



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 Fee	Proposed 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**

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**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.