companies and Gun Manufacturers and Tobacco companies. Summarized below are the permitted investments under the Investment Policy. These policies may further restrict investment options available to the City.

| <u>Authorized Investment Type</u>                            | <u>Maximum Maturity</u> | <u>Maximum Percentage/Dollar of Portfolio</u> | <u>Maximum Investment In One Issuer</u> |
|--------------------------------------------------------------|-------------------------|-----------------------------------------------|-----------------------------------------|
| Bank/Time Deposit Accounts                                   | 5 years                 | 100%                                          | N/A                                     |
| Money Market Funds                                           | N/A                     | 100%                                          | N/A                                     |
| Repurchase Agreements                                        | 1 year                  | 10%                                           | N/A                                     |
| Reverse Repurchase Agreements                                | 7 days                  | 10%                                           | N/A                                     |
| Banker's Acceptances                                         | 7 days                  | 40%                                           | 30%                                     |
| U.S. Government Securities (Treasury bills, Notes and Bonds) | 5 years<br>30 years*    | 100%                                          | N/A                                     |
| U.S. Agency Securities by Agency                             | 5 years<br>30 years*    | 100%                                          | N/A                                     |
| Negotiable Certificates of Deposit                           | 5 years<br>30 years*    | 30%                                           | \$250,000                               |
| Local Agency Bonds                                           | 5 years<br>30 years*    | 100%                                          | N/A                                     |
| Commercial Paper                                             | 180 days                | 25%                                           | \$5M or 2%                              |
| Medium Term Notes                                            | 5 years<br>30 years*    | 30%                                           | 30%                                     |

\* Maturities over five years, up to 30 years, are authorized only for Retiree Medical Plan Trust and debt service reserve funds.

As of April 30, 2020, the City portfolio included \$470,519,344.99 in pooled investments. The average life of the investments was 1,065 days and the weighted yield was 2.553% from July 1, 2019 to April 30, 2020. The following is a list of investments held by the City:

**CITY OF BERKELEY  
(As of April 30, 2020)**

| Security                    | Market Value     | % of Total Portfolio |
|-----------------------------|------------------|----------------------|
| Medium Term Notes           | \$123,265,952.08 | 26.20%               |
| Municipal Bonds             | 5,072,177.46     | 1.08                 |
| Federal Agency Coupon Notes | 44,001,000.00    | 9.35                 |
| Money Market Fund and CDs   | 252,674,264.14   | 53.70                |
| Commercial Paper            | 45,505,951.31    | 9.67                 |
| TOTAL:                      | \$470,519,344.99 | 100.00%              |

*Source: City of Berkeley Finance Department.*

*[Remainder of Page Intentionally Left Blank]*

## SPECIAL RISK FACTORS

The following information should be considered by prospective investors in evaluating the Notes; however, this information does not purport to be an exhaustive listing of the risks and other considerations, which may be relevant to an investment in the Notes.

### Bankruptcy Considerations

In 1994, Orange County, California issued its 1994-1995 Tax and Revenue Anticipation Notes (the “**Orange County Notes**”) under the same statutory authority as the Notes. On December 6, 1994, Orange County filed a petition in bankruptcy. Subsequently, Orange County declined to set aside the taxes and revenues it had pledged for the repayment of the Orange County Notes and a noteholder brought suit to compel Orange County to do so. A March 8, 1995 ruling of the United States Bankruptcy Court for the Central District of California, held that the lien securing the Orange County Notes did not attach to revenues received by Orange County after the filing of its bankruptcy petition on December 6, 1994, and therefore, Orange County was not required to set aside the revenues pledged under the note resolution following the bankruptcy. The Bankruptcy Court ruled that under the United States Bankruptcy Code (the “**Bankruptcy Code**”), the lien did not attach to revenues received by Orange County after December 6, 1994, because the lien was a consensual security interest rather than a statutory lien. In July 1995, the United States District Court for the Central District of California reversed the decision of the Bankruptcy Court. Orange County appealed the decision of the District Court to the United States Court of Appeals for the Ninth Circuit. Before the Ninth Circuit rendered a decision, the parties settled their disputes. Accordingly, if the City were to file for bankruptcy, it is not clear whether it would be required to set aside revenues pledged under the Resolution as described above.

In addition, the Pledged Revenues and other moneys that will be set aside to pay the Notes will be held in the City’s General Fund, and these funds will be invested in the pooled investment fund. Should the City go into bankruptcy, a court might hold that the owners of the Notes do not have a valid lien on the Pledged Revenues. In that case, unless the owners could “trace” the funds, the owners would merely be unsecured creditors of the City. There can be no assurance that the owners of the Notes could successfully so “trace” the Pledged Revenues.

### Limitations on Remedies

The rights of the owners of the Notes are subject to the limitations on legal remedies against cities in the State, including a limitation on enforcement of judgments against funds needed to serve the public welfare and interest. Additionally, enforceability of the rights and remedies of the owners of the Notes and the obligations incurred by the City, may become subject to the following: the Bankruptcy Code and applicable bankruptcy, insolvency, reorganization, moratorium, or similar laws relating to or affecting the enforcement of creditor’s rights generally, now or hereafter in effect; equity principles which may limit the specific enforcement under State law of certain remedies; the exercise by the United States of America of the powers delegated to it by the Constitution; and the reasonable and necessary exercise in certain exceptional situations, of the police powers inherent in the sovereignty of the State and its governmental bodies in the interest of serving a significant and legitimate public purpose. Bankruptcy proceedings, or the exercise of powers by the federal or State government, if initiated, could subject the owners of the Notes to judicial discretion and interpretation of their rights in bankruptcy or otherwise, and consequently may entail risks of delay, limitation, or modification of their rights.

## Climate Change

The adoption by the State of the California Global Warming Solutions Act of 2006 (AB 32) and subsequent companion bills demonstrate the commitment by the State to take action and reduce greenhouse gases (“GHG”) to 1990 levels by 2020 and 80% below 1990 levels by 2050. The State Attorney General’s Office, in accordance with SB 375, now requires that local governments examine local policies and large-scale planning efforts to determine how to reduce greenhouse gas emissions. Additionally, the State adopted Senate Bill No. 32, which established a revised statewide GHG emission reduction target of 40% below 1990 levels by 2030.

The City is vulnerable to the impacts of climate change. The severity of these impacts will depend on the amount of greenhouse gas emissions produced worldwide over the coming decades and the City’s ability to adapt to the changing climate. These impacts will continue to grow in intensity and will disproportionately affect vulnerable communities such as the elderly, children, people with disabilities, and people with low incomes. In order to mitigate climate change locally, the City developed the Berkeley Climate Action Plan (CAP). The CAP sets a target of achieving 80% GHG reductions below 2000 levels by 2050. The City also has goals to achieve net zero carbon emissions by 2050, become a fossil fuel free city, and reach 100% renewable electricity citywide by 2035. From 2000 to 2016, the City has reduced its greenhouse gas emissions by 15% despite a population increase of approximately 18% in that same period. The City’s mitigation efforts include developing plans, programs and policies to:

- Reduce energy use in building construction and operation, in transportation by shifting travel to walking, biking, and transit, and by minimizing landfilled waste;
- Clean the electricity used in the City and
- Electrify transportation and buildings to significantly reduce natural gas and petroleum use.

It is also critical that the City adapt to current and projected climate change impacts, including sea level rise, drought, severe storms, and extreme heat, in order to protect its community, infrastructure, buildings, and economy. The City has several plans that address climate adaptation including the Local Hazard Mitigation Plan, the Resilience Strategy, and the Climate Action Plan. The City is also developing a sea level rise plan for the Berkeley Marina and a green infrastructure plan. Some key climate resilience actions that the City is taking include implementing green infrastructure projects and identifying opportunities for clean energy assurance solutions, such as solar plus storage, for buildings. The City also actively participates in regional organizations such as the Bay Area Climate Adaptation Network to develop regional strategies and solutions to adapt to climate change.

Climate change will have new, direct impacts and will also exacerbate existing local natural hazards. Rising sea levels have the potential to impact infrastructure and community members in west Berkeley and the Berkeley waterfront. This could increase the City’s exposure to tsunami inundation and to flooding of critical infrastructure in these areas, which includes sanitary sewers, state highways, and railroad lines. Increased temperatures, when coupled with prolonged drought events, can increase the intensity of wildfires that may occur, and pose significant health and safety risks for vulnerable communities. Shorter, more intense wet seasons could make flooding more frequent, and may increase the landslide risk in the Berkeley hills. California may experience greater water and food insecurity, and drought may become a more persistent issue as the effects of climate change deepen.

## Cybersecurity

The City and its departments face multiple cyber threats including, but not limited to, hacking, viruses, malware and other attacks on computers and other sensitive digital networks and systems. There have been, however, only limited cyber-attacks on the computer systems of the City. No assurances can be given that the security and operational control measures of the City will be successful in guarding against any and each cyber threat and attack. The results of any attack on the computer and information technology systems could have a material adverse impact on the operations of the City and damage the digital networks and systems. The resulting costs and/or impacts on operations and General Fund revenues could be material.

## CONSTITUTIONAL AND STATUTORY PROVISIONS AFFECTING CITY REVENUES AND APPROPRIATIONS

### Limitations on Revenues

**Article XIII A of the California Constitution.** Article XIII A of the State Constitution, adopted and known as Proposition 13, was approved by the voters in June 1978. Section 1(a) of Article XIII A limits the maximum ad valorem tax on real property to one percent of “full cash value,” and provides that such tax shall be collected by the counties and apportioned according to State law. Section 1(b) of Article XIII A provides that the one-percent limitation does not apply to ad valorem taxes levied to pay interest and redemption charges on (i) indebtedness approved by the voters prior to July 1, 1978, or (ii) bonded indebtedness for the acquisition or improvement of real property approved on or after July 1, 1978, by two-thirds of the votes cast on the proposition, or (iii) bonded indebtedness incurred by a school district or community college district for the construction, reconstruction, rehabilitation or replacement of school facilities or the acquisition or lease of real property for school facilities, approved by 55% of the voters of the district, but only if certain accountability measures are included in the proposition. The tax for payment of the City’s general obligation bonds falls within the exception for bonds approved by a two-thirds vote.

Section 2 of Article XIII A defines “full cash value” to mean the county assessor’s valuation of real property as shown on the fiscal year 1975-76 tax bill, or, thereafter, the appraised value of real property when purchased, newly constructed, or a change in ownership has occurred. The full cash value may be adjusted annually to reflect inflation at a rate not to exceed two percent per year, or to reflect a reduction in the consumer price index or comparable data for the area under taxing jurisdiction or may be reduced in the event of declining property value caused by substantial damage, destruction or other factors. Legislation enacted by the State Legislature to implement Article XIII A provides that, notwithstanding any other law, local agencies may not levy any ad valorem property tax except the 1% base tax levied by each County and taxes to pay debt service on indebtedness approved by the voters as described above.

Since its adoption, Article XIII A has been amended a number of times. These amendments have created a number of exceptions to the requirement that property be reassessed when purchased, newly constructed or a change in ownership has occurred. These exceptions include certain transfers of real property between family members, certain purchases of replacement dwellings for persons over age 55 and by property owners whose original property has been destroyed in a declared disaster, and certain improvements to accommodate disabled persons and for seismic upgrades to property. These amendments have resulted in marginal reductions in the property tax revenues of the City.



Both the California State Supreme Court and the United States Supreme Court have upheld the validity of Article XIII A.

**Article XIIC and Article XIID of the California Constitution.** On November 5, 1996, the voters of the State approved Proposition 218, known as the “Right to Vote on Taxes Act.” Proposition 218 adds Articles XIIC and XIID to the California Constitution and contains a number of interrelated provisions affecting the ability of the City to levy and collect both existing and future taxes, assessments, fees and charges.

On November 2, 2010, California voters approved Proposition 26, entitled the “Supermajority Vote to Pass New Taxes and Fees Act.” Section 1 of Proposition 26 declares that Proposition 26 is intended to limit the ability of the State Legislature and local government to circumvent existing restrictions on increasing taxes by defining the new or expanded taxes as “fees.” Proposition 26 amended Articles XIII A and XIIC of the State Constitution. The amendments to Article XIII A limit the ability of the State Legislature to impose higher taxes (as defined in Proposition 26) without a two-thirds vote of the Legislature. The amendments to Article XIIC define “taxes” that are subject to voter approval as “any levy, charge, or exaction of any kind imposed by a local government,” with certain exceptions.

Taxes. Article XIIC requires that all new local taxes be submitted to the electorate before they become effective. Taxes for general governmental purposes of the City (“**general taxes**”) require a majority vote; taxes for specific purposes (“**special taxes**”), even if deposited in the City’s General Fund, require a two-thirds vote. The voter approval requirements of Proposition 218 reduce the flexibility of the City to raise revenues for the General Fund, and no assurance can be given that the City will be able to impose, extend or increase such taxes in the future to meet increased expenditure needs.

Property-Related Fees, Charges and Assessments. Article XIID also adds several provisions making it generally more difficult for local agencies to levy and maintain property-related fees, charges, and assessments for municipal services and programs. These provisions include, among other things, (i) a prohibition against assessments which exceed the reasonable cost of the proportional special benefit conferred on a parcel, (ii) a requirement that assessments must confer a “special benefit,” as defined in Article XIID, over and above any general benefits conferred, (iii) a majority protest procedure for assessments which involves the mailing of notice and a ballot to the record owner of each affected parcel, a public hearing and the tabulation of ballots weighted according to the proportional financial obligation of the affected party, and (iv) a prohibition against fees and charges which are used for general governmental services, including police, fire or library services, where the service is available to the public at large in substantially the same manner as it is to property owners.

Reduction or Repeal of Taxes, Fees and Charges. Article XIIC also removes limitations on the initiative power in matters of reducing or repealing local taxes, assessments, fees or charges. No assurance can be given that the voters of the City will not, in the future, approve an initiative or initiatives which reduce or repeal local taxes, assessments, fees or charges currently comprising a substantial part of the City’s General Fund. If such repeal or reduction occurs, the City’s ability to pay debt service on the Notes could be adversely affected.

Burden of Proof. Article XIIC provides that local government “bears the burden of proving by a preponderance of the evidence that a levy, charge, or other exaction is not a tax, that the amount is no more than necessary to cover the reasonable costs of the governmental activity,

and that the manner in which those costs are allocated to a payor bear a fair or reasonable relationship to the payor's burdens on, or benefits received from, the governmental activity." Similarly, Article XIID provides that in "any legal action contesting the validity of a fee or charge, the burden shall be on the agency to demonstrate compliance" with Article XIID.

Impact on City's General Fund. The approval requirements of Articles XIIC and XIID reduce the flexibility of the City to raise revenues for the General Fund, and no assurance can be given that the City will be able to impose, extend or increase the taxes, fees, charges or taxes in the future that the City may need to meet increased expenditure needs.

The City does not believe that any material source of General Fund revenue is subject to challenge under Articles XIIC or XIID.

Judicial Interpretation. The interpretation and application of Articles XIIC and XIID will ultimately be determined by the courts with respect to a number of the matters discussed below, and it is not possible at this time to predict with certainty the outcome of such determination.

## **Expenditures and Appropriations**

***Article XIIB of the California Constitution.*** In addition to the limits Article XIIA imposes on property taxes that may be collected by local governments, certain other revenues of the State and local governments are subject to an annual "appropriations limit" or "Gann Limit" imposed by Article XIIB of the State Constitution, which effectively limits the amount of such revenues that government entities are permitted to spend. Article XIIB, approved by the voters in June 1979, was modified substantially by Proposition 111 in 1990. The appropriations limit of each government entity applies to "proceeds of taxes," which consist of tax revenues, state subventions and certain other funds, including proceeds from regulatory licenses, user charges or other fees to the extent that such proceeds exceed "the cost reasonably borne by such entity in providing the regulation, product or service." "Proceeds of taxes" exclude tax refunds and some benefit payments such as unemployment insurance. No limit is imposed on the appropriation of funds which are not "proceeds of taxes," such as reasonable user charges or fees, and certain other non-tax funds.

Article XIIB also does not limit appropriation of local revenues to pay debt service on bonds existing or authorized by January 1, 1979, or subsequently authorized by the voters, appropriations required to comply with mandates of courts or the federal government, appropriations for qualified capital outlay projects, and appropriation by the State of revenues derived from any increase in gasoline taxes and motor vehicle weight fees above January 1, 1990, levels. The appropriations limit may also be exceeded in cases of emergency; however, the appropriations limit for the three years following such emergency appropriation must be reduced to the extent by which it was exceeded, unless the emergency arises from civil disturbance or natural disaster declared by the Governor, and the expenditure is approved by two-thirds of the legislative body of the local government.

The State and each local government entity have their own appropriations limit. Each year, the limit is adjusted to allow for changes, if any, in the cost of living, the population of the jurisdiction, and any transfer to or from another government entity of financial responsibility for providing services. Each school district is required to establish an appropriations limit each year. In the event that a school district's revenues exceed its spending limit, the district may increase its appropriations limit to equal its spending by taking appropriations limit from the State.

Proposition 111 requires that each agency's actual appropriations be tested against its limit every two years. If the aggregate "proceeds of taxes" for the preceding two-year period exceed the aggregate limit, the excess must be returned to the agency's taxpayers through tax rate or fee reductions over the following two years.

### **Split Roll Initiative**

An initiative measure (the "**Split Roll Initiative**") to amend Article XIII A has qualified for the State's November 2020 ballot. If adopted, the Split Roll Initiative would base property taxes for commercial and industrial properties on market values beginning in tax year 2020-21. Such market values would be reassessed by the applicable county assessor's office at least once every three years. The Split Roll Initiative includes exceptions for businesses with a total market value of less than \$2 million (adjusted for inflation), which would continue to be subject to property taxes based on purchase price, and exempts from property tax assessments up to \$500,000 of the value of personal property, or all personal property for businesses with fewer than 50 employees. There can be no assurance that the Split Roll Initiative will be adopted. Moreover, if the Split Roll Initiative is adopted, the City is unable to predict how it would affect the level of commercial building activity within the City and the relationship of the assessed value between land use types (i.e. residential versus commercial) in the City, or what other impacts the Split Roll Initiative might have on the local economy or the City's financial condition.

### **Future Initiatives**

Article XIII A, Article XIII B, Article XIII C, Article XIII D and Proposition 111 were each adopted as measures that qualified for the ballot pursuant to California's initiative process. From time to time other initiative measures could be adopted, further affecting City revenues or the City's ability to expend revenues. The nature and impact of these measures cannot be predicted by the City.

## **LEGAL OPINION**

The statements of law and legal conclusions set forth in this Official Statement under the heading "TAX MATTERS" have been reviewed by Bond Counsel. Bond Counsel's employment is limited to a review of the legal proceedings required for the authorization of the Notes and to rendering the opinion discussed below. Such opinion will not consider or extend to any documents, agreements, representations, offering circulars or other material of any kind concerning the Notes not mentioned in this paragraph. Bond Counsel takes no responsibility for the accuracy, completeness or fairness of this Official Statement. Bond Counsel's compensation is contingent upon the delivery of the Notes. Certain legal matters will be passed upon for the City by the City Attorney.

## **TAX MATTERS**

In the opinion of Jones Hall, A Professional Law Corporation, San Francisco, California, Bond Counsel, subject, however to the qualifications set forth below, under existing law, the interest on the Notes is excluded from gross income for federal income tax purposes and such interest is not an item of tax preference for purposes of the federal alternative minimum tax.

The opinions set forth in the preceding paragraph are subject to the condition that the City comply with all requirements of the Internal Revenue Code of 1986, as amended (the "**Tax Code**") that must be satisfied subsequent to the issuance of the Notes. The City has covenanted to comply with each such requirement. Failure to comply with certain of such requirements may cause the inclusion of such interest in gross income for federal income tax purposes to be retroactive to the date of issuance of the Notes.

***Tax Treatment of Original Issue Discount and Premium.*** If the initial offering price to the public at which a Note is sold is less than the amount payable at maturity thereof, then such difference constitutes "**original issue discount**" for purposes of federal income taxes and State of California personal income taxes. If the initial offering price to the public at which a Note is sold is greater than the amount payable at maturity thereof, then such difference constitutes "**original issue premium**" for purposes of federal income taxes and State of California personal income taxes. *De minimis* original issue discount and original issue premium are disregarded.

Under the Tax Code, original issue discount is treated as interest excluded from federal gross income and exempt from State of California personal income taxes to the extent properly allocable to each owner thereof subject to the limitations described in the first paragraph of this section. The original issue discount accrues over the term to maturity of the Note on the basis of a constant interest rate compounded on each interest or principal payment date (with straight-line interpolations between compounding dates). The amount of original issue discount accruing during each period is added to the adjusted basis of such Notes to determine taxable gain upon disposition (including sale, redemption, or payment on maturity) of such Note. The Tax Code contains certain provisions relating to the accrual of original issue discount in the case of purchasers of the Notes who purchase the Notes after the initial offering of a substantial amount of such maturity. Owners of such Notes should consult their own tax advisors with respect to the tax consequences of ownership of Notes with original issue discount, including the treatment of purchasers who do not purchase in the original offering, the allowance of a deduction for any loss on a sale or other disposition, and the treatment of accrued original issue discount on such Notes under federal alternative minimum taxes.

Under the Tax Code, original issue premium is amortized on an annual basis over the term of the Note (said term being the shorter of the Note's maturity date or its call date). The amount of original issue premium amortized each year reduces the adjusted basis of the owner of the Note for purposes of determining taxable gain or loss upon disposition. The amount of original issue premium on a Note is amortized each year over the term to maturity of the Note on the basis of a constant interest rate compounded on each interest or principal payment date (with straight-line interpolations between compounding dates). Amortized Note premium is not deductible for federal income tax purposes. Owners of premium Notes, including purchasers who do not purchase in the original offering, should consult their own tax advisors with respect to State of California personal income tax and federal income tax consequences of owning such Notes.

In the further opinion of Bond Counsel, interest on the Notes is exempt from California personal income taxes.

Owners of the Notes should also be aware that the ownership or disposition of, or the accrual or receipt of interest on, the Notes may have federal or state tax consequences other than as described above. Bond Counsel expresses no opinion regarding any federal or state tax consequences arising with respect to the Notes other than as expressly described above.

A copy of the proposed form of opinion of Bond Counsel is attached hereto as APPENDIX C.

### **CONTINUING DISCLOSURE**

The City has covenanted for the benefit of the holders of the Notes to provide notices of the occurrence of certain enumerated events. The notices of enumerated events will be filed by the City with the Municipal Securities Rulemaking Board. The specific nature of the information to be contained in the notices of enumerated events is summarized under the caption “APPENDIX D – Form of Continuing Disclosure Certificate.” These covenants have been made in order to assist the purchaser of the Notes in complying with Rule 15c2- 12(b)(5) promulgated under the Securities Exchange Act of 1934, as amended (the “**Rule**”).

The City and its related governmental entities have previously entered into numerous disclosure undertakings under the Rule in connection with the issuance of long-term obligations (See “APPENDIX B – The City’s Comprehensive Annual Financial Report for the Fiscal Year Ended June 30, 2019.” Notes to Basic Financial Statements, Note 3”). In order to meet its continuing disclosure obligations, the City retained NHA Advisors, LLC as dissemination agent.

In the previous five years, the City failed to timely file a material event notice in connection with changes to the credit rating for one series of the City’s bonds. To ensure future compliance with its continuing disclosure undertakings, the City has developed procedures for including all required continuing disclosure information in the supplementary section of its audited financial statements. In addition, the City engaged NHA Advisors, LLC to review this information annually to ensure compliance with its continuing disclosure undertakings.

Neither the County nor any other entity other than the City shall have any obligation or incur any liability whatsoever with respect to the performance of the City’s duties regarding continuing disclosure.

### **ABSENCE OF MATERIAL LITIGATION**

No litigation is pending or threatened concerning the validity of the Notes, and a certificate to that effect will be furnished to the underwriter at the time of the original delivery of the Notes. The City is not aware of any litigation pending or threatened questioning the political existence of the City or contesting the City’s ability to receive ad valorem taxes or to collect other Unrestricted Moneys or contesting the City’s ability to issue and retire the Notes.

There are a number of lawsuits and claims pending against the City. The aggregate amount of the uninsured liabilities of the City, and the timing of any anticipated payments of judgments that may result from suits and claims, will not, in the opinion of the City, materially affect the finances of the City or impair its ability to repay the Notes. A certificate of the City to this effect will be available at the time of original delivery of the Notes.

## UNDERWRITING

The Notes were purchased by \_\_\_\_\_ (the “**Underwriter**”) at a price of \$ \_\_\_\_\_ (representing \$ \_\_\_\_\_ aggregate principal amount of the Notes plus a purchase premium of \$ \_\_\_\_\_, less an Underwriter’s discount of \$ \_\_\_\_\_). The purchase contract for the Notes provides that the Underwriter will purchase all of the Notes if any are purchased, the obligation to make such purchase being subject to certain terms and conditions set forth in such purchase contract, the approval of certain legal matters by counsel and certain other conditions.

The Underwriter may offer and sell Notes to certain dealers and others at prices lower than the offering price stated on the cover page hereof. The offering price may be changed from time to time by the Underwriter.

### MUNICIPAL ADVISOR

The City has retained NHA Advisors, LLC, San Rafael, California, as municipal advisor (the “**Municipal Advisor**”) in connection with the preparation of this Official Statement and with respect to the issuance of the Notes. The Municipal Advisor is not obligated to undertake, and has not undertaken to make, an independent verification or assume responsibility for the accuracy, completeness, or fairness of the information contained in this Official Statement. The Municipal Advisor is a municipal advisory firm and is not engaged in the business of underwriting, trading or distributing municipal securities or other public securities. The Municipal Advisor’s compensation is contingent upon the delivery of the Notes.

### RATING

Moody’s Investor Services Inc. has assigned a rating to the Notes as shown on the cover of this Official Statement. The City supplied certain information to the rating agency to be considered in evaluating the Notes. The rating issued reflects only the views of such rating agency, and any explanation of the significance of such rating should be obtained from the rating agency. There is no assurance that the rating will be retained for any given period of time or that the same will not be revised downward or withdrawn entirely by such rating agency if, in its judgment, circumstances so warrant. Any downward revision or withdrawal of the rating obtained may have an adverse effect on the market price of the Notes.

### ADDITIONAL INFORMATION

The purpose of this Official Statement is to supply information to purchasers of the Notes. Quotations from and summaries and explanations of the Notes and the Resolution and of statutes and documents contained herein do not purport to be complete, and reference is hereby made to the Resolution, statutes and documents for full and complete statements of their provisions. Additional information can be obtained from the City’s Director of Finance.

This Official Statement speaks only as of its date, and the information presented in this Official Statement is subject to change. Any statements in this Official Statement involving matters of opinion, whether or not expressly stated, are intended as such and not as representations of fact. This Official Statement is not to be construed as a contract or agreement among the City and any purchaser or owners of the Notes. This Official Statement and its distribution have been authorized and approved by the City Council of the City.

CITY OF BERKELEY, CALIFORNIA

By: \_\_\_\_\_  
City Manager

**APPENDIX A**

**CERTAIN INFORMATION CONCERNING THE CITY OF BERKELEY**

**Introduction**

The City of Berkeley, California (the “City”) is located in Alameda County (the “County”) on the east side of the San Francisco Bay, approximately 10 miles northeast of San Francisco. The City encompasses a total area of approximately 19 square miles and had an estimated population of 122,580, giving it the highest population density of any city in the East Bay. The University of California is a major component of the City's economy, employing more than 235,000 full and part-time workers.

The City is among the oldest in California. The City was founded in 1864, incorporated as a town in 1878, and incorporated as a city in 1909. The City's first charter was adopted in 1895.

**Population**

Population figures for the City, County and State for the last five years are shown in the following table.

**CITY OF BERKELEY  
Population Estimates  
As of January 1**

| <b>Year</b> | <b>City of Berkeley</b> | <b>County of Alameda</b> | <b>State of California</b> |
|-------------|-------------------------|--------------------------|----------------------------|
| 2016        | 120,059                 | 1,632,599                | 39,131,307                 |
| 2017        | 121,050                 | 1,646,711                | 39,398,702                 |
| 2018        | 121,752                 | 1,655,306                | 39,586,646                 |
| 2019        | 122,358                 | 1,664,783                | 39,695,376                 |
| 2020        | 122,580                 | 1,670,834                | 39,782,870                 |

*Source: State Department of Finance estimates (as of January 1).*

**City Government**

The City operates under a Council-Manager form of government. The City is governed by a nine-member City Council, eight of whom are elected by district, plus the Mayor, who is elected on a city-wide basis. The Mayor and the City Council members serve four-year terms. The Council appoints a City Manager who is responsible for daily administration of City affairs and preparation and submission of the annual budget under the direction of the Mayor and the City Council for the Mayor's submission to the City Council. The City Manager appoints a Director of Finance to supervise the City's financial affairs. The Director of Finance also serves as the City's Treasurer.

The City Attorney, City Clerk and Director of Finance are appointed by the City Manager subject to City Council approval. The City Auditor is elected at the same time as the Mayor.



The City Council members are shown in the below table:

| <u>Member</u>   | <u>District</u> | <u>Term Expires</u> |
|-----------------|-----------------|---------------------|
| Jesse Arreguín  | Mayor           | 11/30/2020          |
| Rashi Kesarwani | 1               | 11/30/2022          |
| Cheryl Davila   | 2               | 11/30/2020          |
| Ben Bartlett    | 3               | 11/30/2020          |
| Kate Harrison   | 4               | 11/30/2022          |
| Sophie Hahn     | 5               | 11/30/2020          |
| Susan Wengraf   | 6               | 11/30/2020          |
| Rigel Robinson  | 7               | 11/30/2022          |
| Lori Droste     | 8               | 11/30/2022          |

**Possible Impacts of COVID-19**

As described in this Official Statement, the short-term and long-term impact of COVID-19 on the City’s finances cannot be predicted. The Notes described in this Official Statement are by statute general obligations of the City, payable solely from taxes, income, revenues, cash receipts and other moneys that are received by the City for the General Fund for fiscal year 2020-21 and that are generally available for the payment of current expenses and other obligations of the City (the “**Unrestricted Moneys**”). The Notes are secured by a pledge of Unrestricted Moneys to be received by the City in (a) an amount equal to fifty percent (50%) of the principal amount of the Notes in the month of January 2021; (b) an amount equal to fifty percent (50%) of the principal amount of the Notes in the month of May 2021; and (c) an amount sufficient to pay interest as due on the Notes at their maturity, in the month of June 2021. See “SECURITY FOR AND SOURCES OF PAYMENT OF THE NOTES – COVID-19 Global Pandemic.”

**Accounting Policies and Financial Reporting**

The accounts of the City are organized on the basis of funds and account groups, to account for different activities. The operations of each fund are accounted for with a separate set of self-balancing accounts that comprise its assets, liabilities, fund equity, revenues, and expenditures or expenses, as appropriate. Government resources are allocated to and accounted for in individual funds based upon the purposes for which they are to be spent and the means by which the spending activities are controlled. The City’s general fund and other governmental fund types use the modified accrual basis of accounting. All of the City’s other funds, including proprietary fund types and fiduciary fund types use the accrual basis of accounting. The basis of accounting for all funds is more fully explained in the “Notes to the Financial Statements” contained in Appendix B.

The City Council employs, at the beginning of each fiscal year, an independent certified public accountant who, at such time or times as specified by the City Council, at least annually, and at such other times as he or she shall determine, examines the combined financial statements of the City in accordance with generally accepted auditing standards, including such tests of the accounting records and such other auditing procedures as such accountant considers necessary. As soon as practicable after the end of the fiscal year, a final audit and report is submitted by such accountant to the City Council and a copy of the financial statements as of the close of the fiscal year is published.

The City, all its funds and the funds of certain other component entities of the City are audited annually by a certified public accounting firm. The firm of Badawi and Associates, Certified

Public Accounts, Oakland, California, is the City's current auditor (the "**Auditor**"). The comprehensive annual financial report of the City for fiscal year 2018-19 is attached hereto as APPENDIX B. *The City's financial statements are public documents and are included within this Official Statement without the prior approval of the Auditor.*

The Governmental Accounting Standards Board ("**GASB**") published its Statement No. 34 "Basic Financial Statements – and Management's Discussion and Analysis – for State and Local Governments" on June 30, 1999. Statement No. 34 provides guidelines to auditors, state and local governments and special purpose governments such as school districts and public utilities, on new requirements for financial reporting for all governmental agencies in the United States. Generally, the basic financial statements and required supplementary information should include (i) Management's Discussion and Analysis; (ii) government-wide financial statements prepared using the economic measurement focus and the accrual basis of accounting and fund financial statements prepared using both the current financial resources measurement focus and the modified accrual method of accounting (governmental funds) and funds using the economic measurement focus and the accrual basis of accounting (proprietary funds) and (iii) required supplementary information. The City's financial statements are prepared in conformance with the requirements of Statement No. 34.

### **Comparative Financial Statements**

The following tables provide a recent history of the City's Comparative Balance Sheet, and a recent history of General Fund revenues, expenditures, transfers, and ending fund balances.

**CITY OF BERKELEY  
GENERAL FUND BALANCE SHEET  
(Fiscal Year Ending June 30)  
(Dollar amounts in thousands)**

|                                                  | Actual<br><u>2015-16</u> | Actual<br><u>2016-17</u> | Actual<br><u>2017-18</u> | Actual<br><u>2018-19</u> |
|--------------------------------------------------|--------------------------|--------------------------|--------------------------|--------------------------|
| <b>ASSETS:</b>                                   |                          |                          |                          |                          |
| Cash and investments in treasury*                | \$82,615                 | \$82,891                 | \$108,058                | \$107,360                |
| Receivables (net of allowance where applicable): |                          |                          |                          |                          |
| Accounts                                         | 7,072                    | 8,777                    | 6,951                    | 4,980                    |
| Interest                                         | 534                      | 526                      | 763                      | 778                      |
| Taxes                                            | 9,421                    | 8,109                    | 8,623                    | 9,953                    |
| Subventions/grants                               | --                       | --                       | 180                      | 450                      |
| Due from other funds                             | 2,920                    | 3,752                    | 6,659                    | 6,973                    |
| Notes receivable                                 | 3,595                    | 4,255                    | 3,755                    | 3,697                    |
| Other                                            | 353                      | 5                        | 5                        | 320                      |
| Prepaid Items                                    | --                       | 75                       | 142                      | --                       |
| Total assets                                     | <u>106,512</u>           | <u>108,390</u>           | <u>135,136</u>           | <u>134,512</u>           |
| <b>LIABILITIES:</b>                              |                          |                          |                          |                          |
| Accounts payable                                 | 1,768                    | 4,344                    | 3,610                    | 6,736                    |
| Accrued salaries and wages                       | 4,502                    | 5,169                    | 5,473                    | 5,989                    |
| Advances from other funds                        |                          | 6,683                    | 6,287                    | 4,059                    |
| Deposits held                                    | 840                      | 905                      | 974                      | 781                      |
| Unearned revenue                                 | --                       | --                       | --                       | --                       |
| Tax and revenue anticipation notes               | 24,995                   | 17,000                   | 25,550                   | 14,000                   |
| Other liabilities                                | 3,706                    | 2,923                    | 3,755                    | 3,899                    |
| Total liabilities                                | <u>35,811</u>            | <u>37,024</u>            | <u>45,649</u>            | <u>35,463</u>            |
| Deferred Inflows of Resources                    | 5,676                    | 7,707                    | 5,601                    | 5,813                    |
| <b>FUND BALANCES</b>                             |                          |                          |                          |                          |
| Reserved for:                                    |                          |                          |                          |                          |
| Encumbrances/Assigned to                         | 3,686                    | 3,015                    | 33,373                   | 42,667                   |
| Notes receivable/Nonspendable                    | 3,595                    | 4,330                    | 3,898                    | 3,697                    |
| Unreserved/Unassigned, report in:                |                          |                          |                          |                          |
| General fund                                     | 57,743                   | 56,313                   | 46,614                   | 46,872                   |
| Total fund balances                              | <u>65,025</u>            | <u>63,658</u>            | <u>83,885</u>            | <u>92,236</u>            |
| Total liabilities and fund balances              | <u>\$106,512</u>         | <u>\$108,390</u>         | <u>\$135,136</u>         | <u>\$135,512</u>         |

\* Cash and investments in treasury includes restricted cash and investments.  
Source: City of Berkeley, Comprehensive Annual Financial Reports.

**CITY OF BERKELEY  
STATEMENT OF GENERAL FUND  
REVENUES, EXPENDITURES, TRANSFERS AND BALANCES  
(Fiscal Year Ending June 30)  
(Dollar amounts in thousands)**

|                                           | Actual<br><u>2015-16</u> | Actual<br><u>2016-17</u> | Actual<br><u>2017-18</u> | Actual<br><u>2018-19</u> |
|-------------------------------------------|--------------------------|--------------------------|--------------------------|--------------------------|
| REVENUES:                                 |                          |                          |                          |                          |
| Taxes                                     | \$133,249                | \$137,277                | \$161,666                | \$173,216                |
| Licenses and Permits                      | 323                      | 556                      | 834                      | 1,405                    |
| Subvention and Grants/Intergovernmental   | 11,208                   | 11,509                   | 1,129                    | 1,868                    |
| Service Fees                              | 9,528                    | 9,140                    | 9,862                    | 8,433                    |
| Fines and Forfeitures                     | 6,371                    | 6,370                    | 6,933                    | 5,443                    |
| Rents                                     | 215                      | 160                      | 284                      | 289                      |
| Franchises                                | 1,673                    | 2,247                    | 1,990                    | 1,800                    |
| Interest                                  | 2,784                    | 1,383                    | 2,416                    | 6,915                    |
| Other                                     | 48                       | 1,750                    | 237                      | 1,722                    |
| TOTAL REVENUES                            | <u>165,400</u>           | <u>170,393</u>           | <u>185,351</u>           | <u>201,090</u>           |
| EXPENDITURES:                             |                          |                          |                          |                          |
| General Government                        | 28,244                   | 37,871                   | 30,143                   | 27,410                   |
| Public Safety                             | 89,076                   | 94,093                   | 95,503                   | 103,084                  |
| Highways and Streets                      | 1,337                    | 1,638                    | 1,900                    | 2,904                    |
| Health and Human Services                 | 7,354                    | 9,676                    | 9,725                    | 13,319                   |
| Culture-Recreation                        | 5,848                    | 6,086                    | 5,476                    | 5,943                    |
| Community Development                     | 6,057                    | 6,477                    | 7,153                    | 8,264                    |
| Economic Development                      | 2,325                    | 2,332                    | 2,576                    | 2,845                    |
| Debt Service                              | 372                      | 166                      | 252                      | 270                      |
| TOTAL EXPENDITURES                        | <u>140,613</u>           | <u>158,338</u>           | <u>152,728</u>           | <u>164,040</u>           |
| Excess Revenues Over (Under) Expenditures | 24,788                   | 12,055                   | 32,623                   | 37,050                   |
| Transfers In(out)/Other                   | (13,052)                 | (13,421)                 | (12,396)                 | (27,699)                 |
| Net Change in Fund Balance                | 11,735                   | (1,366)                  | 20,227                   | 9,351                    |
| Fund Balance, July 1                      | 53,289                   | 65,025                   | 63,658                   | 83,885                   |
| Prior Period Adjustment                   | --                       |                          |                          |                          |
| Fund Balance, June 30*                    | <u>\$65,025</u>          | <u>\$63,658</u>          | <u>\$83,885</u>          | <u>\$93,236</u>          |

\* Totals may not add due to rounding.

Source: City of Berkeley Comprehensive Annual Financial Reports

## General Fund Budget

**Budgetary Process and Administration.** The City employs a two-year budget process. In year one of the biennial budget cycle, the City Council formally adopts authorized appropriations for the first fiscal year and approves “planned” appropriations for the second fiscal year. In year two, the City Council considers revisions and formally adopts authorized appropriations for the second fiscal year. Although the budget cycle covers a two-year period, the City Charter requires that the City Council adopt an annual appropriations ordinance for each budget year.

From about January to May of each year, the City Council meets in public to discuss policies and priorities for the upcoming budget. The City Manager prepares a proposed budget

based on input from department heads, and presents this to the City Council by the first Monday in May of a budget year or as fixed by the City Council. The City also maintains additional budgetary controls to ensure compliance with the annual appropriated budget. The City Manager is authorized to transfer budgeted amounts within funds as deemed necessary to meet the City's needs; however, revisions that alter the total budget or move amounts from one fund to another must be approved by the City Council.

Revenues and expenditures relating to the City's general governmental operations are budgeted and accounted for in the City's general fund, including public safety, highways and streets, health, housing and human services, culture and recreation, community development and economic development. General taxes and fees support most of these activities. The "business" or proprietary activities of the City are accounted for in each of eight enterprise funds, which include those established for Refuse Collection, Marina Operations, Sanitary Sewers, Clean Storm Water, Permit Service Center, Off-Street Parking, Parking Meter, and Building Purchases & Management. These activities are intended to be completely or largely self-supporting through user fees and charges.

**Projected General Fund Revenues.** Presented in the table below is a 5-year revenue projection of the City, as of the date of this Official Statement. The following estimates are based on the most current and reliable information in the City's possession at this time. The City is unable to predict the total impact that COVID-19 may have on the City's finances or operations. As the longer-term impacts of COVID-19 on the local economy becomes more apparent, the City's predictions about the effects on City revenues will continue to evolve. The City notes that, in this unprecedented time, the national economy shrank by 4.8% in the first calendar quarter of 2020, and that the second quarter is expected to be much worse.

**CITY OF BERKELEY  
PROJECTED GENERAL FUND REVENUES  
(Fiscal Year Ending June 30)**

|                                           | 2019-20              | 2020-21              | 2021-22              | 2022-23              | 2023-24              |
|-------------------------------------------|----------------------|----------------------|----------------------|----------------------|----------------------|
| <b>UNDESIGNATED REVENUES:</b>             |                      |                      |                      |                      |                      |
| Secured Property Taxes                    | \$56,835,096         | \$58,875,839         | \$60,053,356         | \$61,254,423         | \$62,479,511         |
| Supplemental Taxes                        | 1,281,625            | 1,260,000            | 1,285,200            | 1,310,904            | 1,337,122            |
| Unsecured Property Taxes                  | 3,189,177            | 2,250,000            | 2,295,000            | 2,340,900            | 2,387,718            |
| Property Transfer Taxes                   | 17,404,620           | 12,500,000           | 12,500,000           | 12,500,000           | 12,500,000           |
| Property Transfer Tax-Measure P           | 7,929,885            | 4,747,414            | 3,000,000            | 3,060,000            | 3,121,200            |
| Sales Taxes                               | 15,502,300           | 15,786,200           | 16,101,924           | 16,423,962           | 16,752,442           |
| Soda Tax                                  | 1,329,377            | 970,794              | 1,401,278            | 1,373,252            | 1,345,787            |
| Utility Users Taxes                       | 13,672,814           | 12,750,000           | 13,005,000           | 13,265,100           | 13,530,402           |
| Transient Occupancy Taxes (TOT)           | 6,000,000            | 5,070,000            | 4,968,600            | 5,067,600            | 5,169,331            |
| Short-term Rentals                        | 1,321,581            | 676,260              | 662,735              | 675,989              | 689,509              |
| Business License Taxes                    | 17,727,782           | 12,984,192           | 13,243,876           | 13,508,753           | 13,778,928           |
| Recreational Cannabis                     | 1,563,366            | 1,300,000            | 1,326,000            | 1,352,520            | 1,379,570            |
| Measure U1                                | 3,600,000            | 2,700,000            | 2,754,000            | 2,809,080            | 2,865,262            |
| Other Taxes                               | 1,885,464            | 1,456,560            | 1,427,429            | 1,398,880            | 1,370,903            |
| Vehicle in Lieu Taxes                     | 12,000,000           | 12,421,597           | 12,670,029           | 12,923,429           | 13,181,898           |
| Parking Fines-Regular Collections         | 4,080,123            | 5,049,000            | 4,948,020            | 4,849,060            | 4,752,078            |
| Parking Fines-Booting Collections         | 8,685                | --                   | 90,000               | 100,000              | 102,000              |
| Moving Violations                         | 149,210              | 190,000              | 170,000              | 173,400              | 176,868              |
| Ambulance Fees                            | 4,971,889            | 5,103,208            | 4,200,000            | 4,200,000            | 4,200,000            |
| Interest Income                           | 4,669,116            | 2,800,000            | 2,600,000            | 2,500,000            | 2,500,000            |
| Franchise Fees                            | 1,779,320            | 1,551,696            | 1,520,662            | 1,490,249            | 1,460,444            |
| Other Revenues                            | 7,091,941            | 7,027,993            | 6,676,593            | 6,476,295            | 6,346,769            |
| Indirect cost reimbursements              | 5,583,934            | 5,490,000            | 5,200,000            | 5,304,000            | 5,410,080            |
| Transfers                                 | 4,819,367            | 4,106,408            | 4,188,536            | 4,272,306            | 4,357,752            |
| <b>Total Undesignated Revenues</b>        | <b>194,397,116</b>   | <b>177,067,160</b>   | <b>176,288,237</b>   | <b>178,630,476</b>   | <b>181,195,576</b>   |
| <b>DESIGNATED REVENUES:</b>               |                      |                      |                      |                      |                      |
| Property Transfer Tax for Cap.Improvement | 4,500,000            | 3,928,465            | 3,000,000            | 3,060,000            | 3,121,200            |
| <b>Total Undesignated Revenues</b>        |                      |                      |                      |                      |                      |
| <b>Total Revenues and Transfers</b>       | <b>\$198,897,116</b> | <b>\$180,995,625</b> | <b>\$179,288,237</b> | <b>\$181,690,476</b> | <b>\$184,316,776</b> |

## Ad Valorem Property Taxes

**Tax Levies and Collections.** Property taxes accounted for approximately 34% of the City's general fund revenues for fiscal year 2018-19. The City has decreased its previously expected property tax revenue by approximately 6.5% in fiscal years 2019-20 and 2020-21 to account for anticipated additional uncollectable amounts due from property owners due to COVID-19. Considering the extended impact of the COVID-19 crisis on overall economic growth, and the expected slow pace of the subsequent recovery, the City has also lowered its forecasted increases in property tax revenue for fiscal year 2022-23 from 3.5% per year to 2.0%, calculated from the lowered expected fiscal year 2019-20 baseline.

Taxes are levied for each fiscal year on taxable real and personal property that is situated in the City as of the preceding January 1. A supplemental roll is developed when property changes hands, which produces additional revenue.

A ten percent penalty attaches to any delinquent payment for secured roll taxes. In addition, property on the secured roll with respect to which taxes are delinquent becomes tax-defaulted. Such property may thereafter be redeemed by payment of the delinquent taxes and the delinquency penalty, plus a redemption penalty to the time of redemption. If taxes are unpaid for a period of five years or more, the property is subject to auction sale by the County Tax Collector.

In the case of unsecured property taxes, a 10% penalty attaches to delinquent taxes on property on the unsecured roll, and an additional penalty of 1.5% per month begins to accrue beginning November 1 of the fiscal year, and a lien is recorded against the assessee. The taxing authority has four ways of collecting unsecured personal property taxes: (1) a civil action against the taxpayer; (2) filing a certificate in the office of the County Clerk specifying certain facts in order to obtain a judgment lien on specific property of the taxpayer; (3) filing a certificate of delinquency for recording in the County Recorder's office in order to obtain a lien on specified property of the taxpayer; and (4) seizure and sale of personal property, improvements or possessory interests belonging or assessed to the assessee.

In an attempt to mitigate the effects of the COVID-19 pandemic on State property taxpayers, on May 6, 2020, the Governor signed Executive Order N-61-20 ("**Order N-61-20**"). Under Order N-61-20, certain provisions of the State Revenue and Taxation Code are suspended until May 6, 2021 to the extent said provisions require a tax collector to impose penalties, costs or interest for the failure to pay secured or unsecured property taxes, or to pay a supplemental bill, before the date that such taxes become delinquent. Said penalties, costs and interest shall be cancelled under the conditions provided for in Order N-61-20, including if the property is residential real property occupied by the taxpayer or the real property qualifies as a small business under certain State laws, the taxes were not delinquent prior to March 4, 2020, the taxpayer files a claim for relief with the tax collector, and the taxpayer demonstrates economic hardship or other circumstances that have arisen due to the COVID-19 pandemic or due to a local, state, or federal governmental response to COVID-19.

The County levies (except for levies to support prior voter-approved indebtedness) and collects all property taxes for property falling within that county's taxing boundaries.

See Table 1 of the forepart of this Official Statement for a table summarizing the historical and current assessed valuation of the taxable property in the City.

The City does not participate in the Teeter Plan. See Table 4 of the forepart of this Official Statement for a history of secured tax charges and delinquencies within the City during the past 10 years.

### Other General Fund Revenues and Transfers

In addition to property taxes, the City has several other major tax and fee revenue sources, as described below. The City currently expects all revenue sources to be negatively impacted by the impacts of COVID-19, though specific information regarding current projections is detailed below only with respect to sales and use taxes, utility users taxes and business license taxes.

**Sales and Use Tax.** The sales tax is an excise tax imposed on retailers for the privilege of selling or leasing tangible personal property. The use tax is an excise tax imposed for the storage, use, or other consumption of tangible personal property purchased from any retailer. The total sales tax rate within the City is currently 9.25%. The proceeds of sales and uses taxes imposed within the City are distributed by the State to various agencies, with the City receiving 1.0% of the amount collected.

Collection of the sales and use tax is administered by the California Department of Tax and Fee Administration (the “**CDTFA**”). This process was formerly administered by the State Board of Equalization. The Taxpayer Transparency and Fairness Act of 2017, which took effect July 1, 2017, restructured the State Board of Equalization and separated its functions among three separate entities: the State Board of Equalization, the CDTFA and the Office of Tax Appeals. The State Board of Equalization will continue to perform the duties assigned to it by the state Constitution, while all other duties will be transferred to the newly established CDTFA and the Office of Tax Appeals. CDTFA will handle most of the taxes and fees previously collected by the State Board of Equalization, including sales and use tax. According to the CDTFA, it distributes quarterly tax revenues to local jurisdictions (like the City) using the following method:

Using the prior year’s like quarterly tax allocation as a starting point, the CDTFA first eliminates nonrecurring transactions such as fund transfers, audit payments and refunds, and then adjusts for growth, in order to establish the estimated base amount. The CDTFA disburses 90% of the base amount to each local jurisdiction in three monthly installments (advances) prior to the final computation of the quarter’s actual receipts. Ten percent is withheld as a reserve against unexpected occurrences that can affect tax collections (such as earthquakes, fire or other natural disaster) or distributions of revenue such as unusually large refunds or negative fund transfers. The first and second advances each represent 30% of the 90% distribution, while the third advance represents the remaining 40%. One advance payment is made each month, and the quarterly reconciliation payment (clean-up) is distributed in conjunction with the first advance for the subsequent quarter. Statements showing total collections, administrative costs, prior advances and the current advance are provided with each quarterly clean-up payment.

The CDTFA receives an administrative fee based on the cost of services provided by the Board to the City in administering the City’s sales tax, which is deducted from revenue generated by the sales and use tax before it is distributed to the City.

Total taxable sales in the City during fiscal year 2018-19 were reported to be \$1.814 billion, a slight increase over the total taxable sales of \$1.8 billion reported during fiscal year 2017-18. Due to the effects of COVID-19, the City currently projects that sales tax revenue will be down 15% in the current and next fiscal year, based on estimates of activity in the City’s business



categories, and due to closures affecting retail sales and the potential impact of a deferral program currently being considered by the CDTFA).

**CITY OF BERKELEY  
TAXABLE TRANSACTIONS  
(Figures in Thousands)**

|                                  | 2014                      | 2015                      | 2016                      | 2017                      | 2018                    |
|----------------------------------|---------------------------|---------------------------|---------------------------|---------------------------|-------------------------|
| Retail and Food Services:        |                           |                           |                           |                           |                         |
| Apparel Stores                   | \$59,369                  | \$57,048                  | \$55,449                  | \$52,645                  | \$52,991                |
| Gen. Merchandise Stores          | 12,292                    | 15,165                    | 15,610                    | 17,178                    | 20,782                  |
| Food Stores                      | 123,572                   | 133,916                   | 145,462                   | 150,894                   | 149,662                 |
| Eating and Drinking Places       | 323,125                   | 347,926                   | 364,417                   | 371,299                   | 374,792                 |
| Home Furnishings and Appliances  | 74,682                    | 74,514                    | 71,927                    | 72,358                    | 69,746                  |
| Bldg. Materials, Farm Implements | 90,104                    | 98,958                    | 100,899                   | 107,333                   | 109,052                 |
| Auto Dealers, Auto Supplies      | 126,527                   | 125,716                   | 115,808                   | 117,513                   | 119,883                 |
| Gas/Service Stations             | 94,630                    | 83,285                    | 75,720                    | 84,041                    | 93,694                  |
| Other Retail Stores              | 248,626                   | 255,133                   | 251,324                   | 243,881                   | 262,209                 |
| Total Retail and Food Services   | 1,152,938                 | 1,191,661                 | 1,196,618                 | 1,217,142                 | 1,252,813               |
| All Other Outlets                | 394,169                   | 413,156                   | 431,614                   | 364,736                   | 361,292                 |
| <b>TOTAL ALL OUTLETS</b>         | <b><u>\$1,547,107</u></b> | <b><u>\$1,604,817</u></b> | <b><u>\$1,628,232</u></b> | <b><u>\$1,581,878</u></b> | <b><u>1,614,105</u></b> |

Source: State Department of Tax and Fee Administration.

Factors that have historically affected sales tax revenues include the overall economic growth of the Bay Area, competition from neighboring cities, the growth of specific industries within the City, the City's business attraction and retention efforts, and catalog and Internet sales.

**Utility Users Tax.** The City imposes a 7.5% tax on users of gas, electricity and telephone, as well as cellular telephone services for billing addresses within the City. The tax is not applicable to State, County, or City agencies, or to insurance companies and banks. Some of the factors affecting this revenue stream include consumer demand for these utilities, legislative and regulatory action, rate changes, and the evolution of technology. Approximately 70% of the utility users tax revenue is generated from utility usage by commercial and industrial customers, and the City is currently projecting a 50% decline in this category for the duration of fiscal year 2019-20, due to mandated closures of businesses due to COVID-19, which amounts to a 9% annualized reduction in overall utility users tax revenue.

**Business License Tax.** The City requires all businesses within the City to be licensed and imposes a business license tax on all business locations and a new license registration fee on applicants for a new license. The annual tax is generally determined based on the type of business and the business's gross receipts. The tax rate varies between \$0.60 per \$1,000 gross receipts for grocers, on the low end, and \$50.00 per \$1,000 gross receipts for adult cannabis sales on the high end. Most types of businesses are required to pay a minimum tax of at least \$51 per year. The overall revenue from this tax is dependent on the number of license renewals each year and the growth of businesses and industries within the City and the Bay Area more generally. During fiscal year 2018-19, business license taxes increased by 7.4% from fiscal year 2017-18, primarily due to a business license taxes on recreational cannabis, which was a new tax in fiscal year 2018-19.

The City is currently projecting a 9% reduction from previous estimates for fiscal year 2019-20. However, the City notes that mandated closures will significantly impact future revenues, and projects an additional 35% reduction for fiscal year 2020-21.

**Property Transfer Tax.** The City's transfer tax rate is 1.5% for properties with a consideration up to \$1.5 million and 2.5% for transferred properties with a consideration over \$1.5 million. The \$1.5 million threshold will be adjusted annually to capture approximately the top 33% of such transfers based on transfers that occurred in the 12 months preceding September 1 of the preceding year. However, the threshold cannot be reduced below \$1.5 million, meaning that the tax on properties transferred for \$1.5 million or less would remain at 1.5%, notwithstanding any adjustment. The tax is due when the transfer is recorded with the County. Title companies collect the tax as part of the sale closing process and remit the funds to the County when sales or transfers are finalized. The County remits the amounts due monthly, and the amounts are credited to the general fund. A buyer of residential housing built before 1989 may voluntarily choose to reserve up to one-third of the transfer tax to perform seismic upgrades. Buyers typically have up to one year to complete the work and file for a rebate. Previously the title companies held the reserved amount in escrow until the work was completed, but since May 2007, the City has held the money in escrow accounts, with the interest going to the City.

Prior to fiscal year 2017-18, it was the City Council's policy that property transfer tax in excess of \$10.5 million is treated as one-time revenue to be transferred to the Capital Improvement Fund for capital infrastructure needs; that amount was increased to \$12.5 million in fiscal year 2017-18.

For fiscal year 2018-19, property transfer tax revenue increased by 5.3% from fiscal year 2017-18, due primarily to an increase in the average property sales prices.

**Parking Fines.** The City issues and adjudicates citations and civil penalties for parking violations through its own administrative structure. It has a great degree of control over the administration of parking fines, although issuing agencies within the County try to standardize parking penalties to the extent possible. Revenue from parking fines is affected by the penalties imposed for violations, the number of employees issuing tickets, how many tickets employees are able to issue, and the number of working parking meters, among other factors. Currently, the City must remit an additional \$12.50 per citation to the State/County for State and County construction funds, Maddy emergency medical fund, and DNA identification fund.

**Vehicle in Lieu Fees.** Vehicle license fees ("VLF") imposed for the operation of vehicles on state highways are collected by the State Department of Motor Vehicles in lieu of personal property taxes on vehicles. In connection with the offset of the VLF, the State Legislature authorized appropriations from the State General Fund to "backfill" the offset so that local governments, which receive all of the vehicle license fee revenues, would not experience any loss of revenues. The legislation that established the VLF offset program also provided that if there were insufficient State General Fund moneys to fully "backfill" the VLF offset, the percentage offset would be reduced proportionately (i.e., the license fee payable by drivers would be increased) to assure that local governments would not be underfunded.

As part of the 2004 Budget Act negotiations, an agreement was made between the State and local government officials under which the VLF rate was permanently reduced from 2% to 0.65%. In order to protect local governments, the reduction in VLF revenue to cities and counties from this rate change was replaced by an increase in the amount of property tax they receive. Commencing in fiscal year 2004-05, local governments began to receive their full share of

replacement property taxes, and those replacement property taxes now enjoy constitutional protection against certain transfers by the State because of the approval of Proposition 1A at the November 2004 election.

As a part of its fiscal year 2009-10 budget, California increased the vehicle license fee from 0.65% to 1.15% for registration fees due on or after the May 19, 2009 special election. This provision expired on July 1, 2011. On July 1, 2011, vehicle license fees returned to 0.65%, and the City is unaware of any current State legislative efforts likely to increase these in fees in the future.

For fiscal year 2018-19, VLF revenue totaled \$12,540,784, which is \$717,867 or 6.1% more than the \$11,822,917 received in fiscal year 2017-18 and is consistent with the 6.93% increase in assessed values for fiscal year 2018-19. The amount of \$12,540,784 received in fiscal year 2018-19 was \$159,656 more than the adopted budget amount of \$12,381,128.

**Other Revenues.** The City also collects additional general fund revenues from franchise fees, transient occupancy taxes, ambulance fees, a tax on sugar-sweetened beverages, and other more minor sources. Under the City's cable and electric and gas franchise fee arrangements, the local cable provider pays an annual franchise fee of 5% of gross revenues, and the electricity and gas providers pay the greater of 2% of gross receipts attributable to miles of line operated or 0.5% of gross receipts. The transient occupancy tax, also known as the hotel tax, is a 12% tax on the room charge for rental of transient lodging; it is paid by the hotel guest, the receipt of which is projected to be significantly reduced in fiscal year 2019-20 and future fiscal years due to restrictions on travel and events due to COVID-19. The City also has an agreement with the County to be the exclusive provider of all emergency ground ambulance services within the City; the specific ambulance fee depends on the type of service delivered and is billed to clients or their insurance companies. Finally, other more minor revenue sources include payments for moving violations, interest on existing funds, and other service fees.

### **General Fund Reserves**

On December 13, 2016, the City Council established a General Fund reserve policy (the "**Policy**"), to prepare for the impact of economic cycles and catastrophic events. The Reserve Policy was enacted to ensure that fluctuations in revenue do not impede the City's ability to meet expenditure obligations. When revenues fail to meet the City's operating requirements, or the need for disbursements exceeds receipts, General Fund reserves, upon a majority vote of the City Council, may be used in accordance with the standards set forth in the Policy. The Reserve Policy provides that the General Fund reserve shall be comprised of two elements: a Stability Reserve and a Catastrophic Reserve:

The Stability Reserve is maintained to mitigate loss of service delivery and financial risks associated with unexpected revenue shortfalls during a single fiscal year or during a prolonged recessionary period. The purpose of the Stability Reserve is to provide fiscal stability in response to unexpected downturns or revenue shortfalls, and not to serve as a funding source for new programs or projects. During fiscal year 2018-19, \$5,600,000 was contributed to the Stability Reserve, and the balance at June 30, 2019 was \$20,022,922.

The Catastrophic Reserve is maintained to sustain General Fund operations in the event of a natural disaster or other catastrophic event. The Catastrophic Reserve may be used to respond to extreme, one-time events, such as earthquakes, fires, floods, civil unrest, or terrorist attacks. The Catastrophic Reserve may not be accessed to meet operational shortfalls or to fund

new programs or projects. During fiscal year 2018-19, \$4,580,000 was contributed to the Catastrophic Reserve, and the balance at June 30, 2019 was \$16,622,481.

The Reserve is accounted for in the Unassigned fund balance of the City's balance sheet.

**Target Reserve Levels.** Fifty-five percent of the Reserve is allocated to the Stability Reserve and 45% to the Catastrophic Reserve.

The short-term goal for the Reserve was a minimum of 13.8% of 2016-17 adopted General Fund revenues; the intermediate goal for the Reserve is a minimum of 16.7% of adopted General Fund revenues by the end of fiscal year 2019-20 (the "**Intermediate Goal**"); the long-term goal for the Reserve is a minimum of 20% of the adopted General Fund revenues, to be achieved within no more than 10 years of the adopted of the General Fund Reserve Policy ("**Long-Term Goal**"). Based on a risk assessment (according to best practices), to be updated at least every five years, the City Council may consider increasing or lowering the Reserve level. The City believes that it is on track to meet the Intermediate and Long-Term Goals as long as the revenue projections are achieved. As of June 30, 2019, the Stability Reserve balance was \$20.0 million and the Catastrophic Reserve balance was \$16.6 million.

**Replenishment of the General Fund Reserve.** The City Manager will recommend a replenishment schedule for all monies proposed for appropriation from the Reserve. The replenishment schedule will be adopted simultaneous with the appropriation to withdraw Reserve funds or, if infeasible due to emergency circumstances, no more than three months from the date of the withdrawal appropriation. Repayment shall begin no more than five years from the date of withdrawal and be completed within 10 years from the date of withdrawal.

While staff envisions that, in most cases, repayment will start as soon as possible, the repayment guidelines are meant to reflect a commitment to maintain a sufficient Reserve, while also recognizing that a use of Reserve amounts may occur during an economic downturn and it may be necessary to postpone repayment while the economy improves.

### **State Budget and its Impact on the City**

**Fiscal Year 2020-21 State Budget.** Information about the fiscal year 2020-21 State budget and other State budgets is available at [www.ebudget.ca.gov](http://www.ebudget.ca.gov). An impartial analysis of the budget is posted by the Legislative Analyst Office at [www.lao.ca.gov](http://www.lao.ca.gov). In addition, various State official statements, many of which contain a summary of the current and past State budgets, may be found at the website of the State Treasurer, [www.treasurer.ca.gov](http://www.treasurer.ca.gov). *The information referred to in this paragraph is prepared by the respective State agency maintaining each website and not by the City or Underwriter, and the City and Underwriter take no responsibility for the continued accuracy of the Internet addresses or for the accuracy or timeliness of information posted there, and such information is not incorporated in this Official Statement by these references.*

**Impacts of COVID-19.** The 2020-21 State budget was prepared prior to the COVID-19 outbreak, and the projections included therein did not account for any of the negative economic impacts to date associated with the outbreak, nor any potential impacts yet to be realized. The May revision to the Proposed 2020-21 Budget, and the final budget approved by the Legislature, could reflect significantly lower projections of State revenues and/or higher projections of State expenditures.

On March 24, 2020, the California Department of Finance (the “DOF”) released Budget Letter 20-08 which states that the DOF anticipates a severe drop in economic activity in California as a result of the COVID-19 pandemic, which could negatively impact anticipated revenue levels in fiscal year 2019-20 and will certainly produce impacts on the 2020-21 Proposed State Budget.

On May 7, 2020, the DOF released a fiscal update, indicating that the State is facing a \$54 billion budget deficit. Job losses and business closures are predicted to sharply reduce State revenues. The State’s three main general fund revenue sources, personal income taxes, sales and use taxes and corporate taxes, are projected to drop for the 2020-21 fiscal year by 22.5%, 27.2% and 22.7%, respectively. The revenue declines, combined with the increased costs of supporting health and human service programs, results in the \$54.3 billion deficit, of which \$13.4 billion occurs in the current fiscal year, and \$40.9 billion occurs in the 2020-21 budget year. The DOF notes that the overall deficit is equal to nearly 37% of State general fund spending authorized in the Budget Act for fiscal year 2019-20.

***Dissolution of Redevelopment Agencies.*** State legislation enacted as part of the 2011 Budget Act, and upheld by the California Supreme Court, resulted in the formal dissolution of redevelopment agencies, including the Berkeley Redevelopment Agency (the “**Former Redevelopment Agency**”), effective as of February 1, 2012. The impact on the City’s General Fund of the dissolution of the Former Redevelopment Agency is minimal because the City is in the process of winding down its redevelopment program, and the funding the City received from the Former Redevelopment Agency prior to its dissolution only supported 1.5 full-time employees.

## **Retirement Programs**

***PERS Plan Description.*** The City contributes to three plans in California Public Employees’ Retirement System (“**PERS**”). The first plan covers all of the City’s full-time and part-time benefited sworn uniformed fire employees and all chiefs (and is referred to as the Safety Fire Plan in this Official Statement). The second covers all of the City’s full-time and part-time benefited sworn uniformed police employees and all chiefs (and is referred to as the Safety Police Plan in this Official Statement). The third plan covers all remaining eligible City employees (and is referred to as the Miscellaneous Plan in this Official Statement). These plans are agent multiple-employer defined benefit pension plans administered by PERS, which acts as a common investment and administrative agent for participating public employers within the State of California.

***PERS Plan Eligibility.*** For a more detailed discussion of the eligibility requirements for the City’s PERS retirement plans, see Note 12.A. of APPENDIX B to this Official Statement.

**PERS Plan Contributions.** The City is required to contribute the actuarially determined remaining amounts necessary to fund the benefits for its members. The actuarial methods and assumptions used are those adopted by the PERS Board of Administration (the “**Board of Administration**”). The required employer contribution rates of annual covered payroll for Miscellaneous Plan, Safety Fire Plan and Safety Police Plan employees for fiscal years 2017-18 through 2020-21 are shown below:

| <u>Miscellaneous Plan</u> |                      | <u>Safety Fire Plan</u> |                      | <u>Safety Police Plan</u> |                      |
|---------------------------|----------------------|-------------------------|----------------------|---------------------------|----------------------|
| <u>Fiscal Year</u>        | <u>Discount Rate</u> | <u>Fiscal Year</u>      | <u>Discount Rate</u> | <u>Fiscal Year</u>        | <u>Discount Rate</u> |
| 2017-18                   | 27.900%              | 2017-08                 | 39.900%              | 2017-18                   | 56.600%              |
| 2018-19                   | 30.500               | 2018-19                 | 44.000               | 2018-19                   | 60.800               |
| 2019-20                   | 30.414               | 2019-20                 | 49.474               | 2019-20                   | 64.729               |
| 2020-21                   | 32.908               | 2020-21                 | 53.303               | 2020-21                   | 68.667               |

The contribution requirements of the plan members are established by State statute, and the employer contribution rates are established and may be amended by PERS.

**Implementation of GASB Nos. 68.** Commencing with fiscal year ended June 30, 2015, the City implemented the provisions of GASB Statement Nos. 68, which require certain new pension disclosures in the notes to its audited financial statements commencing with the audit for fiscal year 2014-15. Statement No. 68 generally requires the City to recognize its proportionate share of the unfunded pension obligation by recognizing a net pension liability measured as of a date (the measurement date) no earlier than the end of its prior fiscal year. As a result of the implementation of GASB Statement Nos. 68, the City reflected a restatement of its beginning net position as of July 1, 2014.

For a more detailed discussion of the eligibility requirements for the City’s retirement plans, see Note 12.B. of APPENDIX B to this Official Statement for detailed information about the actuarial assumptions underlying the contributions.

The City's fiscal year 2015-16 through 2017-18 contributions to the pension plans and the funded status of the pension plans are set forth below.

| Fiscal Year Ended                       | Total Pension Liability | Plan Fiduciary Net Position | Contributions Employer | Net Pension Liability | Plan Fiduciary Net Position as a Percentage of the Total Pension Liability | Covered Employee Payroll | Plan Net Pension Liability as a Percentage of Covered Employee Payroll |
|-----------------------------------------|-------------------------|-----------------------------|------------------------|-----------------------|----------------------------------------------------------------------------|--------------------------|------------------------------------------------------------------------|
| <b>PERS – Miscellaneous Plan</b>        |                         |                             |                        |                       |                                                                            |                          |                                                                        |
| 6/30/2016                               | \$902,228,876           | \$641,339,412               | \$20,032,929           | \$260,889,464         | 71.08%                                                                     | \$85,480,937             | 305.20%                                                                |
| 6/30/2017                               | 983,333,433             | 696,104,044                 | 21,214,582             | 287,229,389           | 70.79                                                                      | 88,645,362               | 324.02                                                                 |
| 6/30/2018                               | 1,016,396,249           | 735,828,894                 | 20,393,310             | 280,567,355           | 72.40                                                                      | 94,371,740               | 297.30                                                                 |
| <b>PERS – Public Safety Fire Plan</b>   |                         |                             |                        |                       |                                                                            |                          |                                                                        |
| 6/30/2016                               | \$246,704,540           | \$176,593,232               | \$5,967,197            | \$70,111,308          | 71.58%                                                                     | \$16,185,414             | 433.18%                                                                |
| 6/30/2017                               | 266,986,159             | 188,899,801                 | 6,328,886              | 78,086,358            | 70.75                                                                      | 16,684,346               | 468.02                                                                 |
| 6/30/2018                               | 272,593,862             | 196,923,511                 | 6,983,081              | 75,670,351            | 72.24                                                                      | 17,219,137               | 439.45                                                                 |
| <b>PERS – Public Safety Police Plan</b> |                         |                             |                        |                       |                                                                            |                          |                                                                        |
| 6/30/2016                               | \$372,226,444           | \$226,135,306               | \$10,777,599           | \$146,091,138         | 60.75%                                                                     | \$22,289,585             | 655.42%                                                                |
| 6/30/2017                               | 404,585,170             | 244,812,138                 | 11,858,699             | 159,773,032           | 60.51                                                                      | 22,933,002               | 696.69                                                                 |
| 6/30/2018                               | 416,996,462             | 257,917,647                 | 13,095,114             | 159,078,815           | 61.85                                                                      | 22,701,037               | 700.76                                                                 |

**Recent Actions by PERS.** At its April 17, 2013, meeting, the Board of Administration approved a recommendation to change the PERS amortization and smoothing policies. Prior to this change, PERS employed an amortization and smoothing policy that spread investment returns over a 15-year period with experience gains and losses paid for over a rolling 30-year period. After this change, PERS will employ an amortization and smoothing policy that will pay for all gains and losses over a fixed 30-year period with the increases or decreases in the rate spread directly over a 5-year period. The new amortization and smoothing policy was used for the first time in the June 30, 2013, actuarial valuations in setting employer contribution rates for fiscal year 2015-16.

On February 18, 2014, the Board of Administration approved new demographic actuarial assumptions based on a 2013 study of recent experience. The largest impact, applying to all benefit groups, is a new 20-year mortality projection reflecting longer life expectancies and that longevity will continue to increase. Because retirement benefits will be paid out for more years, the cost of those benefits will increase as a result. The Board of Administration also assumed earlier retirements for Police 3%@50, Fire 3%@55, and Miscellaneous 2.7%@55 and 3%@60, which will increase costs for those groups. As a result of these changes, rates will increase beginning in fiscal year 2016-17 (based on the June 30, 2014 valuation) with full impact in fiscal year 2020-21.

On November 18, 2015, the Board of Administration adopted a funding risk mitigation policy intended to incrementally lower its discount rate - its assumed rate of investment return - in years of good investment returns, help pay down the pension fund's unfunded liability, and provide greater predictability and less volatility in contribution rates for employers. The policy establishes a mechanism to reduce the discount rate by a minimum of 0.05 percentage points to a maximum of 0.25 percentage points in years when investment returns outperform the existing discount rate, currently 7.5%, by at least four percentage points. PERS staff modeling anticipates the policy will result in a lowering of the discount rate to 6.5% in about 21 years, improve funding levels gradually

over time and cut risk in the pension system by lowering the volatility of investment returns. More information about the funding risk mitigation policy can be accessed through PERS' web site at the following website address: <https://www.calpers.ca.gov/page/newsroom/calpers-news/2015/adopts-funding-risk-mitigation-policy>. *The reference to this Internet website is provided for reference and convenience only. The information contained within the website may not be current, has not been reviewed by the City and is not incorporated in this Official Statement by reference.*

On December 21, 2016, the Board of Administration voted to lower its discount rate from the current 7.5% to 7.0% over three years according to the following schedule.

| <u>Fiscal Year</u> | <u>Discount Rate</u> |
|--------------------|----------------------|
| 2018-19            | 7.375%               |
| 2019-20            | 7.250                |
| 2020-21            | 7.000                |

For public agencies like the City, the new discount rate took effect July 1, 2018. Lowering the discount rate means employers that contract with PERS to administer their pension plans will see increases in their normal costs and unfunded actuarial liabilities. Active members hired after January 1, 2013, under the Public Employees' Pension Reform Act will also see their contribution rates rise. The three-year reduction of the discount rate will result in average employer rate increases of about 1% to 3% of normal cost as a percent of payroll for most miscellaneous retirement plans, and a 2% to 5% increase for most safety plans. Additionally, many PERS employers will see a 30% to 40% increase in their current unfunded accrued liability payments. These payments are made to amortize unfunded liabilities over 20 years to bring the pension fund to a fully funded status over the long-term.

**Dollar Contribution Based on Projected PERS Rate Increases.** The City's projected annual financial contributions as a result of the PERS rate changes for the next five years are shown in the table below, with dollar amounts shown in millions:

|                              | <b>2019-20<br/>Projected</b> | <b>2020-21<br/>Projected</b> | <b>2021-2022<br/>Projected</b> | <b>2022-2023<br/>Projected</b> |
|------------------------------|------------------------------|------------------------------|--------------------------------|--------------------------------|
| Miscellaneous <sup>(1)</sup> | \$33.67                      | \$36.55                      | \$41.83                        | \$43.30                        |
| Police                       | 16.27                        | 17.6                         | 18.58                          | 19.16                          |
| Fire                         | 8.78                         | 9.46                         | 9.55                           | 9.90                           |
| <b>Total</b>                 | <b>\$58.72</b>               | <b>\$63.61</b>               | <b>\$69.96</b>                 | <b>\$72.36</b>                 |

(1) Miscellaneous includes the 8% employee share paid by the City on behalf of the employees and negotiated employee contributions to the City's rate.



**Berkeley Police Retirement Income Benefit Plan.** Prior to December 22, 2012, the City maintained the Berkeley Police Retirement Income Benefit Plan (“**BPRIBP**”), a single-employer defined benefit income plan, for its police retirees and surviving spouses. Effective September 19, 2012, police retired on or after this date are no longer covered by BPRIBP. The City replaced this plan with the “Retiree Health Premium Assistance Coverage Plan.”

The City’s fiscal year 2018-19 contribution to the BPRIBP and the funded status of the BPRIBP is set forth below.

| Fiscal Year Ended | Total Pension Liability | Plan Fiduciary Net Position | Contributions Employer | Plan Net Pension Liability | Plan Fiduciary Net Position as a Percentage of the Total Pension Liability | Covered Payroll | Plan Net Pension Liability as a Percentage of Covered Employee Payroll |
|-------------------|-------------------------|-----------------------------|------------------------|----------------------------|----------------------------------------------------------------------------|-----------------|------------------------------------------------------------------------|
| 6/30/2019         | \$73,643,792            | \$5,556,948                 | \$1,854,528            | \$68,086,844               | 7.55%                                                                      | N/A             | N/A                                                                    |

For a more detailed discussion of the BPRIBP, see Note 13.C. of APPENDIX B to this Official Statement.

**Peace Officers Research Association of California.** Effective December 23, 2012, the City established a new sick leave program called Peace Officers Research Association of California (“**PORAC**”). If a sworn member of the Berkeley Police department has an accrued sick leave balance on December 23, 2012 that exceeds 200 hours, one half of all those hours in excess of 200 shall be maintained in a separate account. The financial value of those hours shall be converted and deposited into the employee’s PORAC medical trust account over five successive years in equal installments commencing on January 1, 2013. The conversion was at the employee’s rate of pay on December 23, 2012. The City may accelerate the payment of hours to be converted. The remaining fifty percent of the sick leave balance in excess of 200 hours was credited into the employee’s separate “catastrophic/service time” bank no later than February 1, 2013, up to a maximum of 500 hours.

The City’s contribution to PORAC for the calendar year ending December 31, 2019 was \$327,753.

**Safety Members Pension Fund.** In addition, the City maintains the Safety Members Pension Fund (“**SMPF**”), a defined benefit plan for fire and police officers who retired prior to March 1973. In March 1973, all active fire and police officers were transferred from SMPF to PERS. The City pays the benefits to SMPF members on a pay-as-you-go basis, primarily through a Funding Agreement, purchased by the Berkeley Civic Improvement Corporation on behalf of the City in 1989. For the fiscal year ended June 30, 2019, the City’s contribution to SMPF was \$525,486.

The funded status of the SMPF as of June 30, 2019, the most recent actuarial date, is set forth below:

| Actuarial Valuation Date | Plan Fiduciary Net Position | Total Pension Liability | Plan Net Pension Liability | Plan Fiduciary Net Position as a Percentage of the Total Pension Liability | Covered Payroll | Plan Net Pension Liability as a Percentage of Covered Employee Payroll |
|--------------------------|-----------------------------|-------------------------|----------------------------|----------------------------------------------------------------------------|-----------------|------------------------------------------------------------------------|
| 6/30/2019                | --                          | \$1,862,714             | \$1,862,714                | --%                                                                        | N/A             | N/A                                                                    |

For a more detailed discussion of the SMPF, see Note 12.B. of APPENDIX B of this Official Statement.

**COVID-19 Impacts:** Recent investment losses in the PERS portfolios as a result of the general market downturn caused by the COVID-19 outbreak may result in increases in the City's required contributions in future years. At this time, the City cannot predict the level of such increases, if any.

### Strategy to Reduce Unfunded Liabilities

The City has large pension and OPEB liability, and the cost escalation of these liabilities is unknown at this time. The City is not making full actuarially determined contributions towards its OPEB liability, and its currently unfunded liability exerts a strain on the City's operations. During fiscal year 2018-19, required pension and OPEB contributions total 15.9% of total governmental fund expenditures.

At its June 26, 2018 meeting, the City Council adopted a Resolution appointing the City Manager as plan administrator and authorizing the City Manager to take the necessary steps to negotiate and execute the documents to establish a Section 115 Trust Fund (the "Trust Fund") to use as a pension rate stabilizing fund.

The City Council authorized the establishment of the Trust Fund in order to prefund pension obligations. During fiscal year 2018-19, \$4 million was contributed to the Trust Fund from General Fund operations, and an additional \$1.1 million was contributed to the Trust Fund from the discount on prepayment of the required PERS unfunded liability payment for fiscal year 2018-19. As of June 30, 2019, the balance in the Trust Fund was \$9,191,801.

### Post-Employment Health Benefits

The City offers certain post-employment health benefits to retirees. There are three plans: (i) the City of Berkeley Fire Employees Retiree Health Plan ("FRHF"), (ii) the City of Berkeley Miscellaneous Employees Retiree Health Plan ("RHPAP") and (iii) the Police Retiree Premium Assistance Plan ("PRPAP").

The City has adopted Government Accounting Standards Board Statement 45 which requires governmental agencies to change their accounting for Other Post-Employment Benefits ("OPEB") from pay-as-you-go to an accrual basis.

See Note 13 of the City's Comprehensive Annual Financial Report attached to this Official Statement as APPENDIX B for information about the City's OPEB liabilities.

**City of Berkeley Fire Employees Retiree Health Plan.** The FRFH is a single-employer defined benefit medical plan. To be eligible for benefits, sworn Fire employees must retire from

the City on or after July 1, 1997, be vested in a PERS pension, and retire from the City on or after age 50. Benefits commence immediately upon retirement. Benefits are payable for the retiree's lifetime and continue for his or her covered spouse's/domestic partner's lifetime. The amount the City contributes toward the Fire Employees Retiree Health Plan is 4.5% per year regardless of the amount of increase in the underlying premium rate. The establishment and amendments of benefit provisions are negotiated between the employee bargaining units and the City Labor Negotiating Team and are approved by the City Manager and City Council. As of July 1, 2018, there were 128 active employees, 43 retirees deferred and 59 retirees receiving benefits.

The City's targeted funding policy is equal to the service cost for active employees plus an amount to amortize unfunded liabilities over 30 years (rolling 30-year amortization) as a level percentage of payroll. The City strives to contribute the annual required contribution of the employer (ARC), an amount actuarially determined in accordance with the parameters of GASB Statement 45.

For the FRFH, the City's annual OPEB cost, the percentage of annual OPEB cost contributed to the plan, and the net OPEB asset for fiscal year 2018-19 and the three preceding years were as follows:

| <b>Fiscal Year Ended</b> | <b>Annual OPEB Cost</b> | <b>Percentage of Annual OPEB Contributed</b> | <b>Net OPEB Liability</b> |
|--------------------------|-------------------------|----------------------------------------------|---------------------------|
| 6/30/2016                | \$853,748               | 98                                           | \$12,362                  |
| 6/30/2017                | 1,991,925               | 43                                           | 17,530,174                |
| 6/30/2018                | 2,163,028               | 34                                           | 17,251,382                |
| 6/30/2019                | 2,326,493               | 36                                           | 19,633,312                |

The funded status of the FRFH as of June 30, 2019, the date of the most recent actuarial report, is set forth below:

| <b>Actuarial Valuation Date</b> | <b>Actuarial Value of Assets</b> | <b>Actuarial Accrued Liability (AAL)-Unit Credit</b> | <b>Unfunded Actuarial Accrued Liability-UAAL</b> | <b>Funded Ratio</b> | <b>Covered Payroll</b> | <b>UAAL as Percentage of covered Payroll</b> |
|---------------------------------|----------------------------------|------------------------------------------------------|--------------------------------------------------|---------------------|------------------------|----------------------------------------------|
| 7/1/2018                        | \$11,296,053                     | \$30,929,365                                         | \$19,633,312                                     | 36.5%               | \$15,667,851           | 125.31%                                      |

The actuarial value of the assets in the FRFH as of June 30, 2019 was equal to their market value.

**City of Berkeley Miscellaneous Employees Retiree Health Premium Assistance Plan.** The RHPAP is a single-employer defined benefit medical plan. It provides retiree health benefits to eligible retirees and his/her spouse or domestic partner. The establishment and amendments of benefit provisions are negotiated between the employee bargaining units and the City and are approved by the City Council.

Retirees who are at least age 50, with at least 8 years of service with the City at the time of separation from service are eligible to receive retiree health benefits commencing at age 55. Benefits are payable for the retiree's lifetime and continue for his or her covered spouse's/domestic partner's lifetime. The City pays the monthly cost of the monthly premiums up to a participant's applicable percentage of the base dollar amount and subject to annual 4.5%

increases regardless of the amount of increase in the underlying premium rate. As of June 30, 2019, there were 1,094 active employees.

The City’s targeted funding policy is equal to the normal cost for active employees plus an amount to amortize unfunded liabilities over 30 years as a level percentage of payrolls. The City is required to contribute the annual required contribution of the employer (ARC), an amount actuarially determined in accordance with the parameters of GASB Statement 45. Any changes to the contribution requirements of the plan are negotiated by the bargaining units and City negotiating staff and approved by the City Council.

For the RHPAP, the City’s annual OPEB cost, the percentage of annual OPEB cost contributed to the plan, and the net OPEB obligation for fiscal year 2018-19 and the three preceding years were as follows:

| Fiscal Year Ended | Annual OPEB Cost | Percentage of Annual OPEB Contributed | Net OPEB Obligation |
|-------------------|------------------|---------------------------------------|---------------------|
| 6/30/2016         | \$3,492,010      | 52.0                                  | \$9,050,063         |
| 6/30/2017         | 4,610,828        | 72.7                                  | 37,900,578          |
| 6/30/2018         | 4,729,448        | 42.3                                  | 34,215,614          |
| 6/30/2019         | 5,051,655        | 43.3                                  | 37,219,746          |

The funded status of the RHPAP as of June 30, 2019, the most recent actuarial report, is set forth below:

| Actuarial Valuation Date | Actuarial Accrued Liability (AAL) | Actuarial Value of Assets | Unfunded Actuarial Accrued Liability- UAAL | Funded Ratio | Covered Payroll             | UAAL as Percentage of covered Payroll |
|--------------------------|-----------------------------------|---------------------------|--------------------------------------------|--------------|-----------------------------|---------------------------------------|
| 7/1/2018                 | \$65,605,879                      | \$28,386,133              | \$37,219,746                               | 43.3%        | \$91,491,386 <sup>(1)</sup> | 40.68%                                |

(1) Estimated.

The actuarial value of the assets in the RHPAP as of June 30, 2019 was equal to their market value.

**Police Retiree Premium Assistance Plan.** Effective September 19, 2012, the City replaced the “Berkeley Police Retirement Income Benefit Plan” with the “Retiree Health Premium Assistance Coverage Plan” for any police employees hired on or after that date, as well as any current employees who retire on or after such date. Under the newly established retiree health premium assistance plan, benefits will be the paid by the City directly to the provider who is providing retiree health coverage to the retiree or his or her surviving spouse. The maximum amount will be equal in value to the City sponsored health plan.

In order to be eligible for the Retiree Health Premium Assistance Coverage Plan, a “Retiree” must meet all of the following criteria:

- (a) A person who is vested in the plan, and
- (b) Has reached the age of 50, and
- (c) Has retired from the City at age 50 or thereafter, and
- (d) Has applied for and is receiving a pension from at the time of retirement.

The maximum amount the City will contribute toward the payment of medical insurance premiums is based on the employee’s years of service as a sworn member of the Berkeley Police Department at time of retirement. The retiree must have at least 10 years of service as a sworn member of the Berkeley Police Department to qualify for this benefit.

| <u>Years of Service</u> | <u>City Percentage</u> |
|-------------------------|------------------------|
| 10 to 14                | 25%                    |
| 15 to 19                | 50                     |
| 20 or more              | 100                    |

Beginning September 19, 2012, each month after the employee retires the City will pay the health care service provider an appropriate percentage based on years of service above an amount equal to \$1,200 per month for two-party coverage for the retiree and a qualifying spouse/domestic partner or \$600 per month for single party coverage. Upon death of either the retiree or the retiree’s spouse, the City will only pay the appropriate percentage of the single party rate to the provider on behalf of the surviving retiree or spouse/domestic partner. If there is no spouse/domestic partner at the time of retirement, the City shall only pay the single party rate. The retiree and/or surviving spouse/domestic partner will be responsible for payment of the difference between the amount the City contributes toward payment of the premium and the actual premium cost. The funds for this difference will come from the retirees retirement account and the retiree must authorize such withdrawal of funds.

Beginning July 1, 2013 and effective each July 1 thereafter, the base rates the City contributes toward payment of the premium amount described in the preceding paragraph shall be increased by either the amount Kaiser increases the retiree medical premium for that year, or 6%, whichever is less. The retiree and/or surviving spouse/domestic partner shall pay the difference between the amount the City contributes toward payment of the premium and the actual premium cost. As of July 1, 2019, there were 152 active employees, 22 active retirees, and 6 retirees entitled to, but not yet receiving, benefits.

For the retiree health premium assistance plan, the City’s annual OPEB cost, the percentage of annual OPEB cost contributed to the plan, and the net OPEB asset for fiscal year 2018-19 and the three preceding years were as follows:

| <b>Fiscal Year Ended</b> | <b>Annual OPEB Cost</b> | <b>Percentage of Annual OPEB Contributed</b> | <b>Net OPEB Liability</b> |
|--------------------------|-------------------------|----------------------------------------------|---------------------------|
| 6/30/2016                | \$5,779,291             | 8.0                                          | \$16,449,480              |
| 6/30/2017                | 5,105,429               | 11.0                                         | 45,508,847                |
| 6/30/2018                | 4,929,429               | 6.0                                          | 41,652,588                |
| 6/30/2019                | 5,155,293               | 6.0                                          | 46,252,565                |

The actuarial cost method used for determining the benefit obligations is the Projected Unit Credit Cost Method. Under this method, the actuarial present value of projected benefits is the value of benefits expected to be paid for current actives and retirees and is calculated based on the assumptions and census data described in this report. The Actuarial Accrued Liability (AAL) is the actuarial present value of benefits attributed to employee service rendered prior to the valuation date. The AAL equals the present value of benefits multiplied by a fraction equal to service to date over service at expected retirement. The Normal Cost is the actuarial present value of benefits attributed to one year of service. This equals the present value of benefits divided by service at expected retirement. Since retirees are not accruing any more service, their normal

cost is zero. In determining the Annual Required Contribution, the Unfunded AAL is amortized as a level percentage of payroll over 30 years.

As of June 30, 2018, the most recent actuarial valuation date, the plan was 4.2% funded. The actuarial accrued liability for benefit was \$48.7 million, and the actuarial value of assets was \$2.5 million, resulting in an unfunded accrued liability of \$46.2 million. The covered payroll (annual payroll of active employees covered by the plan) was approximately \$18.8 million. The fair value of the assets was determined using market values as of the date of the actuarial report. The schedule of funding progress, presented as required supplementary information following the notes to the financial statements, presents multi-year trend information about whether the actuarial value of plan assets is increasing or decreasing over time relative to the actuarial accrued liabilities for benefits. Funded status of the plan as of June 30, 2018, the most recent actuarial valuation date is as follows:

| Actuarial Valuation Date | Actuarial Value of Assets | Actuarial Accrued Liability (AAL)- Unit Credit | Unfunded Actuarial Accrued Liability- UAAL | Funded Ratio | Covered Payroll | UAAL as Percentage of covered Payroll |
|--------------------------|---------------------------|------------------------------------------------|--------------------------------------------|--------------|-----------------|---------------------------------------|
| 7/1/2018                 | \$2,450,155               | \$48,702,720                                   | \$46,252,565                               | 5.0%         | \$18,760,962    | 246.5%                                |

### Defined Contribution Plans

The City offers certain supplemental retirement and income plans to retirees. See Appendix B, Note 12.D. for information about the City's defined contribution plans.

### Labor Relations

As of January 28, 2020, the City employed approximately 1,457 full-time equivalent budgeted employees. There are six employee unions as shown below. In addition, the City employs approximately 108 unrepresented employees that include Executive Management, Confidential professional or Confidential Office support positions. The City has not experienced any work stoppages or strikes by its employees.

#### CITY OF BERKELEY Labor Relations

| <u>Labor Organization</u>                                                                                           | <u>Employees</u> | <u>Contract Expiration Date</u> |
|---------------------------------------------------------------------------------------------------------------------|------------------|---------------------------------|
| Berkeley Fire Fighters Association/I.A.F.F. Local 1227                                                              | 128              | 06/27/2020                      |
| Berkeley Police Association                                                                                         | 163              | 06/30/2020                      |
| I. B. E. W. Local 1245                                                                                              | 10               | 06/27/2020                      |
| Service Employees International Local 1021 Maintenance and Clerical Chapters                                        | 438              | 06/27/2020                      |
| Service Employees International Local 1021 Community Services and Part-Time Recreation Leaders Association Chapters | 446              | 06/27/2020                      |
| Public Employees Local 1                                                                                            | 164              | 06/27/2020                      |
| Unrepresented Employees                                                                                             | 108              | N/A                             |

(1) Terms of contract remain in effect after expiration until new contract becomes effective.

Source: City of Berkeley.

## Risk Management

The City is exposed to various risks of loss related to torts; theft of, damage to, or restriction of assets, errors or omissions, injuries to employees, earthquakes, environmental risks, climate risks and sea-level rise because of its location and or acts of God.

The City is self-insured for liability claims below \$350,000. The City is a member of the Bay Cities Joint Powers Insurance Authority (“**BCJPIA**”). The BCJPIA consists of 20 municipal or public agency members, all located within the metropolitan San Francisco Bay Area. The BCJPIA provides general liability, auto liability, and errors and omissions coverage between \$350,000 and \$1,000,000. The California Affiliated Risk Management Authority (“**CARMA**”) provides additional coverage to the BCJPIA and its member entities for claims in excess of \$1,000,000, up to \$29,000,000.

The City is self-insured for workers’ compensation. Payments are made to the Workers’ Compensation Self-Insurance Internal Service Fund by transfers from the City’s general fund and other funds of the City on a pay-as-you-go basis.

The City requires pre-employment physical examinations for high risk, high hazard employees as well as annual examination for all uniformed officers. As part of its workers’ compensation program, copies of all injured employee medical reports are monitored by a third-party agent to ensure that injured employees receive proper care.

## City Debt Structure

**Short-Term Debt.** The City has issued Tax and Revenue Anticipation Notes (“**TRANS**”) in each recent year. The City’s TRANS are a general obligation of the City, payable from the City’s general fund and any other lawfully available moneys. The fiscal year 2019-20 TRANS have an outstanding principal amount of \$34,780,000 and mature on July 22, 2020.

**Outstanding General Fund Obligations.** The City currently has outstanding long-term General Fund debt and lease obligations described below. The City has never defaulted on the payment of principal of or interest on any of its indebtedness.

*Certificates of Participation.* In June 2010, The Bank of New York Mellon Trust Company, N.A., executed and delivered certificates of participation on behalf of the City in the aggregate principal amount of \$5,750,000 (the “**Certificates of Participation**”). The City’s underlying rental obligation is a general obligation payable from any available funds of the City. The certificates bear interest at rates between 4.50%-5.75%, and the final maturity date is August 1, 2040. As of June 1, 2020, the principal balance outstanding was \$4,890,000.

On February 25, 2020, the Authority and the City each approved the issuance of Lease Revenue Bonds, Series 2020 (2010 Animal Shelter Financing) for the purpose of prepaying, in full, the outstanding Certificates of Participation, which are expected to be executed and delivered in summer of 2020.

*Lease Revenue Bonds.* In October 2012, the Berkeley Joint Powers Financing Authority (the “**Authority**”) issued lease revenue bonds on behalf of the City in the aggregate principal amount of \$27,260,000 to refund the Authority’s 1999 Lease Revenue Bonds and 2003 Certificates of Participation. The City’s underlying rental obligation is a

general fund obligation of the City. The bonds bear interest at rates between 3.00%-5.00%, and the final maturity date is October 1, 2031. As of June 1, 2020, the principal balance outstanding was \$19,255,000.



## Employment

The unemployment rate in the Oakland-Hayward-Berkeley MD was 14.2% in April 2020, up from a revised 4.0% in March 2020, and above the year-ago estimate of 2.7%. This compares with an unadjusted unemployment rate of 16.1% for the State and 14.4% for the nation during the same period. The unemployment rate was 14.1% in the County, and 14.5% in Contra Costa County.

The table below list employment by industry group for Alameda and Contra Costa Counties for the years 2015 to 2019.

**OAKLAND- HAYWARD-BERKELEY MD  
(Alameda and Contra Costa Counties)  
Annual Averages Civilian Labor Force, Employment and Unemployment,  
Employment by Industry  
(March 2019 Benchmark)**

|                                                   | 2015      | 2016      | 2017      | 2018      | 2019      |
|---------------------------------------------------|-----------|-----------|-----------|-----------|-----------|
| Civilian Labor Force <sup>(1)</sup>               | 1,363,500 | 1,384,900 | 1,397,800 | 1,403,300 | 1,406,100 |
| Employment                                        | 1,297,300 | 1,324,400 | 1,345,500 | 1,359,400 | 1,364,200 |
| Unemployment                                      | 66,200    | 60,400    | 52,300    | 43,900    | 41,900    |
| Unemployment Rate                                 | 4.9%      | 4.4%      | 3.7%      | 3.1%      | 3.0%      |
| <u>Wage and Salary Employment:</u> <sup>(2)</sup> |           |           |           |           |           |
| Agriculture                                       | 1,200     | 1,300     | 1,400     | 1,300     | 1,400     |
| Mining and Logging                                | 300       | 300       | 200       | 200       | 200       |
| Construction                                      | 62,800    | 67,900    | 71,200    | 74,900    | 75,600    |
| Manufacturing                                     | 88,100    | 91,000    | 95,500    | 100,400   | 99,600    |
| Wholesale Trade                                   | 47,000    | 48,100    | 48,700    | 47,500    | 45,600    |
| Retail Trade                                      | 111,800   | 113,400   | 114,400   | 114,400   | 112,100   |
| Transportation, Warehousing, Utilities            | 37,500    | 39,200    | 40,500    | 41,900    | 42,900    |
| Information                                       | 25,300    | 26,700    | 27,100    | 27,800    | 27,900    |
| Finance and Insurance                             | 37,400    | 38,800    | 38,700    | 37,200    | 37,100    |
| Real Estate and Rental and Leasing                | 16,800    | 16,900    | 17,400    | 17,800    | 18,000    |
| Professional and Business Services                | 177,200   | 180,900   | 184,300   | 189,300   | 191,900   |
| Educational and Health Services                   | 178,600   | 185,900   | 191,500   | 194,300   | 197,700   |
| Leisure and Hospitality                           | 106,600   | 111,700   | 114,900   | 117,700   | 120,100   |
| Other Services                                    | 38,100    | 39,100    | 40,200    | 41,000    | 41,300    |
| Federal Government                                | 13,800    | 13,900    | 13,800    | 13,400    | 13,400    |
| State Government                                  | 39,900    | 39,700    | 39,300    | 39,400    | 39,600    |
| Local Government                                  | 115,600   | 119,800   | 121,500   | 121,800   | 122,100   |
| Total, All Industries <sup>(3)</sup>              | 1,098,000 | 1,134,600 | 1,160,600 | 1,180,400 | 1,186,700 |

(1) Labor force data is by place of residence; includes self-employed individuals, unpaid family workers, household domestic workers, and workers on strike.

(2) Industry employment is by place of work; excludes self-employed individuals, unpaid family workers, household domestic workers, and workers on strike.

(3) Totals may not add due to rounding.

Source: State of California Employment Development Department.

The following tables show the major employers in the City and the County.

**CITY OF BERKELEY  
Major Employers  
2019**

| <u>Employer</u>                       | <u>Number of Employees</u> | <u>% of Total Employment</u> |
|---------------------------------------|----------------------------|------------------------------|
| University of California Berkeley     | 13,394                     | 19.69%                       |
| Lawrence Berkeley National Laboratory | 3,312                      | 4.87                         |
| Sutter East Bay Media Foundation      | 2,242                      | 3.30                         |
| City of Berkeley                      | 1,568                      | 2.31                         |
| Bayer Corporation                     | 1,267                      | 1.86                         |
| Berkeley Unified School District      | 1,225                      | 1.80                         |
| Siemens Corporation                   | 855                        | 1.26                         |
| Kaiser Permanente Medical Group       | 831                        | 1.22                         |
| Berkeley Bowl Produce                 | 640                        | 0.94                         |
| Whole Foods Market California Inc.    | 389                        | 0.57                         |

*Source: City of Berkeley, Comprehensive Annual Financial Report for the Fiscal Year Ended June 30, 2019.*

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**COUNTY OF ALAMEDA  
Major Employers (Listed Alphabetically)  
December 2019**

| <b>Employer Name</b>           | <b>Location</b> | <b>Industry</b>                          |
|--------------------------------|-----------------|------------------------------------------|
| Alameda County Law Enforcement | Oakland         | Government Offices-County                |
| Alameda County Sheriff's Ofc   | Oakland         | Government Offices-County                |
| Alta Bates Summit Med Ctr Alta | Berkeley        | Hospitals                                |
| Alta Bates Summit Med Ctr Lab  | Oakland         | Laboratories-Medical                     |
| BART                           | Oakland         | Transportation                           |
| Bayer Health Care              | Berkeley        | Laboratories-Pharmaceutical (mfrs)       |
| California State Univ East Bay | Hayward         | Schools-Universities & Colleges Academic |
| East Bay Mud                   | Oakland         | Water & Sewage Companies-Utility         |
| Ebmud                          | Oakland         | Utilities                                |
| Grifols Diagnostic Solutions   | Emeryville      | Pharmaceutical Research Laboratories     |
| Highland Hospital              | Oakland         | Hospitals                                |
| Kaiser Permanente Oakland Med  | Oakland         | Hospitals                                |
| Lawrence Berkeley Lab          | Berkeley        | Laboratories-Research & Development      |
| Lawrence Livermore Natl Lab    | Livermore       | University-College Dept/Facility/Office  |
| Lifescan Inc                   | Fremont         | Physicians & Surgeons Equip & Supls-Mfrs |
| Sanfrancisco Bayarea Rapid     | Oakland         | Transit Lines                            |
| Tesla                          | Fremont         | Automobile Dealers-Electric Cars         |
| Transportation Dept-California | Oakland         | Government Offices-State                 |
| UCSF Benioff Children's Hosp   | Oakland         | Hospitals                                |
| University of CA Berkeley      | Berkeley        | Schools-Universities & Colleges Academic |
| University of CA-BERKELEY      | Berkeley        | University-College Dept/Facility/Office  |
| University-Ca-Berkeley Dept    | Berkeley        | University-College Dept/Facility/Office  |
| Valley Care Health System      | Livermore       | Health Services                          |
| Washington Hospital Healthcare | Fremont         | Hospitals                                |
| Western Digital Corp           | Fremont         | Computer Storage Devices (mfrs)          |

*Source: State of California Employment Development Department, extracted from The America's Labor Market Information System (ALMIS) Employer Database, 2019 1st Edition.*

## Effective Buying Income

“Effective Buying Income” is defined as personal income less personal tax and nontax payments, a number often referred to as “disposable” or “after-tax” income. Personal income is the aggregate of wages and salaries, other labor-related income (such as employer contributions to private pension funds), proprietor’s income, rental income (which includes imputed rental income of owner-occupants of non-farm dwellings), dividends paid by corporations, interest income from all sources, and transfer payments (such as pensions and welfare assistance). Deducted from this total are personal taxes (federal, state and local), nontax payments (fines, fees, penalties, etc.) and personal contributions to social insurance. According to U.S. government definitions, the resultant figure is commonly known as “disposable personal income.”

The following table summarizes the total effective buying income for the City of Berkeley, the County of Alameda, the State and the United States for the period 2015 through 2019.

### CITY OF BERKELEY AND COUNTY OF ALAMEDA Effective Buying Income As of January 1, 2015 through 2019

| Year | Area           | Total Effective<br>Buying Income<br>(000's Omitted) | Median Household<br>Effective Buying<br>Income |
|------|----------------|-----------------------------------------------------|------------------------------------------------|
| 2015 | Berkeley       | \$3,909,548                                         | \$52,592                                       |
|      | Alameda County | 47,744,408                                          | 60,575                                         |
|      | California     | 901,189,699                                         | 50,072                                         |
|      | United States  | 7,357,153,421                                       | 45,448                                         |
| 2016 | Berkeley       | \$4,264,478                                         | \$56,194                                       |
|      | Alameda County | 52,448,661                                          | 64,030                                         |
|      | California     | 981,231,666                                         | 53,589                                         |
|      | United States  | 7,757,960,399                                       | 46,738                                         |
| 2017 | Berkeley       | \$4,618,113                                         | \$59,958                                       |
|      | Alameda County | 56,091,066                                          | 67,631                                         |
|      | California     | 1,036,142,723                                       | 55,681                                         |
|      | United States  | 8,132,748,136                                       | 48,043                                         |
| 2018 | Berkeley       | \$5,070,468                                         | \$66,382                                       |
|      | Alameda County | 61,987,949                                          | 73,633                                         |
|      | California     | 1,113,648,181                                       | 59,646                                         |
|      | United States  | 8,640,770,229                                       | 50,735                                         |
| 2019 | Berkeley       | \$5,517,451                                         | \$72,412                                       |
|      | Alameda County | 67,609,653                                          | 79,446                                         |
|      | California     | 1,183,264,399                                       | 62,637                                         |
|      | United States  | 9,017,967,563                                       | 52,841                                         |

Source: The Nielsen Company (US), Inc for years 2015 through 2018; Claritas, LLC for 2019.

**Construction Activity**

Provided below are the building permits and valuations for the City of Berkeley for calendar years 2014 through 2018.

| <b>CITY OF BERKELEY</b>                 |                 |                 |                 |                 |                 |
|-----------------------------------------|-----------------|-----------------|-----------------|-----------------|-----------------|
| <b>Total Building Permit Valuations</b> |                 |                 |                 |                 |                 |
| <b>(Valuations in Thousands)</b>        |                 |                 |                 |                 |                 |
|                                         | 2014            | 2015            | 2016            | 2017            | 2018            |
| <u>Permit Valuation</u>                 |                 |                 |                 |                 |                 |
| New Single-family                       | \$5,453.0       | \$2,995.0       | \$5,469.1       | \$14,776.2      | 13,808.7        |
| New Multi-family                        | 23,757.6        | 53,876.1        | 9,835.5         | 47,723.2        | 24,506.9        |
| Res. Alterations/Additions              | <u>53,835.6</u> | <u>52,549.5</u> | <u>45,295.9</u> | <u>45,215.9</u> | <u>80,130.0</u> |
| Total Residential                       | 82,946.2        | 109,420.6       | 60,600.5        | 107,715.3       | 118,445.6       |
| <br>                                    |                 |                 |                 |                 |                 |
| New Commercial                          | 31,152.1        | 20,246.9        | 32,109.7        | 24,576.3        | 18,732.1        |
| New Industrial                          | 0.0             | 0.0             | 0.0             | 0.0             | 0.0             |
| New Other                               | 12,156.5        | 7,770.1         | 3,315.8         | 3,636.5         | 3,236.6         |
| Com. Alterations/Additions              | <u>46,571.3</u> | <u>44,962.7</u> | <u>47,485.2</u> | <u>26,597.7</u> | <u>52,522.6</u> |
| Total Nonresidential                    | 89,779.9        | 72,979.7        | 82,910.7        | 54,810.5        | 74,491.3        |
| <br>                                    |                 |                 |                 |                 |                 |
| <u>New Dwelling Units</u>               |                 |                 |                 |                 |                 |
| Single Family                           | 15              | 6               | 20              | 43              | 63              |
| Multiple Family                         | <u>249</u>      | <u>459</u>      | <u>69</u>       | <u>402</u>      | <u>129</u>      |
| TOTAL                                   | 264             | 465             | 89              | 445             | 192             |

*Source: Construction Industry Research Board, Building*

**APPENDIX B**

**THE CITY'S COMPREHENSIVE ANNUAL FINANCIAL REPORT  
FOR YEAR ENDED JUNE 30, 2019**

**APPENDIX C**  
**FORM OF OPINION OF BOND COUNSEL**  
**[LETTERHEAD OF JONES HALL]**

July \_\_, 2020

City Council  
City of Berkeley  
2180 Milvia Street  
Berkeley, California 94704

**OPINION:**     \$\_\_\_\_\_ City of Berkeley, California 2020-21  
                  Tax and Revenue Anticipation Notes

Members of the City Council:

We have acted as bond counsel to the City of Berkeley, California (the "City") in connection with the issuance by the City, of the tax and revenue anticipation notes captioned above, dated the date hereof (the "Notes"). In such capacity, we have examined such law and such certified proceedings, certifications and other documents as we deem necessary to render this opinion.

The Notes are issued pursuant to Article 7.6 (commencing with Section 53850) of Chapter 4, Part 1, Division 2, Title 5 of the California Government Code (the "Act"), and a resolution (the "Resolution") of the City Council of the City, adopted on June 30, 2020.

Regarding questions of fact material to our opinion, we have relied upon certified proceedings and other certifications of public officials and others furnished to us, without undertaking to verify the same by independent investigation.

Based on the foregoing, we are of the opinion that, under existing law:

1.     The City is a duly created and validly existing municipal corporation and charter city with the power to adopt the Resolution, perform the agreements on its part contained therein and issue the Notes.
2.     The Resolution constitutes a valid and binding obligation of the City, enforceable against the City.
3.     Pursuant to the Act, the Resolution creates a first lien on funds pledged by the Resolution for the security of the Notes.
4.     The Notes have been duly authorized and executed by the City and are valid and binding general obligations of the City.

5. The interest on the Notes is excluded from gross income for federal income tax purposes and is not an item of tax preference for purposes of the federal alternative minimum tax. The opinions set forth in the preceding sentence are subject to the condition that the City comply with all requirements of the Internal Revenue Code of 1986, as amended, that must be satisfied subsequent to the issuance of the Notes in order that the interest thereon be, and continue to be, excludable from gross income for federal income tax purposes. The City has made certain representations and covenants in order to comply with each such requirement. Inaccuracy of those representations, or failure to comply with certain of those covenants, may cause the inclusion of such interest in gross income for federal income tax purposes, which may be retroactive to the date of issuance of the Notes.

6. The interest on the Notes is exempt from personal income taxation imposed by the State of California.

We express no opinion regarding any other tax consequences arising with respect to the ownership, sale or disposition of, or the amount, accrual or receipt of interest on, the Notes.

The rights of the owners of the Notes and the enforceability of the Notes are limited by bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting creditors' rights generally, and by equitable principles, whether considered at law or in equity.

This opinion is given as of the date hereof, and we assume no obligation to revise or supplement this opinion to reflect any facts or circumstances that may hereafter come to our attention, or any changes in law that may hereafter occur. Our engagement with respect to this matter has terminated as of the date hereof.

Respectfully submitted,

A Professional Law Corporation



## APPENDIX D

### FORM OF CONTINUING DISCLOSURE CERTIFICATE

This Continuing Disclosure Certificate (the “**Disclosure Certificate**”) is executed and delivered by the City of Berkeley (the “**City**”) in connection with the issuance by the City, of the \$\_\_\_\_\_ City of Berkeley 2020-21 Tax and Revenue Anticipation Notes (the “**Notes**”). The Notes are being issued pursuant to a resolution adopted by the City Council of the City on June 30, 2020 (the “**Resolution**”). The City covenants and agrees as follows:

Section 1. Purpose of the Disclosure Certificate. This Disclosure Certificate is being executed and delivered by the City for the benefit of the holders and beneficial owners of the Notes and in order to assist the Participating Underwriters in complying with S.E.C. Rule 15c2-12(b)(5).

Section 2. Definitions. In addition to the definitions set forth in the Resolution, which apply to any capitalized term used in this Disclosure Certificate unless otherwise defined in this Section, the following capitalized terms shall have the following meanings:

“**Dissemination Agent**” shall mean NHA Advisors, LLC, or any successor Dissemination Agent designated in writing by the City and which has filed with the City a written acceptance of such designation.

“**Listed Events**” shall mean any of the events listed in Section 3(a) of this Disclosure Certificate.

“**MSRB**” means the Municipal Securities Rulemaking Board, which has been designated by the Securities and Exchange Commission as the sole repository of disclosure information for purposes of the Rule.

“**Participating Underwriter**” shall mean any of the original underwriters of the Notes required to comply with the Rule in connection with offering of the Notes.

“**Rule**” shall mean Rule 15c2-12(b)(5) adopted by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as the same may be amended from time to time.

#### Section 3. Reporting of Significant Events.

(a) Pursuant to the provisions of this Section 3, the City shall give, or cause to be given, notice of the occurrence of any of the following Listed Events with respect to the Notes:

- (1) Principal and interest payment delinquencies.
- (2) Non-payment related defaults, if material.
- (3) Unscheduled draws on debt service reserves reflecting financial difficulties.
- (4) Unscheduled draws on credit enhancements reflecting financial difficulties.
- (5) Substitution of credit or liquidity providers, or their failure to perform.

- (6) Adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax status of the security, or other material events affecting the tax status of the security.
- (7) Modifications to rights of security holders, if material.
- (8) Bond calls, if material, and tender offers.
- (9) Defeasances.
- (10) Release, substitution, or sale of property securing repayment of the securities, if material.
- (11) Rating changes.
- (12) Bankruptcy, insolvency, receivership or similar event of the City or other obligated person.
- (13) The consummation of a merger, consolidation, or acquisition involving the City or an obligated person, or the sale of all or substantially all of the assets of the City or an obligated person (other than in the ordinary course of business), the entry into a definitive agreement to undertake such an action, or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material.
- (14) Appointment of a successor or additional trustee or the change of name of a trustee, if material.
- (15) Incurrence of a financial obligation of the obligated person, if material, or agreement to covenants, events of default, remedies, priority rights, or other similar terms of a financial obligation of the obligated person, any of which affect security holders, if material.
- (16) Default, event of acceleration, termination event, modification of terms, or other similar events under the terms of a financial obligation of the obligated person, any of which reflect financial difficulties.

(b) Whenever the City obtains knowledge of the occurrence of a Listed Event, the City shall, or shall cause the Dissemination Agent (if not the City) to, file a notice of such occurrence with the MSRB, in an electronic format as prescribed by the MSRB, in a timely manner not in excess of 10 business days after the occurrence of the Listed Event. Notwithstanding the foregoing, notice of Listed Events described in subsections (a)(8) and (9) above need not be given under this subsection any earlier than the notice (if any) of the underlying event is given to holders of affected Notes under the Resolution.

(c) The City acknowledges that the events described in subparagraphs (a)(2), (a)(7), (a)(8) (if the event is a bond call), (a)(10), (a)(13), and (a)(14) of this Section 3 contain the qualifier

“if material.” The City shall cause a notice to be filed as set forth in paragraph (b) above with respect to any such event only to the extent that the City determines the event’s occurrence is material for purposes of U.S. federal securities law.

(d) For purposes of this Disclosure Certificate, any event described in paragraph (a)(12) above is considered to occur when any of the following occur: the appointment of a receiver, fiscal agent, or similar officer for the City in a proceeding under the United States Bankruptcy Code or in any other proceeding under state or federal law in which a court or governmental authority has assumed jurisdiction over substantially all of the assets or business of the City, or if such jurisdiction has been assumed by leaving the existing governing body and officials or officers in possession but subject to the supervision and orders of a court or governmental authority, or the entry of an order confirming a plan of reorganization, arrangement, or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets or business of the City.

(e) For purposes of Section 3(a)(15) and (16), “financial obligation” means a (i) debt obligation; (ii) derivative instrument entered into in connection with, or pledged as security or a source of payment for, an existing or planned debt obligation; or (iii) guarantee of (i) or (ii). The term financial obligation shall not include municipal securities as to which a final official statement has been provided to the Municipal Securities Rulemaking Board consistent with the Rule.

Section 4. Termination of Reporting Obligation. The City’s obligations under this Disclosure Certificate shall terminate upon the legal defeasance, prior redemption or payment in full of all of the Notes. If such termination occurs prior to the final maturity of the Notes, the City shall give notice of such termination in the same manner as for a Listed Event under Section 3(c).

Section 5. Dissemination Agent. The City may, from time to time, appoint or engage a Dissemination Agent to assist it in carrying out its obligations under this Disclosure Certificate, and may discharge any such Agent, with or without appointing a successor Dissemination Agent. The initial Dissemination Agent shall be NHA Advisors, LLC.

Section 6. Amendment; Waiver. Notwithstanding any other provision of this Disclosure Certificate, the City may amend this Disclosure Certificate, and any provision of this Disclosure Certificate may be waived, provided that the following conditions are satisfied:

(a) if the amendment or waiver relates to the provisions of Section 3(a) it may only be made in connection with a change in circumstances that arises from a change in legal requirements, change in law, or change in the identity, nature, or status of an obligated person with respect to the Notes, or type of business conducted;

(b) the undertakings herein, as proposed to be amended or waived, would, in the opinion of nationally recognized bond counsel, have complied with the requirements of the Rule at the time of the primary offering of the Notes, after taking into account any amendments or interpretations of the Rule, as well as any change in circumstances; and

(c) the proposed amendment or waiver either (i) is approved by holders of the Notes, or (ii) does not, in the opinion of nationally recognized bond counsel, materially impair the interests of the holders or beneficial owners of the Notes.

Section 7. Additional Information. Nothing in this Disclosure Certificate shall be deemed to prevent the City from disseminating any other information, using the means of dissemination set forth in this Disclosure Certificate or any other means of communication, or including any other information in any notice of occurrence of a Listed Event, in addition to that which is required by this Disclosure Certificate. If the City chooses to include any information in any notice of occurrence of a Listed Event in addition to that which is specifically required by this Disclosure Certificate, the City shall have no obligation under this Disclosure Certificate to update such information or include it in any future notice of occurrence of a Listed Event.

Section 8. Default. In the event of a failure of the City to comply with any provision of this Disclosure Certificate any holder or beneficial owner of the Notes may take such actions as may be necessary and appropriate, including seeking mandate or specific performance by court order, to cause the City to comply with its obligations under this Disclosure Certificate. A default under this Disclosure Certificate shall not be deemed an Event of Default under the Resolution, and the sole remedy under this Disclosure Certificate in the event of any failure of the City to comply with this Disclosure Certificate shall be an action to compel performance.

Section 9. Duties, Immunities and Liabilities of Dissemination Agent. The Dissemination Agent shall have only such duties as are specifically set forth in this Disclosure Certificate, and the City agrees to indemnify and save the Dissemination Agent, its officers, directors, employees and agents, harmless against any loss, expense and liabilities which it may incur arising out of or in the exercise or performance of its powers and duties hereunder, including the costs and expenses (including attorneys' fees) of defending against any claim of liability, but excluding liabilities due to the Dissemination Agent's negligence or willful misconduct. The obligations of the City under this Section shall survive resignation or removal of the Dissemination Agent and payment of the Notes.

Section 10. Beneficiaries. This Disclosure Certificate shall inure solely to the benefit of the City, the Dissemination Agent, the Participating Underwriters and holders and beneficial owners from time to time of the Notes and shall create no rights in any other person or entity.

Date: \_\_\_\_\_, 2020

CITY OF BERKELEY

By \_\_\_\_\_  
City Manager

## APPENDIX E

## DTC AND THE BOOK-ENTRY ONLY SYSTEM

*The following description of the Depository Trust Company (“DTC”), the procedures and record keeping with respect to beneficial ownership interests in the Notes, payment of principal, interest and other payments on the Notes to DTC Participants or Beneficial Owners, confirmation and transfer of beneficial ownership interest in the Notes and other related transactions by and between DTC, the DTC Participants and the Beneficial Owners is based solely on information provided by DTC. Accordingly, no representations can be made concerning these matters and neither the DTC Participants nor the Beneficial Owners should rely on the foregoing information with respect to such matters, but should instead confirm the same with DTC or the DTC Participants, as the case may be.*

*Neither the issuer of the Notes (the “Issuer”) nor the trustee, fiscal agent or paying agent appointed with respect to the Notes (the “Agent”) take any responsibility for the information contained in this Appendix.*

*No assurances can be given that DTC, DTC Participants or Indirect Participants will distribute to the Beneficial Owners (a) payments of interest, principal or premium, if any, with respect to the Notes, (b) certificates representing ownership interest in or other confirmation or ownership interest in the Notes, or (c) redemption or other notices sent to DTC or Cede & Co., its nominee, as the registered owner of the Notes, or that they will so do on a timely basis, or that DTC, DTC Participants or DTC Indirect Participants will act in the manner described in this Appendix. The current “Rules” applicable to DTC are on file with the Securities and Exchange Commission and the current “Procedures” of DTC to be followed in dealing with DTC Participants are on file with DTC.*

1. The Depository Trust Company (“DTC”), New York, NY, will act as securities depository for the securities (the “Securities”). The Securities will be issued as fully-registered securities registered in the name of Cede & Co. (DTC’s partnership nominee) or such other name as may be requested by an authorized representative of DTC. One fully-registered Security certificate will be issued for each issue of the Securities, each in the aggregate principal amount of such issue, and will be deposited with DTC. If, however, the aggregate principal amount of any issue exceeds \$500 million, one certificate will be issued with respect to each \$500 million of principal amount, and an additional certificate will be issued with respect to any remaining principal amount of such issue.

2. DTC, the world’s largest securities depository, is a limited-purpose trust company organized under the New York Banking Law, a “banking organization” within the meaning of the New York Banking Law, a member of the Federal Reserve System, a “clearing corporation” within the meaning of the New York Uniform Commercial Code, and a “clearing agency” registered pursuant to the provisions of Section 17A of the Securities Exchange Act of 1934. DTC holds and provides asset servicing for over 3.5 million issues of U.S. and non-U.S. equity issues, corporate and municipal debt issues, and money market instruments (from over 100 countries) that DTC’s participants (“Direct Participants”) deposit with DTC. DTC also facilitates the post-trade settlement among Direct Participants of sales and other securities transactions in deposited securities, through electronic computerized book-entry transfers and pledges between Direct Participants’ accounts. This eliminates the need for physical movement of securities certificates. Direct Participants include both U.S. and non-U.S. securities brokers and dealers, banks, trust

companies, clearing corporations, and certain other organizations. DTC is a wholly-owned subsidiary of The Depository Trust & Clearing Corporation (“**DTCC**”). DTCC is the holding company for DTC, National Securities Clearing Corporation and Fixed Income Clearing Corporation, all of which are registered clearing agencies. DTCC is owned by the users of its regulated subsidiaries. Access to the DTC system is also available to others such as both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, and clearing corporations that clear through or maintain a custodial relationship with a Direct Participant, either directly or indirectly (“Indirect Participants”). DTC has a Standard & Poor’s rating of AA+. The DTC Rules applicable to its Participants are on file with the Securities and Exchange Commission. More information about DTC can be found at [www.dtcc.com](http://www.dtcc.com).

3. Purchases of Securities under the DTC system must be made by or through Direct Participants, which will receive a credit for the Securities on DTC’s records. The ownership interest of each actual purchaser of each Security (“**Beneficial Owner**”) is in turn to be recorded on the Direct and Indirect Participants’ records. Beneficial Owners will not receive written confirmation from DTC of their purchase. Beneficial Owners are, however, expected to receive written confirmations providing details of the transaction, as well as periodic statements of their holdings, from the Direct or Indirect Participant through which the Beneficial Owner entered into the transaction. Transfers of ownership interests in the Securities are to be accomplished by entries made on the books of Direct and Indirect Participants acting on behalf of Beneficial Owners. Beneficial Owners will not receive certificates representing their ownership interests in Securities, except in the event that use of the book-entry system for the Securities is discontinued.

4. To facilitate subsequent transfers, all Securities deposited by Direct Participants with DTC are registered in the name of DTC’s partnership nominee, Cede & Co. or such other name as may be requested by an authorized representative of DTC. The deposit of Securities with DTC and their registration in the name of Cede & Co. or such other DTC nominee do not effect any change in beneficial ownership. DTC has no knowledge of the actual Beneficial Owners of the Securities; DTC’s records reflect only the identity of the Direct Participants to whose accounts such Securities are credited, which may or may not be the Beneficial Owners. The Direct and Indirect Participants will remain responsible for keeping account of their holdings on behalf of their customers.

5. Conveyance of notices and other communications by DTC to Direct Participants, by Direct Participants to Indirect Participants, and by Direct Participants and Indirect Participants to Beneficial Owners will be governed by arrangements among them, subject to any statutory or regulatory requirements as may be in effect from time to time. Beneficial Owners of Securities may wish to take certain steps to augment the transmission to them of notices of significant events with respect to the Securities, such as redemptions, tenders, defaults, and proposed amendments to the Security documents. For example, Beneficial Owners of Securities may wish to ascertain that the nominee holding the Securities for their benefit has agreed to obtain and transmit notices to Beneficial Owners. In the alternative, Beneficial Owners may wish to provide their names and addresses to the registrar and request that copies of notices be provided directly to them.

6. Redemption notices shall be sent to DTC. If less than all of the Securities within an issue are being redeemed, DTC’s practice is to determine by lot the amount of the interest of each Direct Participant in such issue to be redeemed.

7. Neither DTC nor Cede & Co. (nor such other DTC nominee) will consent or vote with respect to Securities unless authorized by a Direct Participant in accordance with DTC’s MMI

Procedures. Under its usual procedures, DTC mails an Omnibus Proxy to Issuer as soon as possible after the record date. The Omnibus Proxy assigns Cede & Co.'s consenting or voting rights to those Direct Participants to whose accounts Securities are credited on the record date (identified in a listing attached to the Omnibus Proxy).

8. Redemption proceeds, distributions, and interest payments on the Securities will be made to Cede & Co., or such other nominee as may be requested by an authorized representative of DTC. DTC's practice is to credit Direct Participants' accounts, upon DTC's receipt of funds and corresponding detail information from Issuer or Agent on payable date in accordance with their respective holdings shown on DTC's records. Payments by Participants to Beneficial Owners will be governed by standing instructions and customary practices, as is the case with securities held for the accounts of customers in bearer form or registered in "street name," and will be the responsibility of such Participant and not of DTC, Agent, or Issuer, subject to any statutory or regulatory requirements as may be in effect from time to time. Payment of redemption proceeds, distributions, and dividend payments to Cede & Co. (or such other nominee as may be requested by an authorized representative of DTC) is the responsibility of Issuer or Agent, disbursement of such payments to Direct Participants will be the responsibility of DTC, and disbursement of such payments to the Beneficial Owners will be the responsibility of Direct and Indirect Participants.

9. DTC may discontinue providing its services as securities depository with respect to the Securities at any time by giving reasonable notice to Issuer or Agent. Under such circumstances, in the event that a successor depository is not obtained, Security certificates are required to be printed and delivered.

10. Issuer may decide to discontinue use of the system of book-entry-only transfers through DTC (or a successor securities depository). In that event, Security certificates will be printed and delivered to DTC.

11. The information in this section concerning DTC and DTC's book-entry system has been obtained from sources that Issuer believes to be reliable, but Issuer takes no responsibility for the accuracy thereof.





INFORMATION CALENDAR

June 30, 2020

To: Honorable Mayor and Members of the City Council

From: Jenny Wong, City Auditor

Subject: Dispatch Audit Report Wins National Recognition

INTRODUCTION

The 2019 Exemplary Knighton Award for best performance audit report in the Medium shop category has been awarded to the City of Berkeley Auditor's Office by the Association of Local Government Auditors (ALGA). The report, "911 Dispatchers: Understaffing Leads to Excessive Overtime and Low Morale," was judged on several key elements, such as the potential for significant impact, the persuasiveness of conclusions, the focus on improving government efficiency and effectiveness, and its clarity and conciseness.

CURRENT SITUATION AND ITS EFFECTS

Each year, local government audit organizations from around the U.S. and Canada submit their best performance audit reports for judging. The judges from peer organizations determined that our audit of the City of Berkeley's 911 Communications Center was among the best of 2019.

BACKGROUND

We issued our audit report, "911 Dispatchers: Understaffing Leads to Excessive Overtime and Low Morale," on April 25, 2019<sup>1</sup>. The purpose of the audit was to determine:

1. To what extent does the Communications Center, which answers 911 calls, have sufficient staffing to handle workloads and service demands?
2. What contributes to overtime use?
3. How do working conditions affect morale?

We found that it is taking longer than previous years for call takers to answer 911 calls. The Communications Center staffing levels are not sufficient to meet current call demand and, with predicted population growth, the Center will soon need even more resources to maintain its emergency response service levels. We also found that, due to consistent understaffing, the Communications Center relies heavily on overtime to meet minimum staffing requirements, spending nearly \$1 million in 2017 on overtime. Finally, we found

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<sup>1</sup> [https://www.cityofberkeley.info/uploadedFiles/Auditor/Level\\_3\\_-\\_General/Dispatch%20Workload\\_Fiscal%20Year%202018.pdf](https://www.cityofberkeley.info/uploadedFiles/Auditor/Level_3_-_General/Dispatch%20Workload_Fiscal%20Year%202018.pdf)

that morale is low and dispatchers feel unsupported. While there are some resources available for staff to manage stress, the dispatchers often do not have time to access them.

We made 14 recommendations to reduce overtime and vacancies, and further support dispatcher needs. The Police Department has made significant progress towards implementing our recommendations with 9 recommendations implemented, 3 in progress, and 2 not implemented as of their last update to Council on April 14, 2020<sup>2</sup>. The Department has developed a team of five staff dedicated to recruitment and retention of Police staff including a focus on recruiting dispatcher applicants.

#### ENVIRONMENTAL SUSTAINABILITY

This report is not associated with identifiable environmental effects or opportunities.

#### POSSIBLE FUTURE ACTION

We will continue to follow up on the status of audit recommendation implementation to ensure the City mitigates the risks that could prevent the City from providing efficient, effective, and equitable service delivery.

#### FISCAL IMPACTS OF POSSIBLE FUTURE ACTION

Audit work leads to new or enhanced revenue, cost recovery, and increased efficiency, with economic impact well beyond the audit costs. Long-range financial benefits of our audits result in significant improvements to internal controls and service delivery.

Ensuring timely implementation of audit recommendations could result in additional savings and risk reduction, including fraud risk. Reducing fraud risk more than protects money; it builds trust in government. Maintaining a strong audit function and prudent program and fiscal management will reduce future costs and enhance public trust.

#### CONTACT PERSON

Jenny Wong, City Auditor, 510-981-6750

Attachment:

1. 2019 Knighton Award Letter from ALGA

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<sup>2</sup> [https://www.cityofberkeley.info/Clerk/City\\_Council/2020/04\\_Apr/Documents/2020-04-14\\_Item\\_47\\_Audit\\_Recommendation\\_Status.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2020/04_Apr/Documents/2020-04-14_Item_47_Audit_Recommendation_Status.aspx)



# Association of Local Government Auditors

Jenny Wong  
City Auditor  
City of Berkeley  
2180 Milvia Street, 3<sup>rd</sup> Floor  
Berkeley, CA 94704

May 8, 2020

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## MEMBER SERVICES

449 Lewis Hargett Circle  
Suite 290  
Lexington, KY 40503  
Phone: (859) 276-0686  
Fax: (859) 278-0507  
www.algaonline.org

Dear Jenny Wong:

The Association of Local Government Auditors (ALGA) Awards Program Committee is pleased to announce that the Berkeley City Auditor's report, *911 Dispatchers: Understaffing Leads to Excessive Overtime and Low Morale*, won the 2019 Exemplary Knighton Award in the Medium Shop Category.

ALGA was founded in 1985 to serve auditors who specialize in working with local governments. ALGA members represent approximately 300 local government audit organizations. Unlike the majority of auditors who work within a single industry, local government auditors must work in an environment that encompasses a wide variety of industries. Local government auditors are committed to helping their governments improve service delivery to citizens while doing so more efficiently and effectively with the limited resources available. In making the award, the judges commented:

This audit clearly presented the impact of the audit findings and made a great case for why this audit is important. The audit did a great job of engaging the reader from the onset and effectively used visuals to highlight key points. Key information such as survey results were called out in the audit so the reader could easily digest the information. The conclusions and supporting data were strong and contributed to a convincing report.

To encourage increasing levels of excellence among local government auditors, ALGA created the Knighton Award in 1995 to recognize the best performance audit reports produced by local government audit shops in the previous year. Each year, local government audit organizations submit their best performance audit report to be evaluated against four criteria: (1) an audit scope that has the potential for significant impact, and is responsive to the needs and concerns of decision-makers and/or the public; (2) audit conclusions that are persuasive, logical, and firmly supported by the evidence, which was gathered using appropriate research methods and tools; (3) audit recommendations that are feasible, and will make government programs more effective and efficient; and (4) audit results that are communicated in a clear, concise way. Judges from peer organizations determined that the Berkeley City Auditor was among the best of 2019.

Congratulations receiving this award!

Sincerely,

Pam Weipert, President  
ALGA

Kathie Harrison, Chair  
ALGA Awards Program Committee



INFORMATION CALENDAR

June 30, 2020

To: Honorable Mayor and Members of the City Council

From: Jenny Wong, City Auditor

Subject: City Auditor Fiscal Year 2021 Audit Plan

INTRODUCTION

The Berkeley City Charter requires the City Auditor to provide the City Council with a planned audit schedule by the beginning of each fiscal year and to notify the Council when audits are added. In deciding what to audit, our office considers suggestions from the City Manager, staff, the City Council, commissioners, and other community members. We examine risks that might prevent the City from reaching its goals, including strategic, financial, regulatory, operational, and reputational risks.

CURRENT SITUATION AND ITS EFFECTS

As required by the City Charter, we are notifying the Council of our annual audit plan. The following plan assumes being fully staffed to conduct these audits. Reductions in our budget will decrease capacity of audit services from our office.

Emerging COVID-19 risks are both unpredictable and unprecedented, making oversight and accountability functions, like auditing, even more important. The COVID-19 pandemic and decisions made during this time may have lasting economic, social, and public health consequences. There will be more federal and state funding allocated to cities in response to the crisis, which will need proper monitoring. With a host of new initiatives and the need to review existing functions and contracts in a tight budgetary environment, oversight is needed to ensure the City prevents the misuse of public funds.

Now, more than ever, we need to evaluate how the City can best respond to this ongoing crisis and keep residents and employees safe with minimal disruption to operations and services.

For Fiscal Year 2021, we have identified areas we hope to address in the upcoming year:

- Budget analysis
- COVID-19 and disaster response
- Financial conditions
- Follow-up on prior audit recommendations

- Short-term projects

We are currently finishing up the following audits: streets, fleet replacement fund, and library tax. We are deferring our audits of recycling and retention, initiated in fiscal year 2020, due to staffing shortages and the City's need to respond to the COVID-19 pandemic. We plan to pick these audits back up when staffing and resources are available.

### BACKGROUND

The mission of the Berkeley City Auditor is to promote transparency and accountability in Berkeley government. This is achieved through independent evaluations of City programs and activities. The FY 2021 Audit Plan reflects Auditor Wong's steadfast commitment to continuous improvement by enhancing the value, products, staffing, communications, and overall impact of the Berkeley City Auditor's Office on behalf of Berkeley residents, businesses, and visitors.

### ENVIRONMENTAL SUSTAINABILITY

This report is not associated with identifiable environmental effects or opportunities.

### POSSIBLE FUTURE ACTION

Our future audit recommendations will address the risks that could prevent the City from providing efficient, effective, and equitable service delivery. We will be asking the Council to accept those recommendations and request that the City Manager report on their actions to implement them. We may also make recommendations requiring Council action.

### FISCAL IMPACTS OF POSSIBLE FUTURE ACTION

Audit work leads to new or enhanced revenue, cost recovery, and increased efficiency, with economic impact well beyond the audit costs. Long-range financial benefits of our audits result in significant improvements to internal controls and service delivery.

Ensuring timely implementation of audit recommendations could result in additional savings and risk reduction, including fraud risk. Reducing fraud risk more than protects money; it builds trust in government. Maintaining a strong audit function and fiscal management will reduce future costs and enhance public trust.

### CONTACT PERSON

Jenny Wong, City Auditor, 510-981-6750

Attachment:

1. Audit Plan Fiscal Year 2021

# Audit Plan Fiscal Year 2021

## Inside

Letter from the Auditor

Planned Engagements

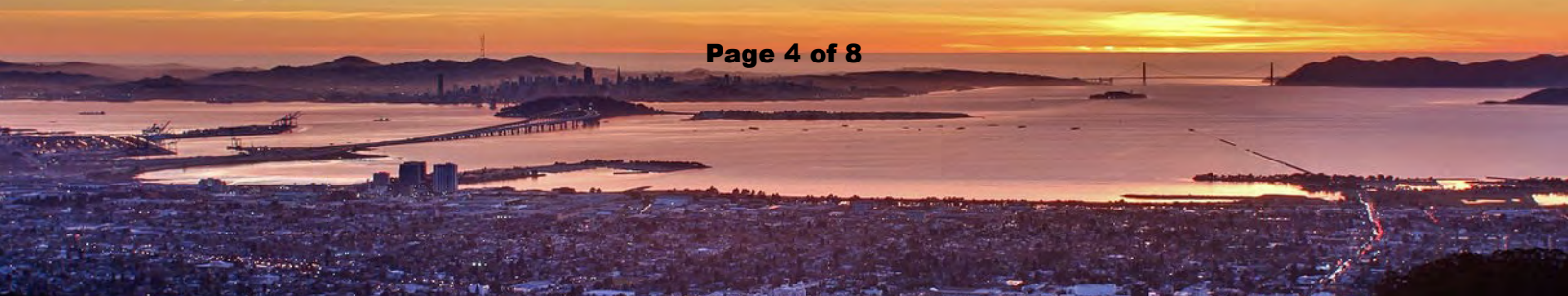
Plan Description

Audit Selection Process

Auditor's Authority



BERKELEY CITY AUDITOR



I am pleased to present the Berkeley City Auditor’s Fiscal Year 2021 Audit Plan.<sup>1</sup> Our office is responsible for conducting performance audits of City functions - deep dives into the workings of our various City programs with the goal of maximizing taxpayer dollars and delivering top-quality services. It is our goal to initiate all the engagements identified in the audit plan during the fiscal year. Our capacity to initiate and complete projects this fiscal year will be dependent on resource constraints, including those from staffing vacancies and budget cuts in response to COVID-19.

In drafting this plan, we considered how we can add the most value to the City while also taking into consideration resource constraints of the City and my department. Emerging COVID-19 risks are both unpredictable and unprecedented, making oversight and accountability bodies, like my office, even more important. The City is facing many changes to operations and services, with decreased revenues coming into the City. Decisions made during this time may have lasting economic and public health consequences.

Our office and the City face unique challenges, but we are also in a unique position to work collaboratively, provide expertise and guidance, and hold the City accountable during this time. Now, more than ever, we need to evaluate how the City can best respond to this ongoing crisis and keep residents and employees safe with minimal disruption to operations and services. By embracing ambiguity and flexibility, and looking at both the short-term and long-term impact of COVID-19 on the organization, our office can help the City emerge from this crisis stronger than ever.

We will continue working to complete the streets, fleet replacement, and library tax audits. My office will analyze the impacts of COVID-19 on our open audits, including considering the fiscal and budgetary impacts. We will ensure that our findings and conclusions take into account the changing situation, and our recommendations are feasible.

We plan to start engagements in the areas of budgeting, COVID-19 and disaster response, and financial conditions. We will continue with our audit follow-ups to ensure that the City is implementing adopted recommendations. Along with producing these reports, we will also be conducting short-term projects in topic areas that will provide timely information to key decision makers on issues that are important to the public and the mission of our office.

I look forward to carrying out these audits to deliver independent, transparent, and accountable oversight, thereby safeguarding the public’s investments in the City of Berkeley. I am committed to providing ongoing information on how tax dollars are spent and how government operates, on behalf of everyone who cares about Berkeley, including residents, business owners, visitors, workers, and decision-makers.

Respectfully,

JENNY WONG  
City Auditor

<sup>1</sup> We emailed this audit plan to City Council on June 8, 2020 as required by the Berkeley Municipal Code.



# Planned Engagements FY 2021

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## Budget analysis

With decreased revenues to the City, there will be an increased need for objective and independent analysis of how limited funds are allocated throughout the City.

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## COVID-19 and disaster response

In the wake of COVID-19, Berkeley has faced increased risk to the fiscal and public health of the entire city. Berkeley continues to face risks from wildland-urban fires. As a city, we have the responsibility to mitigate risks to the City through appropriate policies and emergency response plans.

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## Financial conditions

The Auditor's office will examine the City's financial well-being by calculating financial ratios, analyzing trends, and comparing the results to other similar cities.

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## Follow-up

The Auditor's office will continue to track and follow-up on all audit recommendations to determine if they are properly implemented.

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## Short-term projects

In order to be responsive to the needs of the City and the Public, we will be engaging in more short-term projects to provide timely and relevant information and analysis to the City during this unprecedented time.

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## Ongoing engagements

- Streets
- Fleet replacement fund
- Library tax

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## Deferred FY 2020 engagements due to COVID-19 impacts

- Recycling
  - Recruitment and retention
-

# Plan Description

The mission of the Berkeley City Auditor is to promote transparency and accountability in Berkeley government. This is achieved through independent evaluations of City programs and activities. The Fiscal Year 2021 Audit Plan reflects Auditor Wong's steadfast commitment to continuous improvement by enhancing the value, products, staffing, communications, and overall impact of the Berkeley City Auditor's Office on behalf of Berkeley residents, businesses, and visitors.

## Auditing Under the City Charter

The Charter provides that the Auditor shall have the authority to conduct:

- Performance and financial audits or special studies of all phases of the City of Berkeley government in accordance with government auditing standards;
- Financial, compliance, efficiency and economy, and program results auditing; and
- Examinations of payrolls, bills, and other claims and demands made against the City.

The FY 2021 Audit Plan ensures broad audit coverage throughout the City while also addressing specific performance, financial, contractual, and system risks. Audit resources are limited, thus prohibiting one hundred percent coverage each year. This significant limiting factor is inherent in the concept of using risk assessment to help prioritize audits. According to the City Charter, the ultimate decision to perform any audit shall be at the sole discretion of the Auditor. Our approach to scheduling audits is flexible and subject to change throughout the year based on newly identified risks.

## Audit Follow-up Program

Audit follow-up activities are conducted for every audit to assess whether City personnel implemented the agreed-upon audit recommendations. The Auditor's Office issues follow-up audit reports to City Council on the status of our recommendations. Our office measures the audit recommendation implementation rate as an indicator of the degree to which the City is using information provided by our audit reports to mitigate identified risks and to enhance efficiency, effectiveness, and economy of operations. Our expectation is that audit recommendations should take two years for the City to implement.

## Focus on Integrity, Independence, Impact, and Inclusion

The concepts of integrity, independence, impact, and inclusion are core tenets of operations within the Berkeley City Auditor's Office. Although the Auditor operates independently from other City entities, Auditor Wong and staff meet regularly with the Mayor, City Council, City personnel, neighborhood groups, and civic leaders to solicit input regarding risks. The objective of this strategy is to improve services and stewardship of City resources.

# Audit Selection Process

Developing an annual Audit Plan is an iterative process, conducted by assembling ideas from a variety of internal and external stakeholders, examining a broad range of City programs and activities, and assessing risk factors together with additional considerations. This approach results in a diverse list of departments, programs, and activities that are examined to determine whether they are operating efficiently, effectively, and in accordance with the law and other requirements.

In developing a list of potential audits, ideas come from a variety of sources:

- Input from the community, elected officials, department staff, and City management;
- Assessment of operations and controls in previous audit reports;
- Assessment of Citywide risks;
- Consideration of current local events, financial conditions, capital improvement projects, and public policy issues; and
- Consideration of risks identified in other government audits that could emerge in Berkeley.

Our office identifies and prioritizes potential audits and other assessments using a risk-based approach that examines a variety of factors that may expose the City to fraud, misuse of funds, waste, liability, or reputational harm. The following risk factors are used to determine the audits included in the audit plan:

- Perception of risk from management, City Council, the community, and audit staff;
- Economic factors such as financial impact, volume of transactions, number of personnel, and revenue generated;
- Changes in organization, management, key personnel, and information systems; and
- Time since last audit.

After the plan is finalized, new information may come to light; events, initiatives, priorities, and risks within the City may change. The flexible nature of the Audit Plan as a living document provides the ability to change course when it is in the best interest of the City.

# Auditor's Authority

The Berkeley City Auditor's Office provides independent oversight of City operations. Audits, conducted by the Office, provide the City Manager, City Council, and the public with objective, timely, and accurate information about City program performance. By providing this information and making recommendations for improvement, the Office helps to hold government accountable in its stewardship of public resources. Berkeley City Charter, Section 61, establishes this independence and provides for the Auditor's general authority and duties. The Charter also establishes the duty to present a planned audit schedule to City Council at the beginning of each fiscal year.

Several key components serve as the cornerstone for Berkeley's auditing framework. These elements provide the Auditor with the independence that results in the office's ability to conduct high-impact audits.

**Elected Auditor** — The City of Berkeley has an elected Auditor who is independent from all other elected officials and City management.

**Comprehensive Access** — The City Charter and Municipal Code authorize the Auditor to have unrestricted access to all officials, employees, records, and reports maintained by the City, and to all external entities, records, and personnel related to contracted business interactions with the City.

**Audit Response Requirements** — City Municipal Code requires that City management formally respond to all audit findings and recommendations, establishing the Auditor's ability to work in conjunction with audited departments while maintaining independence.

**Recommendation Follow-up Requirements** — City Municipal Code requires that City management report back to Council on the status of audit recommendations every six months until all recommendations are implemented, establishing the Auditor's ability to determine the adequacy, effectiveness, and timeliness of management's actions to correct reported issues and recommendations.

**Adherence to Professional Auditing Standards** — The Auditor's Office conducts all audits in accordance with Generally Accepted Government Auditing Standards produced by the United States Government Accountability Office.



BERKELEY CITY AUDITOR

2180 Milvia Street, 3rd Floor, Berkeley, California 94704

510-981-6750

[www.cityofberkeley.info/auditor](http://www.cityofberkeley.info/auditor)

## **Communications – June 30, 2020**

*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.*

### **ADU and Golden Duplexes**

1. Elisa Mikiten
2. Erik Dreher
3. Lee Goodwin
4. Jas Kaminsky
5. Andrew Marowitz (2)
6. Lauren Schiller
7. Gail Martin

### **East Bay Community Energy Budget and Rates**

8. Richard Collins

### **Telegraph Avenue Triangle**

9. Diana Bohn

### **True Issues – Not Signage**

10. Wini Williams

### **Good Cause Eviction**

11. Susan Sky

### **Telecom Ordinance**

12. Soula Culver

### **Clean Up Around Adeline and Alcatraz**

13. Ms. Richie and Friends of Adeline

### **Insurance Coverage During Civil Unrest**

14. Ricardo Lara, Insurance Commissioner
15. Mary Beth Bykowsky, on behalf of Community Relations and Outreach Branch

### **Surveillance and Technology Ordinance**

16. Blair Beekman

### **Fuel Powered Leaf Blowers**

17. Yvette Chalom

### **Trump=Nazi Graffiti**

18. Elana Naftalin-Kelman (4)

**LRDP and Campus Master Plan Update**

19. Margot Smith

**Measure GG Tax Rate**

20. Gradiva Couzin, Chair, Disaster and Fire Safety Commission

**Police Concerns**

- 21. Russbumber
- 22. Catherine Huchting
- 23. Margy Wilkinson
- 24. G. Whittle
- 25. Carole Marasovic
- 26. Margy Wilkinson
- 27. Jane Ellis
- 28. Lori Pottinger
- 29. Caterina and Jonathan Polland
- 30. Tom Luce
- 31. Christine Schwartz
- 32. Bud Hazelkorn
- 33. Carol Denney
- 34. Elisa Mikiten

**Black Business Owners**

35. Vivian Warkentin

**Removing Flyers**

36. Carol Denney

**Covid-19**

- 37. Carla Woodworth
- 38. Rachel Bradley
- 39. Nikos Daniilidis (2)
- 40. Rochelle Nason, City Councilmember City of Albany
- 41. Dawn Abrahamson
- 42. David Lerman (5)
- 43. Lisa Hernandez, Health Office/City of Berkeley
- 44. Chimey Lee
- 45. Georg Torgun
- 46. Mariam Wolodarski Lundberg

**South Berkeley Neighborhood Development Corp. Request**

47. Landon William, on behalf of SBND



# Communications

All communications submitted to the City Council are public record. Communications are not published directly to the City's website. Copies of individual communications are available for viewing at the City Clerk Department and through Records Online.

## **City Clerk Department**

2180 Milvia Street  
Berkeley, CA 94704  
(510) 981-6900

## **Records Online**

<http://www.cityofberkeley.info/recordsonline>

To search for communications associated with a particular City Council meeting using Records Online:

1. Select Search Type = “Public – Communication Query (Keywords)”
2. From Date: Enter the date of the Council meeting
3. To Date: Enter the date of the Council meeting (this may match the From Date field)
4. Click the “Search” button
5. Communication packets matching the entered criteria will be returned
6. Click the desired file in the Results column to view the document as a PDF