

ACTION CALENDAR

March 24, 2026

To: Members of the City Council

Submitted by: Mayor Adena Ishii

Subject: Adopt a Resolution Authorizing Temporary Employment of Retired Annuitant Kathy Lee as Interim Director of Police Accountability

RECOMMENDATION

Adopt a Resolution authorizing the appointment of Kathy Lee as a retired annuitant to serve as Interim Director of Police Accountability pursuant to Government Code Sections 21221(h) and 7522.56 and the Mayor to execute the attached employment agreement establishing an hourly rate of \$122.44, consistent with the publicly approved pay schedule for the Director of Police Accountability, with no additional benefits, per CalPERS rules for retired annuitants.

SUMMARY

There is a critical need to temporarily fill the City's vacant Director of Police Accountability position—a role that requires specialized skills—while the City recruits a permanent Director. The City has identified Kathy Lee, a retired City employee who, among other roles, was previously the City's Police Review Commission Officer, to serve as Interim Director of Police Accountability. Her appointment will allow the City to maintain continuity of operations, ensure timely complaint review, and support the Police Accountability Board's annual objectives.

The appointment would be pursuant to state law permitting public entities to hire retired annuitants under certain circumstances, see Gov. Code §§ 21221(h) and 7522.56, for a limited term, not to exceed 960 hours of work in the fiscal year. The City Council would authorize the Mayor to execute the employment agreement attached as Exhibit A to the Resolution.

FISCAL IMPACTS OF RECOMMENDATION

In accordance with CalPERS Retired Annuitant requirements, a retired annuitant's pay must be in the regular salary range for the position. The Director of Police Accountability classification has a salary range up to \$122.44 per hour, which will be used as the rate of compensation for the agreement. The maximum expenditure for the retired annuitant this fiscal year would, thus, be approximately \$117,542, assuming 960 hours is reached.

CURRENT SITUATION AND ITS EFFECTS

The Director of Police Accountability independently investigates complaints against sworn Berkeley Police Department (BPD) officers, recommends corrective actions, and audits police practices to ensure transparency. The Director also acts as Secretary to the

Police Accountability Board (PAB). The City is conducting an active, publicly posted recruitment for the permanent Director of Police Accountability, which became vacant after the City Council voted to remove the former director from the post. The recommended interim appointment enables the City to maintain continuity during recruitment and onboarding of a new permanent Director.

Ms. Lee is a highly experienced and well-respected leader in the police accountability space. She previously served the City for 32 years, including as the Officer of the former Police Review Commission and the inaugural interim Director of Police Accountability, before retiring in July 2022. In these roles, Ms. Lee oversaw the City's intake and investigation of citizen complaints, as well as structured review of policies and operational guidelines to ensure consistency with City police oversight goals, legal requirements, and best practices.

Under Government Code Section 21221(h), a governing body may appoint a CalPERS retired annuitant to a vacant position that requires specialized skills during recruitment for a permanent replacement. The employment is subject to a 960-hour annual limit on that person's work across all CalPERS agencies. Compensation must be paid on an hourly basis, without benefits, and the hourly rate may not exceed the maximum nor be less than the minimum salary paid to employees performing comparable duties on the City's approved pay schedule. The interim appointment would be a one-time, limited duration, at-will position, and would end upon the effective date of the permanent Director's employment or earlier agreement termination, consistent with CalPERS retired annuitant rules.

Attached to the Resolution is an employment agreement between the City and Kathy Lee, retired annuitant, outlining the terms of her temporary employment. Prior to the start date of Ms. Lee's temporary employment with the City as a retired annuitant, the City would submit to CalPERS a copy of: 1) the approved and executed resolution; 2) the employment agreement; 3) the salary schedule listing the vacant position, and 4) the recruitment status for the vacant position, including a copy of or web link to the activated recruitment.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

No environmental impacts from this specific resolution.

RATIONALE FOR RECOMMENDATION

The Office of Police Accountability requires executive leadership to: (1) oversee complaint intake, investigations, and findings; (2) manage reporting to the Police Accountability Board; (3) coordinate with the Berkeley Police Department on policy review and training recommendations; and (4) ensure timely public communications and case tracking. Kathy Lee brings specialized management and police oversight skills aligned with this role based on her decade of experience in police accountability roles with the City. The appointment will preserve operational continuity while the permanent recruitment proceeds.

The attached Resolution and Employment Agreement are drafted to comply with Government Code Sections 21221(h) and 7522.56, including the 960-hour cap, hourly only compensation, no benefits, one-time interim appointment, and active recruitment requirements. The Agreement also requires retired annuitant representations (e.g., no unemployment insurance received in the prior 12 months; notice of concurrent employment by another CalPERS agency) and timekeeping/reporting obligations to ensure compliance.

ALTERNATIVE ACTIONS CONSIDERED

Alternatives to appointing Kathy Lee to the interim position include: (1) Not approving the interim appointment and taking additional time to identify other candidates. However, this approach could risk gaps in oversight and delayed complaint processing; (2) Continue assigning acting duties to existing staff members, including Jose Murillo, Associate Management Analyst. However, this approach could place undue strain on existing employees, in an office where there are currently other vacancies.

Although the City examined these alternatives, it ultimately determined that Ms. Lee is specially trained, experienced, competent, and possesses the requisite skill and familiarity with City operations to ensure maximum continuity during the search for a permanent Director.

CONTACT PERSON

Adena Ishii, Mayor (510) 981-7100

Attachments:

1: Resolution

Exhibit A: Employment Agreement – Limited Term Retired Annuitant

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

A RESOLUTION OF THE COUNCIL OF THE CITY OF BERKELEY APPOINTING RETIRED ANNUITANT KATHY LEE AS INTERIM DIRECTOR OF POLICE ACCOUNTABILITY AND AUTHORIZING THE MAYOR TO EXECUTE AN EMPLOYMENT AGREEMENT

WHEREAS, the City of Berkeley ("City") has a critical need to temporarily fill a vacancy in the position of Director of Police Accountability, a high-level classification responsible for leading citywide independent police accountability and oversight efforts;

WHEREAS, Government Code Section 21221(h) permits a governing body to make an interim appointment of a retiree to a vacant position during an active recruitment for a permanent appointment where the position requires specialized skills;

WHEREAS, the City Council has reviewed the entire employment agreement between Kathy Lee and the City, attached to this Resolution as Exhibit A, and finds the appointment necessary to ensure continuity of leadership and timely execution of critical police accountability initiatives while the City conducts and completes an active, publicly posted recruitment for the permanent Director of Police Accountability; and

WHEREAS, consistent with CalPERS retired annuitant requirements: (1) the appointment shall be limited to no more than 960 hours in any fiscal year; (2) the retiree shall receive no benefits, incentives, or compensation in lieu of benefits beyond the set hourly rate; and (3) the hourly rate shall be set within the established salary schedule for the Director of Police Accountability classification; and

WHEREAS, the City affirms that the recruitment for the permanent Director of Police Accountability is actively underway and publicly posted on the City's website (and other recruitment platforms), and that this interim appointment is for a limited duration solely to maintain continuity of operations until a permanent appointment is made.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley as follows:
SECTION 1. The Council hereby appoints retired annuitant Kathy Lee to serve as Interim Director of Police Accountability under Government Code section 21221(h), effective March 24, 2026, subject to the terms and conditions of the Employment Agreement attached as Exhibit A and incorporated herein by reference and the limitations set forth in Government Code Section 7522.56.

SECTION 2. The employment shall be limited to 960 hours per fiscal year. The hourly base rate shall be \$122.44 per hour, which is within the current salary range for the

Director of Police Accountability classification as adopted by the City, and no additional benefits, incentives, or compensation in lieu of benefits shall be provided.

SECTION 3. The Council finds and certifies, in accordance with Government Code Sections 21221(h) and 7522.56 that (a) the position of the Director of Police Accountability requires specialized skills in senior management and leadership in police accountability work; (b) the appointment is being made in a public meeting and not on the consent calendar; (c) the appointment shall not exceed the limits in those statutes; and (d) the City has initiated and will maintain an active, publicly posted recruitment for the permanent Director of Police Accountability for the duration of this appointment.

SECTION 4. This Section 21221(h) interim appointment shall be made once and shall end no later than upon permanent appointment or termination of the Employment Agreement consistent with law, whichever comes first.

SECTION 5. The Mayor, or designee, is authorized to execute the Employment Agreement – Limited Term Retired Annuitant (Exhibit A) with Kathy Lee and to take all actions necessary to effectuate this appointment.

Exhibits:

A: Employment Agreement – Limited Term Retired Annuitant

**EMPLOYMENT AGREEMENT – LIMITED TERM RETIRED ANNUITANT
INTERIM DIRECTOR OF POLICE ACCOUNTABILITY**

This Agreement is made and entered into this ___ day of _____, by and between the City of Berkeley (“Employer” or “City”) and Katherine Lee (“Employee” or “Retired Annuitant”), collectively (“Parties”).

RECITALS

WHEREAS, The City’s Director of Police Accountability is a regular position that is currently vacant and information regarding the recruitment for the position has been posted;

WHEREAS, Government Code Section 21221(h) permits the City to temporarily appoint a retired annuitant from the California Public Employees’ Retirement System (CalPERS) to a vacant position requiring specialized skills during recruitment for a permanent replacement;

WHEREAS, Employee was previously employed by the City for 32 years and retired in July 2022, and the parties have determined that Employee is specially trained, experienced, competent, and possesses the requisite specialized skills and training necessary to perform satisfactorily in the interim role;

WHEREAS, The City desires to retain Employee on a temporary, as-needed basis to perform the duties of Interim Director of Police Accountability while the City conducts an active recruitment for the permanent position; and

WHEREAS, Employee is willing to serve under the terms and conditions set forth herein.

NOW THEREFORE, in consideration of these recitals and the mutual covenants contained herein, the City and Employee agree as follows:

1.0 TERM OF APPOINTMENT

1.1 The term of this Agreement shall be for a limited duration beginning on March 31, 2026, and will end prior to the start date of a full-time permanent Director of Police Accountability, unless terminated earlier by either party.

1.2 This Agreement may be terminated immediately by the City, with or without cause, upon written notice. Employee acknowledges and agrees that Employee shall serve at the general direction of the City Council or its designee on an “at-will” basis and without due process and/or property rights to such employment or rights to appeal.

1.3 Employee may resign and terminate this Agreement upon two weeks’ prior written notice to the City. Unless otherwise agreed, no post-resignation compensation is owed beyond hours worked.

1.4 Employee's employment is subject to the 960-hour per fiscal year limitation applicable to CalPERS retired annuitants.

2.0 UNEMPLOYMENT INSURANCE BENEFITS

2.1 Retired Annuitants are ineligible to serve or be employed by a public employer if, during the 12-month period prior to an appointment, the Retired Annuitant received any unemployment insurance compensation arising out of prior employment with a public employer. Gov. Code Section 7522.56.

2.2. Further, a Retired Annuitant that accepts employment, and has received unemployment insurance compensation within the 12 -month period preceding employment, must terminate employment effective the last day of the current payroll period. The Retired Annuitant shall not be eligible for reappointment for a period of 12 months following the termination date. *Id.*

2.3 In accordance with these provisions, Employee warrants that Employee has not received unemployment insurance compensation during the 12 -month period preceding this appointment. _____ (Initials)

3.0 180-DAY RULE

A Retired Annuitant is not eligible to be employed for a period of 180 days following the date of retirement, absent special circumstances. Employee warrants that Employee retired from public service in July 2022, and as such, the terms of this Agreement comply with the 180-day statutory requirements. _____ (Initials)

4.0 DUTIES AND AUTHORITY

The City shall employ Employee as Interim Director of Police Accountability, vested with the authority necessary to lead the Office of the Director of Police Accountability and its staff. Employee shall perform such duties consistent with the classification specification and the City Charter, Berkeley Municipal Code, and applicable policies.

5.0 WORK SCHEDULE AND 960-HOUR LIMITATION

5.1 Employee shall devote the reasonable time, interest, and effort necessary to perform the assigned duties, with an expectation that Employee will devote approximately 32 hours per week. The City retains the right to designate, reduce, change, or amend the number of hours assigned to Employee consistent with the City's workload and other needs.

5.2 In no event shall Retired Annuitant work more than 960 hours in any fiscal year under this Agreement. Employee shall be responsible for keeping track of hours worked. Employee must submit record of hours worked to Payroll according to the same bi-weekly schedule as other City employees. The City will provide Employee with copies of the hours reports periodically submitted to CalPERS regarding Employee's employment with City.

5.3 In compliance with CalPERS regulations and requirements, the Parties expressly agree that Employee cannot and shall not perform any “volunteer” work to City during Employee’s employment under this Agreement.

5.4 Employee will immediately notify the City should Employee perform work as a Retired Annuitant for any other CalPERS member agency during the term of this Agreement. _____ (Initials)

6.0 COMPENSATION

6.1 The City shall pay Employee an hourly rate of \$122.44.

6.2 The hourly rate is within the City’s established salary range for the Director of Police Accountability classification, consistent with CalPERS retired annuitant requirements. Such compensation shall be the sole compensation for Employee’s services under this Agreement.

6.3 Payment shall be made in the City’s regular payroll cycle, subject to applicable withholdings.

7.0 BENEFITS

Except as required by state or federal law, Retired Annuitant shall not be entitled to receive any benefits (including but not limited to vacation and health benefits). No service credit shall accrue under CalPERS for hours worked under this Agreement.

8.0. INDEMNIFICATION

To the maximum extent permitted by law and City policy, the City shall defend and indemnify Employee for acts or omissions within the course and scope of duties under this Agreement, consistent with Government Code and City policies.

9.0 CONFIDENTIALITY AND ETHICS

9.1 Employee shall comply with all applicable conflict-of-interest, ethics, records retention, confidentiality, and public records laws and City policies, including filing any required Form 700 disclosures, if designated.

9.2 Employee will not maintain any financial interest or engage in any other contract employment, occupation, work, endeavor or association, whether compensated for or not, that would in any way conflict with, or impair, Employee’s ability to perform the duties described in this Agreement.

10.0 WORKPLACE POLICIES

Employee shall comply with all City policies (including code of conduct, harassment prevention, information security, and timekeeping). Hours worked shall be tracked and reported consistent with City procedures for retired annuitants.

11.0 MODIFICATIONS

This Agreement may be modified only by a written amendment signed by the Mayor (or designee) and Employee, and any modification shall remain in conformance with applicable CalPERS post-retirement employment laws.

12.0 EFFECT ON EMPLOYEES CalPERS RETIREMENT; INDEMNIFICATION

The City makes no representation on the impact, if any, this Agreement shall or may have upon Retired Annuitant's CalPERS retirement benefits, status, duties, and/or obligations. Employee acknowledges that in entering into this Agreement, Employee has not relied upon any such representations in assessing the CalPERS-related impact of this temporary employment. Retired Annuitant releases the City from any and all CalPERS-related claims or liabilities that may arise in connection with Retired Annuitant's employment pursuant to this Agreement.

13.0 GENERAL PROVISIONS

13.1 The text herein shall constitute the entire agreement between the parties.

13.2 Employee shall not assign any interest in this Agreement, and shall not transfer any interest in the same without the prior written consent of the City.

13.3 Employee agrees that all documents and writings of any type produced in the performance of this Agreement and delivered to the City or its staff shall be the sole property of the City, including all rights therein of whatever kind and whether arising from common or civil law or equity. Upon termination of this Agreement for any reason, or upon expiration of this Agreement, all such documents and writings produced in the performance of this Agreement shall be transferred to and become the property of the City upon its request without additional compensation.

13.4 If any provision, or any portion thereof, contained in this Agreement is held unconstitutional, invalid or unenforceable, the remainder of this Agreement, or portion thereof, shall be deemed severable, shall not be affected and shall remain in full force and effect.

13.5 This Agreement shall be governed by the laws of the State of California and any litigation brought pursuant to it shall be in Alameda County.

13.6 This Agreement constitutes the entire agreement between the City and Employee and supersedes and replaces any and all prior or contemporaneous agreements, understandings or commitments between the City and Employee. No waiver, alteration or

modification of any of the provisions of this Agreement shall be binding unless in writing and signed by a duly authorized representative of both the City and Employee.

13.7 This Agreement may be signed in counterpart or duplicate copies, and any signed counterpart of duplicate copy shall be equivalent to a signed original for all purposes.

13.8 This Agreement shall not be construed against any one party but shall be construed as if jointly prepared by City and Employee.

Executed on the ___ day of _____, 2026, in Berkeley, Alameda County, California.

CITY OF BERKELEY:

Employee:

Adena Ishii, Mayor

Katherine Lee

APPROVED AS TO FORM:

Farimah Faiz Brown, City Attorney

ATTEST:

Mark Numainville, City Clerk