



AGENDA

BERKELEY CITY COUNCIL MEETING

Tuesday, March 14, 2023

6:00 PM

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

JESSE ARREGUIN, MAYOR

Councilmembers:

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

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

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

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

*Remote participation by the public is available through Zoom. To access the meeting remotely: Join from a PC, Mac, iPad, iPhone, or Android device: Please use this URL: <https://cityofberkeley-info.zoomgov.com/j/1600955724>. If you do not wish for your name to appear on the screen, then use the drop down menu and click on "rename" to rename yourself to be anonymous. To request to speak, use the "raise hand" icon by rolling over the bottom of the screen. To join by phone: Dial **1-669-254-5252** or **1-833-568-8864 (Toll Free)** and enter Meeting ID: **160 095 5724**. If you wish to comment during the public comment portion of the agenda, Press *9 and wait to be recognized by the Chair.*

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

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

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

Preliminary Matters

Roll Call:

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

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

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

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

Consent Calendar

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

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

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

Consent 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. Amendments to COVID-19 Emergency Response Ordinance, BMC Chapter 13.110**
From: Mayor Arreguin (Author), Councilmember Hahn (Author)
Recommendation: Adopt second reading of Ordinance No. 7,855-N.S. amending Berkeley Municipal Code (BMC) Chapter 13.110, the COVID-19 Emergency Response Ordinance to suspend the application of the ordinance to commercial property, permit lawful owner move-in evictions, and establish a Transition Period during which time specified evictions would be prohibited.
First Reading Vote: Ayes – Taplin, Bartlett, Harrison, Hahn, Robinson, Arreguin; Noes – Wengraf; Abstain – Kesarwani, Humbert.
Financial Implications: None
Contact: Jesse Arreguin, Mayor, (510) 981-7100
- 2. Adopt an Ordinance Amending Berkeley Municipal Code Chapter 3.82 Modifying Membership and Appointment Procedures for the Environment and Climate Commission**
From: Councilmember Harrison (Author)
Recommendation: Adopt second reading of Ordinance No. 7,856-N.S., amending Berkeley Municipal Code Chapter 3.82 Modifying Membership and Appointment Procedures for the Environment and Climate Commission.
First Reading Vote: All Ayes.
Financial Implications: See report
Contact: Kate Harrison, Councilmember, District 4, (510) 981-7140
- 3. Formal Bid Solicitations and Request for Proposals Scheduled for Possible Issuance After Council Approval on March 14, 2023**
From: City Manager
Recommendation: Approve the request for proposals or invitation for bids (attached to staff report) that will be, or are planned to be, issued upon final approval by the requesting department or division. All contracts over the City Manager's threshold will be returned to Council for final approval.
Financial Implications: Mental Health Services Act - \$2,802,400
Contact: Henry Oyekanmi, Finance, (510) 981-7300

Consent Calendar

- 4. Contract: KLD Engineering, P.C. for Evacuation and Response Time Modeling**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to piggyback on the County of Santa Barbara contract and execute a contract and any amendments with KLD Engineering, P.C., for Evacuation and Response Time Modeling from April 1, 2023 through June 30, 2024 in the amount not to exceed \$400,000 with an option to extend for an additional two years not to exceed an additional \$100,000 if the piggyback contract is extended.
Financial Implications: See report
Contact: David Sprague, Fire, (510) 981-3473
- 5. Contract: GoGo Technologies, Inc. for Transportation Services for Seniors and the Disabled**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager, or her designee, to execute a contract and any amendments with GoGo Technologies, Inc. in the amount of \$350,000 for the period of April 1, 2023 through June 30, 2026 for the provision of a 24/7 call center to arrange rides with Uber and Lyft for customers of the Aging Services Division's Berkeley Rides for Seniors and the Disabled program.
Financial Implications: Measure BB Fund - \$350,000
Contact: Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400
- 6. Contract: mySidewalk, Inc. for HHCS Web-Based Population Health Data Platform**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute a contract and any amendments with mySidewalk, Inc. to provide a web-based population health data platform to access, compile, and share Community Health Assessment (CHA) data, and priority issues and strategies for the Community Health Improvement Plan (CHIP) for the Department of Health, Housing and Community Services (HHCS) from March 15, 2023 to March 14, 2026, in an amount not to exceed \$128,315.
Financial Implications: Various Funds - \$128,315
Contact: Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400
- 7. Contract No. 32000225 Amendment: Its Personnel Consulting for Recruitment, Hiring, and Independent Workplace Investigation**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 32000225 with Its Personnel Consulting for recruitment, hiring and independent workplace investigation services, increasing the amount by \$149,000 for total amount not to exceed \$349,000 and extending the term of the contract through June 30, 2024.
Financial Implications: General Fund - \$149,000
Contact: Aram Kouyoumdjian, Human Resources, (510) 981-6800

Consent Calendar

- 8. Contract No. 32100046 Amendment: HR Acuity, LLC for Case Management and Employee Relations Software**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 32100046 with HR Acuity, LLC for case management and employee relations software, increasing the amount by \$139,000 for a total amount not to exceed \$189,000, and extending the contract term to June 30, 2025.
Financial Implications: General Fund - \$139,000
Contact: Aram Kouyoumdjian, Human Resources, 510-981-6800
- 9. Purchase Orders: Glassdoor to Provide Search Engine Optimization (SEO) and Ad Work**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute purchase orders with Glassdoor to provide search engine optimization (SEO) and ad work for two years from April 1, 2023 until March 31, 2025 in an amount not to exceed \$150,000.
Financial Implications: Various Funds - \$150,000
Contact: Aram Kouyoumdjian, Human Resources, (510) 981-6800
- 10. Purchase Orders: Indeed to Provide Search Engine Optimization (SEO) and Ad Work**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute purchase orders with Indeed to provide search engine optimization (SEO) and ad work for two years from April 1, 2023 until March 31, 2025 in an amount not to exceed \$150,000.
Financial Implications: Various Funds - \$150,000
Contact: Aram Kouyoumdjian, Human Resources, (510) 981-6800
- 11. Contract No. 31900187 Amendment: LV.NET (formerly Towerstream) for Secondary Internet for Redundancy and Load Balancing**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to amend the contract with LV.NET (formerly Towerstream, Inc.) for redundant secondary internet services, increasing the contract amount by \$106,000 for a total not-to-exceed amount of \$278,000 from October 3, 2017 to June 30, 2024.
Financial Implications: Information Technology Communications Services Fund - \$106,000
Contact: Kevin Fong, Information Technology, (510) 981-6500

Council Consent Items

- 12. Opposition to Initiative #1935**
From: Mayor Arreguin (Author), Councilmember Hahn (Co-Sponsor), Councilmember Harrison (Co-Sponsor), Councilmember Wengraf (Co-Sponsor)
Recommendation: Adopt a Resolution to oppose Initiative #1935, the deceptively named “Taxpayer Protection and Government Accountability Act”.
Financial Implications: See report
Contact: Jesse Arreguin, Mayor, (510) 981-7100
- 13. Resolution to Support SB 50**
From: Mayor Arreguin (Author), Councilmember Robinson (Co-Sponsor), Councilmember Hahn (Co-Sponsor)
Recommendation: Adopt a Resolution in support of Senate Bill 50 with amendments, introduced by Senator Steven Bradford. Send a copy of the Resolution to Governor Gavin Newsom, State Senators Nancy Skinner and Scott Weiner, and Assemblymember Buffy Wicks.
Financial Implications: None
Contact: Jesse Arreguin, Mayor, (510) 981-7100
- 14. Support SB 252 – State Divestment from Fossil Fuels**
From: Mayor Arreguin (Author), Councilmember Hahn (Co-Sponsor), Councilmember Harrison (Co-Sponsor), Councilmember Wengraf (Co-Sponsor)
Recommendation: Adopt a Resolution in support of SB 252 (Gonzalez), which would prohibit the Public Employees’ Retirement System (CalPERS) and the State Teachers’ Retirement System (CalSTRS) from investing in fossil fuel companies. Send a copy of the Resolution to Assemblymember Buffy Wicks, State Senators Nancy Skinner and Lena Gonzalez, Governor Gavin Newsom, CalPERS, and CalSTRS.
Financial Implications: None
Contact: Jesse Arreguin, Mayor, (510) 981-7100
- 15. Budget Referral: Vision 2050 Complete Streets Parcel Tax Community Engagement and Program Plan**
From: Councilmember Taplin (Author), Councilmember Harrison (Co-Sponsor), Councilmember Robinson (Co-Sponsor)
Recommendation: Refer \$400,000 to the June 2023 mid-year budget update to conduct community engagement, public information campaign, and program plan development for potential 2024 complete streets and climate-resilient infrastructure revenue measures.
Financial Implications: See report
Contact: Terry Taplin, Councilmember, District 2, (510) 981-7120

Council Consent Items

- 16. Resolution Supporting Unionization Efforts by Urban Ore workers**
From: Councilmember Taplin (Author), Councilmember Robinson (Co-Sponsor)
Recommendation: Adopt a Resolution in support of workers at Urban Ore unionizing under representation by the Industrial Workers of the World (IWW) Union 670.
Financial Implications: None
Contact: Terry Taplin, Councilmember, District 2, (510) 981-7120
- 17. Support for SB-58: Controlled Substances**
From: Councilmember Taplin (Author), Councilmember Robinson (Co-Sponsor)
Recommendation: Send a letter of support for Sen. Wiener’s Senate Bill 58, which would decriminalize psilocybin, psilocyn, MDMA, DMT, ketamine, mescaline, and ibogaine; expunge criminal records for use and possession of these substances; and establish a commission to provide recommendations to the state legislature on therapeutic uses.
Financial Implications: None
Contact: Terry Taplin, Councilmember, District 2, (510) 981-7120
- 18. Letter in Support of SB 466**
From: Councilmember Robinson (Author), Mayor Arreguin (Co-Sponsor), Councilmember Hahn (Co-Sponsor), Councilmember Harrison (Co-Sponsor)
Recommendation: Send a letter to Senator Aisha Wahab (cc: Governor Gavin Newsom, Senator Nancy Skinner, Assemblymember Buffy Wicks) in support of SB 466, which would reform the Costa-Hawkins Rental Housing Act.
Financial Implications: None
Contact: Rigel Robinson, Councilmember, District 7, (510) 981-7170
- 19. Resolution and Letter in Support of H.R. 852, the Investing in Safer Traffic Stops Act of 2023**
From: Councilmember Robinson (Author), Councilmember Hahn (Co-Sponsor)
Recommendation: Adopt a Resolution in support of H.R. 852, the Investing in Safer Traffic Stops Act of 2023, and send a letter of support to Representative Ritchie Torres, Representative Barbara Lee, Senator Alex Padilla, and Senator Dianne Feinstein.
Financial Implications: None
Contact: Rigel Robinson, Councilmember, District 7, (510) 981-7170

Action 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.

Action Calendar

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

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

Action Calendar – Old Business

- 20. Reforms to Public Comment Procedures at meetings of the Berkeley City Council** *(Reviewed by the Agenda & Rules Committee. Continued from February 2, 2023. Item contains supplemental materials.)*

From: Councilmember Droste (Author)

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

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

Financial Implications: See report

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

Action 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 line up at the podium, or use the "raise hand" function in Zoom, to be recognized and to determine the number of persons interested in speaking at that time.

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

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

Action Calendar – Public Hearings

21. Ambulance User Fee Increase

From: City Manager

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

Financial Implications: See Report

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

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

From: Fair Campaign Practices Commission

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

Financial Implications: None

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

Action Calendar – Old Business

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

From: City Manager

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

Action Calendar – New Business

24. Berkeley Economic Dashboards Update

From: City Manager

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

Council Action Items

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

From: Councilmember Droste (Author)

Recommendation:

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

1. Beginning in 2023, Councilmembers shall submit no more than one major legislative proposal or set of amendments to any existing ordinance per year, with the Mayor permitted to submit two major proposals, for a maximum of ten major Council items per year.
2. In 2023 and all future years, Councilmembers shall be required to submit major items before an established deadline. Council shall then prioritize any new legislative items as well as any incomplete major items from the previous year using the Reweighted Range Voting (RRV) process. This will help establish clear priorities for staff time, funding, and scheduling Council work sessions and meetings. For 2023 alone, the RRV process should include outstanding/incomplete Council items from all previous years. In 2024 and thereafter, the RRV process should only incorporate outstanding/incomplete major items from the prior year. However, Councilmembers may choose to renominate an incomplete major policy item from an earlier year as their single major item.
3. During deliberations at a special worksession, Council retreat, and/or departmental budget presentations, Council and the City Manager should develop a work plan that establishes reasonable expectations about what can be accomplished by staff given the list of priorities as ranked by RRV. Council should also consult with the City Manager and department heads, particularly the City Attorney's office, Planning Department, and Public Works Department on workload challenges (mandates outside Council priorities, etc.), impacts, reasonable staff output expectations, and potential corrective actions to ensure that mandated deadlines are met, basic services are provided, and policy proposals are effectively implemented.
4. Budget referrals and allocations from City Council must be explicitly related to a previously established or passed policy/program, planning/strategy document, and/or an external funding opportunity related to one of these. As a good government practice, councilmembers and the Mayor may not submit budget referrals which direct funds to a specific organization or event. Organizations which receive City funding must submit at least annually an application detailing, at a minimum: the civic goal(s)/purpose(s) for which City funds are used, the amount of City funding received for each of the preceding five years, and quantitative or qualitative accounting of the results/outcomes for the projects that made use of those City funds. Organizations receiving more than \$20,000 in City funds should be required to provide quantitative data regarding the number of individuals served and other outcomes.

Council Action Items

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

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

Financial Implications: See report

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

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.*

Archived indexed video streams are available at:

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

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

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

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

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

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

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

City Clerk Department - 2180 Milvia Street, First Floor

Tel: 510-981-6900, TDD: 510-981-6903, Fax: 510-981-6901

Email: clerk@cityofberkeley.info

Libraries: Main – 2090 Kittredge Street,

Claremont Branch – 2940 Benvenue, West Branch – 1125 University,

North Branch – 1170 The Alameda, Tarea Hall Pittman South Branch – 1901 Russell

COMMUNICATION ACCESS INFORMATION:

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

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



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

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*I hereby certify that the agenda for this meeting of the Berkeley City Council was posted at the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way, as well as on the City's website, on Thursday, March 2, 2023.*

Mark Numainville, City Clerk

**Communications – March 14, 2023**

*Council rules limit action on Communications to referral to the City Manager and/or Boards and Commissions for investigation and/or recommendations. All communications submitted to Council are public record.*

**Hopkins Corridor**

- 1. Alex Benn
- 2. Phyllis Orrick
- 3. Khin Chin, on behalf of Disaster and Fire Safety Commission (2)
- 4. Andrew Graham
- 5. Mimi Morgan
- 6. Grayson Savoie
- 7. Eric Taylor
- 8. Laila Hamidi
- 9. Charan Samudrala
- 10. Walter Wood
- 11. Joel Myerson (2)
- 12. William Stringfellow
- 13. Becca Schonberg
- 14. Carol Hirth
- 15. Sally Nelson
- 16. Diana Bohn
- 17. Gerry Tierney
- 18. Mary B



19. Katherine Silver
20. Susan Ashley
21. Sean Co
22. Friends of Hopkins Street
23. Judy Dater
24. Meg Holm
25. Will Gioia
26. Melissa Short
27. Susan DeMersseman
28. Janet Jacobson-Weiss
29. Friends of Five Creeks

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

30. Jack Kurzweil (2)
31. Helga Recke

#### **Stuart Street and MLK Danger Zone**

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

#### **Ukraine Flag Raising**

34. Igor Tregub

#### **Crime in Berkeley**

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

#### **Housing Element**

40. Corey Smith

#### **Berkeley Unified School District Milvia Garage**

41. Liza Lutzker

#### **Legislative Assistants Compensation**

42. Khin Chin, VP of SEIU 1021 CSU PTRLA
43. Anne Cardwell, Deputy City Manager

#### **Dead Animals in Aquatic Park**

44. Cassandra Turgman

#### **COVID-19**

45. Kelly Hammargren

**Affordable Commercial Space**

46. Sylvia

**Public Transit Fiscal Cliff**

47. Thomas Yamaguchi

**Deaths at Golden Gate Fields**

48. Tweed Conrad

**Housing Demolition and Unfinished Business**

49. Michai Freeman

**Railroad Safety**

50. Sarah Freedman

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

51. Anne Burns

**WARN Notice**

52. Anne Del Rosario Birnbaum, for Chipper Cash

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

53. Friends of Five Creeks

54. Liam Garland, Director of Public Works

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

55. Laurel and Ben Kuchinsky

**North Berkeley Senior Center**

56. Sara Paredes

57. Chris Gilmore

58. Chiara Juster

**High Cost of Food for Cal Students**

59. Olga Jimenez

**Day of Hate on Jews – February 25**

60. Dorothea Dorenz

**Elder Abuse at Harriet Tubman Terrance**

61. Darinxoso Oyamasela

**Alameda County Information for City Stakeholders**

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

**E-Bike Lottery**

63. Anne-Lise Francois

### **ADA Bypass**

64. Carl Bass

### **Berkeley Asphalt Operations**

65. Pear Michaels

### **Bus Rapid Transit from University to Telegraph**

66. Zach Franklin

67. Bailey Schweitzer

### **910 Indian Rock Avenue**

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

### **PAB Recommendations – Unmanned Aerial System**

69. Jen Louis, Interim Chief of Police

### **URLs Only**

70. Vivian Warkentin (3)

71. Fred Dodsworth

72. Michai Freeman

### **Supplemental Communications and Reports**

*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. 7,855-N.S.

ORDINANCE AMENDING CHAPTER 13.110 OF THE BERKELEY MUNICIPAL CODE,  
THE COVID-19 EMERGENCY RESPONSE ORDINANCE

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

Section 1. That Berkeley Municipal Code Chapter 13.110 is hereby amended to read as follows:

**Chapter 13.110  
COVID-19 EMERGENCY RESPONSE ORDINANCE**

**Sections:**

- 13.110.010 Findings and Purpose**
- 13.110.020 Prohibited Conduct**
- 13.110.030 Definitions**
- 13.110.040 Collection of Back Rent and Late Fees**
- 13.110.050 Application**
- 13.110.060 Implementing Regulations**
- 13.110.070 Waiver**
- 13.110.080 Remedies**
- 13.110.090 Severability**
- 13.110.100 Liberal Construction**

**13.110.010 Findings and Purposes**

International, national, state and local health and governmental authorities are responding to an outbreak of respiratory disease caused by a novel coronavirus named "SARS-CoV-2." and the disease it causes has been named "coronavirus disease 2019," abbreviated COVID-19, ("COVID-19"). In response to this emergency, on March 3, 2020, the City Manager acting as the Director of Emergency Services declared a local State of Emergency based on COVID-19 (hereinafter referred to as "the Local Emergency"), which the City Council subsequently ratified on March 10, 2020. On April 21, 2020, June 16, 2020, July 28, 2020, September 22, 2020, November 17, 2020, December 15, 2020, February 9, 2021, March 30, 2021, May 25, 2021, July 20, 2021, September 14, 2021, December 14, 2021, February 8, 2022, March 22, 2022, May 10, 2022, June 28, 2022, and July 26, 2022, September 14, 2021, December 14, 2021, February 8, 2022, March 22, 2022, May 10, 2022, June 28, 2022, July 26, 2022, September 20, 2022, November 3, 2022, December 13, 2022, and January 31, 2023, the council ratified an extension of the local emergency. In addition, on March 4, 2020, the Governor declared a state of emergency in California and the President of the United States declared a national state of emergency on March 13, 2020 regarding the novel coronavirus and COVID-19.

On March 16, 2020, the City of Berkeley Public Health Officer, along with several other neighboring jurisdictions issued a Shelter in Place Order directing all individuals living in

the City of Berkeley to shelter at their place of residence except that they may leave to provide or receive certain essential services or engage in certain essential activities, and prohibiting non-essential gatherings and ordering cessation of non-essential travel. On March 31, 2020 this Shelter in Place Order was extended to May 3, 2020, and restricted activities further.

Furthermore, on March 16, 2020, the Governor issued Executive Order N-28-20, specifically authorizing local governments to halt evictions for commercial tenants, residential tenants, and homeowners who have been affected by COVID-19, emphasizing that the economic impacts of COVID-19 have been significant and could threaten to undermine housing security as many people are experiencing material income loss as a result of business closures, the loss of hours or wages or layoffs related to COVID-19, hindering their ability to keep up with rents, mortgages and utility bills.

The Order also stated that because homelessness can exacerbate vulnerability to COVID-19, Californians must take measures to preserve and increase housing security for Californians to protect public health and specifically stated that local jurisdictions may take measures to promote housing security beyond what the state law would otherwise allow.

On April 21, 2020, Alameda County enacted an urgency ordinance prohibiting eviction for any reason other than withdrawal of rental property under the Ellis Act or court-ordered eviction for public safety. Although the Alameda County ordinance does not have effect within the incorporated area of Berkeley, it is desirable to ensure that Berkeley residents have at least the same level of protection as the residents of unincorporated Alameda County.

During this State of Emergency and during the transition period thereafter, and in the interests of protecting the public health and preventing transmission of the COVID-19, it is essential to avoid unnecessary displacement and homelessness. It is the intent of this Ordinance to fully implement the suspension of the statutory bases for eviction for nonpayment of rent and for default in the payment of a mortgage as authorized by Executive Order N-28-20.

While COVID-19 remains prevalent in the community, the City has made significant progress in addressing the impacts of COVID-19, including a reduction in the rates of hospitalization and death, as well as a citywide vaccination rate of at least ninety-four percent (94%).

Governor Gavin Newsom has also announced that the statewide COVID-19 State of Emergency will end on February 28, 2023. President Joe Biden has announced that the nationwide COVID-19 State of Emergency will end on May 11, 2023.

Based on the current conditions in the City of Berkeley related to COVID-19, and to stay consistent with state actions, the City Manager has recommended that the City Council terminate the local emergency.

The effect of this chapter suspending the statutory basis for eviction due to non-payment of rent remains in effect throughout the Covered Period, which concludes on the expiration of the local emergency. BMC Section 13.110.030.A allows the City Council to extend the duration of the Covered Period by resolution.

This ordinance makes further amendments to Chapter 13.110 to permit lawful owner-move in evictions pursuant to BMC Section 13.76.130.A.9 and to establish a Transition Period until August 31, 2023, during which time specified evictions would be allowed to take place.

**13.110.020 Prohibited Conduct**

A. During the Covered Period, no Landlord or Lender shall evict or attempt to evict a Resident of residential real property, or otherwise require a residential Tenant to vacate, unless necessary to stop an imminent threat to the health and safety of other occupants. For purposes of this Ordinance, the basis for an exception to this Ordinance cannot be the Resident’s COVID-19 illness or exposure to COVID-19, whether actual or suspected.

B. Residential Eviction Moratorium. It shall be a complete defense to any action for unlawful detainer that the notice upon which the action is based was served or expired, or that the complaint was filed or served, during the Covered Period, except that after the effective date of this ordinance, a Landlord may serve a lawful notice pursuant to Section 13.76.130.A.9.

C. During the Transition Period, no Landlord or Lender shall evict or attempt to evict a Resident of residential real property, or otherwise require a residential Tenant to vacate unless at least one of the following conditions is met:

1. Recovery of possession of real property is necessary to stop an imminent threat to the health and safety of other occupants; or

2. *Owner Move-in Eviction.* The Landlord seeks to recover possession of a residential unit for their own use and occupancy as their principal residence and the Landlord fully complies with all “Owner Move-in Eviction” requirements set forth in Berkeley Municipal Code section 13.76.130.A.9. However, a Landlord may not recover possession of any residential unit in this manner unless the Landlord owns only one residential property in the City of Berkeley. Notice for this exclusive reason may be served beginning March 1, 2023 and may be the basis for an eviction beginning May 1, 2023.; or

3. The Landlord or Lender seeks to recover possession of real property following the tenant’s default in payment of rent that came due after the expiration of the Covered Period and for which tenant did not provide to the Landlord or Lender documentation establishing a Covered Reason for Delayed Payment as set forth in Berkeley Municipal

Code section 13.110.040.C. Any notice to terminate tenancy served pursuant to this section must inform the tenant of their rights to submit documentation establishing a Covered Reason for Delayed Payment as set forth in Berkeley Municipal Code section 13.110.040.C. Notwithstanding any other notice requirements identified in Berkeley Municipal Code section 13.110.040.C, a tenant who asserts a Covered Reason for Delayed Payment during the Transition Period shall provide landlord all required documentation prior to the expiration of the notice to terminate tenancy.

D. For the duration of the Covered Period, if a residential tenant has a Covered Reason for Delayed Payment, the tenant may terminate a lease or rental agreement with 30 day' notice without penalty. A tenant may also exercise rights under this subsection if the tenants or roommates of the tenants are or were registered at an educational institution that cancelled or limited in-person classes due to the COVID-19 pandemic.

### **13.110.030 Definitions**

A. "Covered Period" means the period of time beginning with March 17, 2020 and concluding 60 days after upon the expiration of the local emergency but not sooner than May 1, 2023. However, the City Council may vote by resolution to extend the duration of the Covered Period.

B. "Transition Period" means the period of time beginning with the expiration of the Covered Period and shall end no later than August 31, 2023.

C. "Covered Reason for Delayed Payment" means:

(1) The basis for the eviction is nonpayment of rent, arising out of a material decrease in household, business, or other rental unit occupant(s)'s income (including, but not limited to, a material decrease in household income caused by layoffs or a reduction in the number of compensable hours of work, or to caregiving responsibilities, or a material decrease in business income caused by a reduction in opening hours or consumer demand), or material out-of-pocket medical expenses, or a reduction in the number of tenants living in the unit (including due to difficulty finding new tenants and/or subtenants willing and able to cover a sufficient share of rent) which reduces the ability of the remaining tenants to pay rent, or a rent increase that exceeds the Annual General Adjustment for the current year; and

(2) The decrease in household, business, or other rental unit occupant's income or the expenses or reduction in number of tenants described in subparagraph (1) was caused by the impacts of COVID-19 pandemic, or by any local, state, or federal government response to COVID-19.

D. "Delayed Rent Payment Agreement" means a mutual agreement between a landlord and tenant regarding the timing and amount of payments for rent that is delayed by a Covered Reason for Delayed Payment.



E. "Homeowner" means the owner or owners of a Residential Unit subject to a mortgage or similar loan secured by the residential unit. "Homeowner" is limited to owners who reside in the unit and includes the individuals residing in the unit with the homeowner.

F.

G. "Landlord" includes owners, lessors, or sublessors of either residential rental property, and the agent, representative, or successor of any of the foregoing.

H. "Lender" means the mortgagee of a purchase money or similar mortgage, or the holder or beneficiary of a loan secured by one or more units, which person has the right to mortgage or similar payments from the owner as mortgagor, including a loan servicer, and the agent, representative, or successor of any of the foregoing.

I. "Resident" means a Tenant, Homeowner, or their household.

J. "Tenant" includes a tenant, subtenant, lessee, sublessee, lodger or any other person entitled by written or oral rental agreement to use or occupancy of residential property. "Tenant" includes a former trustor or homeowner who has lost title the real property in which they reside after a Trustee's sale.

**13.110.040 Collection of Back Rent and Late Fees**

A. Nothing in this Chapter shall relieve the tenant of liability for unpaid rent, which the landlord may seek after expiration of the Covered Period, or after the Transition Period if the tenant establishes a Covered Reason for Delayed Payment. . Notwithstanding any lease provision to the contrary, a landlord may not charge or collect a late fee, fine, or interest for rent that is delayed by a Covered Reason for Delayed Payment. Landlords are encouraged to work with local agencies that will be making rental assistance available for qualifying tenants.

B.

1. For rent accrued through January 31, 2021, Tenants shall have until March 31, 2022, or the date adopted by state law, as applicable, to pay rent that was delayed by a Covered Reason for Delayed Payment unless the landlord and tenant come to a mutual repayment agreement ("Delayed Rent Payment Agreement").

2. For rent accrued beginning February 1, 2021, Tenants shall have until July 31, 2023, to pay rent that was delayed by a Covered Reason for Delayed Payment, or the period of time adopted by state law, as applicable, unless the landlord and tenant come to a mutual repayment agreement ("Delayed Rent Payment Agreement").

3. Notwithstanding any lease provision to the contrary, a landlord may not charge or collect a late fee, fine, or interest for rent that is delayed by a Covered Reason for Delayed Payment.

C. A Tenant is not required to provide documentation to the Landlord in advance to qualify for the delayed repayment of rent. However, upon the request of a Landlord, a Tenant shall provide such documentation to the Landlord within forty-five (45) days after the request or prior to the expiration of a lawfully drafted and served notice of termination of tenancy, whichever is sooner. A declaration sworn under penalty of perjury shall constitute documentation for the purpose of this requirement.

D. Any medical or financial information provided to the landlord shall be held in confidence, and shall not be disclosed to other entities unless such disclosure is permitted or required by the law, or unless the tenant explicitly authorizes the disclosure of the information in writing.

E. Any relief from the City of Berkeley either directly to a property owner on their own application or as a pass through for City relief payments to the tenant shall directly reduce the amount of any rent that was delayed by a Covered Reason for Delayed Payment. This requirement shall be applied into any Delayed Rent Payment Agreement, regardless of the terms of that agreement.

### **13.110.050 Application**

A. This Chapter applies to eviction notices and unlawful detainer actions based on notices served, filed, or which expire during the Covered Period and Transition Period. It does not apply to commercial leases where the term has expired and the City has issued a permit for the demolition or substantial alteration of the commercial unit, or to units ordered by the City to be vacated for the preservation of public health, including where the City deems necessary to control the spread of COVID-19.

B. Except where expressly required by state law (such as Assembly Bill 3088 or any subsequent statewide COVID-19 relief legislation), a landlord may seek rent accrued during the Covered Period as set forth in Section 13.110.040, but may not file an action pursuant to Code of Civil Procedure sections 1161(2) *et seq.* or otherwise seek to recover possession of a rental unit based on the failure to pay rent that accrued during the Covered Period. In any action to evict based on alleged nonpayment of rent, it shall be a complete defense to such action if any part of the rent in dispute accrued at any time during the Covered Period, or if the action otherwise demands any fees or amounts contrary to the provisions of this Chapter. A landlord shall not apply any rent payment towards rent that is delayed by a Covered Reason for Delayed Payment before applying it towards any other Rent owed without the explicit written permission of the Tenant.

C. A Landlord or Lender shall not retaliate against a Resident for exercising their rights under this Ordinance, including but not limited to shutting off any utilities reducing services or amenities, refusing to make or delaying repairs to which the Resident would otherwise be entitled, or taking actions which hurt the Resident's credit rating based on non-payment of rent during the Covered Period as allowed under this ordinance.

D. In addition to the affirmative defenses set forth above, in any action to recover possession of a rental unit filed under Berkeley Municipal Code section 13.76.130(A)(1),

it shall be a complete defense that the landlord impeded the tenant's effort to pay rent by refusing to accept rent paid on behalf of the tenant from a third party, or refusing to provide a W-9 form or other necessary documentation for the tenant to receive rental assistance from a government agency, non-profit organization, or other third party. Acceptance of rental payments made on behalf of the tenant by a third party shall not create a tenancy between the landlord and the third party.

**13.110.060 Implementing Regulations**

The City Manager may promulgate implementing regulations and develop forms to effectuate this Ordinance. This includes the option of requiring Landlords and Lenders to give a notice to Residents informing them of this Chapter and the right to seek the benefits of this Chapter.

**13.110.070 Waiver.**

A. By entering into a Delayed Rent Payment Agreement, Tenants do not waive any rights under this Chapter.

B. Any agreement by a Tenant to waive any rights under this ordinance shall be void and contrary to public policy.

**13.110.080 Remedies**

A. In the event of a violation of this Ordinance, any person or entity aggrieved by the violation may institute a civil proceeding for injunctive relief, and money actual damages as specified below, and whatever other relief the court deems appropriate.

1. An award of actual damages may include an award for mental and/or emotional distress and/or suffering. The amount of actual damages awarded to a prevailing plaintiff shall be trebled by the Court outside of the presence, and without the knowledge of, the jury, if any, if a defendant acted in knowing violation of, or in reckless disregard for, the provisions of this Chapter.

2. A defendant shall be liable for additional civil penalties of up to five thousand dollars for each violation of this Chapter committed against a person who is disabled within the meaning of California Government Code section 12926, et seq., or aged sixty-five or over.

3. In addition to the above awards of damages in a civil action under this Chapter, a prevailing plaintiff shall be entitled to an award of reasonable attorney's fees. A prevailing defendant in a civil action under this Chapter shall only be entitled to an award of attorney's fees if it is determined by the Court the action was wholly without merit or frivolous.

4. In addition, this Chapter grants a complete defense to eviction in the event that an eviction notice or unlawful detainer action is commenced, filed, or served in violation of this Chapter.

B. The protections provided by this ordinance shall be available to all Residents, regardless of any agreement wherein a Resident waives or purports to waive their rights under this Ordinance, with any such agreement deemed void as contrary to public policy.

C. A. Violations of Section 13.110.020(C) - (Commercial rent restrictions).

1. Violations of Section 13.110.020(C) may be enforced by an administrative fine of up to \$1,000 pursuant to Chapter 1.28. Each day a commercial property landlord demands rent in excess of the amount permitted pursuant to Section 13.110.020(C) is a separate violation. The City may also charge the costs of investigating and issuing any notices of violations, and any hearings or appeals of such notices.

2. The City Attorney may refer those violators of Section 13.110.020(C) to the Alameda County District Attorney for redress as a violation of Business and Professions Code section 17200, et seq. or, if granted permission by the District Attorney, may bring an action pursuant to Business and Professions Code section 17200, et seq.

D. Nonexclusive Remedies and Penalties. The remedies provided in this subdivision are not exclusive, and nothing in this Chapter shall preclude any person from seeking any other remedies, penalties or procedures provided by law.

### **13.110.090 Severability.**

If any section, subsection, sentence, clause, phrase, or word of this Chapter, or any application thereof to any person or circumstance, is held to be invalid or unconstitutional by a decision of a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions or applications of this Chapter. The Council of the City of Berkeley hereby declares that it would have passed this Chapter and each and every section, subsection, sentence, clause, phrase, and word not declared invalid or unconstitutional without regard to whether any other portion of this Chapter or application thereof would be subsequently declared invalid or unconstitutional.

### **13.110.100 Liberal Construction**

The provisions of this Chapter shall be liberally construed so as to fully achieve its purpose and provide the greatest possible protections to tenants.

Section 2. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.

At a special meeting of the Council of the City of Berkeley held on February 27, 2023, this Ordinance was passed to print and ordered published by posting by the following vote:

Ayes: Bartlett, Hahn, Harrison, Robinson, Taplin, and Arreguin.

Noes: Wengraf.

Abstain: Kesarwani and Humbert.

Absent: None.



ORDINANCE NO. 7,856-N.S.

AMENDING BERKELEY MUNICIPAL CODE CHAPTER 3.82 MODIFYING MEMBERSHIP AND APPOINTMENT PROCEDURES FOR THE ENVIRONMENT AND CLIMATE COMMISSION

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

Section 1. That Berkeley Municipal Code Chapter 3.82 is amended to read as follows:

ENVIRONMENT AND CLIMATE COMMISSION

Sections:

- 3.82.010 Established--Membership--Appointment.
- 3.82.020 Council representative as commission liaison.
- 3.82.030 Organization, meetings, rules and procedures.
- 3.82.040 Functions.

**3.82.10 Established--Membership--Appointment.**

A. An Environment and Climate Commission is established. The commission shall consist of eleven members.

B. One member of the Commission shall be appointed by each City Councilmember, and vacancies on the commission shall be filled, in accordance with the provisions of Sections 2.04.030 through 2.04.130. City Council shall appoint members with appropriate expertise and demonstrated commitment to the areas outlined in the functions section 3.82.040.

C. Two members of the Commission shall be appointed by the Berkeley City Council as a body with candidates recommended by the Berkeley Unified School District Board of Directors and subject to the following:

(1) The following desirable criteria may guide, but not restrict, the Council in appointing candidates to the Commission:

- i. Appointees to be residents of the City;
- ii. Appointees to be between the ages of sixteen and twenty-five;

(2) Appointees shall have demonstrated commitment or interest in the areas outlined in Section 3.82.040.

D. For purposes of determining term limits under Section 3.02.040, a commissioner's service on the Energy Commission or the Community Environmental Advisory Commission shall be counted toward their service upon their appointment to the Environment and Climate Commission.

**3.82.020 Council representative as commission liaison.**

The City Council and School Board may appoint one of its members to act as a non-voting, uncompensated liaison representative to the Environment and Climate Commission. The functions of such liaison representatives are:

- A. To attend meetings of said commission;
- B. To advise the Council and School Board of the background, reasons and rationale behind decisions and recommendations of said commission; and
- C. On request of any member of said commission, to advise the commission of policies, procedures and decisions of the council and School Board that may bear on matters under discussion by the commission.

**3.82.030 Organization, meetings, rules and procedures.**

A. The commission annually shall elect one of its members as the chairperson and one of its members as the vice-chairperson. One or more officers or employees of the City designated by the City Manager shall serve as secretary of the commission.

B. The commission shall establish a regular place and time for meeting. All meetings shall be noticed as required by law and shall be scheduled in a way to allow for maximum input from the public. The frequency of commission meetings shall be as determined by City Council Resolution. The scheduling of special meetings in addition to those established by City Council resolution, except special meetings that take the place of cancelled regular meetings, shall be subject to approval by the City Council. A request for a special meeting shall include the reason for the proposed meeting and should be expedited on the City Council's agenda, or in the alternative, placed before the Agenda Committee for approval.

C. The commission may make and alter rules governing its organization and procedures which are consistent with this Chapter or any other applicable ordinance of the City.

D. A majority of the members appointed to the commission shall constitute a quorum and the affirmative vote of a majority of the members appointed is required to take any action.

E. The commission shall keep an accurate record of its proceedings and transactions.



**3.82.040 Functions.**

The Environment and Climate Commission shall be an advisory board and shall review and advise the City Council on matters related to emerging issues, policies, projects, programs, planning efforts, activities, and funding of environmental sustainability and climate change mitigation, adaptation and resilience. Its scope will include work to advance the goals of advancing green buildings and resource efficiency; decarbonizing buildings and transportation; engaging and educating the community; addressing the impacts and welfare of all species, including animals, insects, and plants; reducing greenhouse gas emissions; reducing toxics and preventing pollution; and supporting environmental justice.

Section 2. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.

At a regular meeting of the Council of the City of Berkeley held on February 28, 2023, this Ordinance was passed to print and ordered published by posting by the following vote:

Ayes: Bartlett, Hahn, Harrison, Humbert, Kesarwani, Robinson, Taplin, Wengraf, and Arreguin.

Noes: None.

Absent: None.





Office of the City Manager

CONSENT CALENDAR  
March 14, 2023

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: Henry Oyekanmi, Director, Finance  
 Subject: Formal Bid Solicitations and Request for Proposals Scheduled for Possible Issuance After Council Approval on March 14, 2023

RECOMMENDATION

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

FISCAL IMPACTS OF RECOMMENDATION

Total estimated cost of items included in this report are **\$2,802,400**.

| <u>PROJECT</u>                                           | <u>Fund</u> | <u>Source</u>             | <u>Amount</u>      |
|----------------------------------------------------------|-------------|---------------------------|--------------------|
| MHSA INN Encampment-Based Mobile Wellness Center Project | 315         | Mental Health Service Act | \$2,802,400        |
| <b>Total:</b>                                            |             |                           | <b>\$2,802,400</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 March 14, 2023

CONSENT CALENDAR  
March 14, 2023

BACKGROUND

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

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

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

RATIONALE FOR RECOMMENDATION

Need for the services.

ALTERNATIVE ACTIONS CONSIDERED

None.

CONTACT PERSON

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

Attachments:

- 1: Formal Bid Solicitations and Request for Proposals Scheduled for Possible Issuance After Council Approval on March 14, 2023
  - a. MHSA INN Encampment-Based Mobile Wellness Center Project

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

DATE SUBMITTED: March 14, 2023

| SPECIFICATION NO.  | DESCRIPTION OF GOODS / SERVICES BEING PURCHASED          | APPROX. RELEASE DATE | APPROX. BID OPENING DATE | INTENDED USE                                                                             | ESTIMATED COST     | BUDGET CODE TO BE CHARGED          | DEPT. / DIVISION | CONTACT NAME & PHONE    |
|--------------------|----------------------------------------------------------|----------------------|--------------------------|------------------------------------------------------------------------------------------|--------------------|------------------------------------|------------------|-------------------------|
| 23-11592-C         | MHSA INN Encampment-Based Mobile Wellness Center Project | 3/15/23              | 4/18/2023                | Mobile Wellness Services for individuals who are unhoused and living in area encampments | \$2,802,400        | 315-51-503-526-2020-000-451-636110 | HHCS             | Karen Klatt<br>981-7644 |
| <b>DEPT. TOTAL</b> |                                                          |                      |                          |                                                                                          | <b>\$2,802,400</b> |                                    |                  |                         |
| <b>TOTAL</b>       |                                                          |                      |                          |                                                                                          | <b>\$2,802,400</b> |                                    |                  |                         |





Office of the City Manager

CONSENT CALENDAR  
March 14, 2023

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: David Sprague, Interim Fire Chief  
 Subject: Contract: KLD Engineering, P.C. for Evacuation and Response Time Modeling

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to piggyback on the County of Santa Barbara contract and execute a contract and any amendments with KLD Engineering, P.C., for Evacuation and Response Time Modeling from April 1, 2023 through June 30, 2024 in the amount not to exceed \$400,000 with an option to extend for an additional two years not to exceed an additional \$100,000 if the piggyback contract is extended.

FISCAL IMPACTS OF RECOMMENDATION

Funds are available for this contract in the Fire Department Measure FF (Budget code 164-72-745-000-0000-000-612990) and UC Settlement Funds (Budget code 147-72-743-000-0000-000-612990).

CURRENT SITUATION AND ITS EFFECTS

The City requires professional assistance to meet the unfunded state mandates outlined in SB 99, AB 747, and AB 1409, and requires related professional services in the areas of traffic and evacuation modeling and planning.

The first objective of this project is to analyze the City's primary evacuation routes to understand their capacity, safety, and viability under emergency scenarios. The City requires a detailed traffic model to be created so a baseline evaluation of evacuation routes can be conducted. This project will accurately estimate the number of people and vehicles that may need to be evacuated during a wildfire or other emergency, build a traffic simulation model, and then use that model to analyze the how the major evacuation routes will operate under emergency conditions, as well as to estimate how long it would take to evacuate under various conditions (season, day of the week, time of day, weather, etc.).

The second objective of this project is to provide an analysis of any public safety impacts resulting from projected development of new accessory dwelling units (ADUs), junior accessory dwelling units (JADUs), and their associated extra vehicles in the Very High Fire Hazard Severity Zone (VHFHSZ).

The third objective of this project is to analyze the impact of some recently completed, planned, and proposed (as needed) roadway projects have on evacuation capacity, responder ingress during evacuation, and to daily emergency apparatus response times.

On August 15<sup>th</sup>, 2022 the County of Santa Barbara issued a Request for Proposals (RFP) for an Evacuation Route Modeling & Planning Project. The deadlines for submission was September 5, 2022. KLD Engineering, P.C. was awarded the contract from this RFP. The term of the current contact runs from November 1, 2022 to June 30, 2024.

### BACKGROUND

Due to climate and land use changes, wildfires are occurring more frequently along the West Coast. The fuel, topography, transportation network, housing density, and narrow structure separation make a large portion of the City a CalFIRE Very High Fire Danger Severity Zone (VHFDSZ). This means the area presents significant wildfire risk to the people living in, working in and visiting these areas and the adjacent areas of the City.

With an estimated population of 30,000 in the VHFDSZ even a partial evacuation will place a substantial number of people and vehicles on the road network. Given the geography of the City with wildland areas to the east, evacuees must predominately travel west to evacuate the VHFDSZ using mostly narrow evacuation routes.

Evacuating a large number of people with such a challenging transportation network presents a significant risk. If flames or smoke from a wildfire, or down power lines from an earthquake block one or more of these evacuation routes, the risk is exacerbated.

According to the Standards of Coverage analysis provided to City Council on April 19, 2022, the City's response to fire and medical emergencies is 1 minute, 53 seconds slower than the nationally recommended travel time of four-minutes. Today the Department only has only experiential data to quantify the impacts proposed roadway treatments would have to response times.

### ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

There are no identified environmental sustainability or climate related impacts to this work.

### RATIONALE FOR RECOMMENDATION

This work is required by the State of California within SB 99, AB 747, and AB 1409. The City also requires related professional services in the areas of traffic and evacuation modeling and planning to help the community make informed decisions as to the impacts future transportation projects may have on evacuation capacity, responder ingress during evacuation, and daily responder response times to emergencies of various types.

### ALTERNATIVE ACTIONS CONSIDERED

None.



CONTACT PERSON

David Sprague, Interim Fire Chief, (510) 981-3473

Attachments:

1: Resolution

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

CONTRACT: KLD ENGINEERING, P.C. FOR EVACUATION AND RESPONSE TIME MODELING

WHEREAS, due to climate and land use changes, wildfires are occurring more frequently along the West Coast. The fuel, topography, transportation network, housing density, and narrow structure separation make a large portion of the City a CalFIRE Very High Fire Danger Severity Zone (VHFDSZ). This means the area presents significant wildfire risk to the people living in, working in and visiting these areas and the adjacent areas of the City; and

WHEREAS, with an estimated population of 30,000 in the VHFDSZ even a partial evacuation will place a substantial number of people and vehicles on the road network. Given the geography of the City with wildland areas to the east, evacuees must predominately travel west to evacuate the VHFDSZ using mostly narrow evacuation routes. Evacuating a large number of people with such a challenging transportation network presents a significant risk. If flames or smoke from a wildfire, or down power lines from an earthquake block one or more of these evacuation routes, the risk is exacerbated; and

WHEREAS, according to the Standards of Coverage analysis provided to City Council on April 19, 2022, the City's response to fire and medical emergencies is 1 minute, 53 seconds slower than the nationally recommended travel time of four-minutes. Today the Department only has only experiential data to quantify the impacts proposed roadway treatments would have to response times; and

WHEREAS, the City requires professional assistance to meet the unfunded state mandates outlined in SB 99, AB 747, and AB 1409, and requires related professional services in the areas of traffic and evacuation modeling and planning; and

WHEREAS, funds are available for this contract in the Fire Department Measure FF (Budget code 164-72-745-000-0000-000-612990) and UC Settlement Funds (Budget code 147-72-743-000-0000-000-612990).

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to piggyback on the County of Santa Barbara contract and execute a contract and any amendments with KLD Engineering, P.C., for Evacuation and Response Time Modeling from April 1, 2023 through June 30, 2024 in the amount not to exceed \$400,000 with an option to extend for an additional two years not to exceed an additional \$100,000 if the piggyback contract is extended.



Office of the City Manager

CONSENT CALENDAR  
March 14, 2023

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: Lisa Warhuus, Director, Health, Housing and Community Services  
 Subject: Contract: GoGo Technologies, Inc. for Transportation Services for Seniors and the Disabled

RECOMMENDATION

Adopt a Resolution authorizing the City Manager, or her designee, to execute a contract and any amendments with GoGo Technologies, Inc. in the amount of \$350,000 for the period of April 1, 2023 through June 30, 2026 for the provision of a 24/7 call center to arrange rides with Uber and Lyft for customers of the Aging Services Division's Berkeley Rides for Seniors and the Disabled program.

FISCAL IMPACTS OF RECOMMENDATION

Funding for the GoGo Technologies, Inc. contract will be from Measure BB Direct Local Distribution funds distributed by the Alameda County Transportation Commission. The total amount of the contract will be \$350,000. Funding in the amount of \$5,300 for this contract is available in the FY2023 budget in the Measure BB Fund 136. Funding is subject to appropriation in the FY2024, FY2025, and FY2026 budgets in the Measure BB Fund 136.

City of Berkeley receives an annual allocation of Measure BB funds specifically for senior and disabled transportation needs.

CURRENT SITUATION AND ITS EFFECTS

Uber and Lyft are transportation network companies that provide on-demand curb-to-curb transportation. Most Uber and Lyft services are accessed through a smartphone and require the need to download an Uber/Lyft application and navigate the application in order to request a ride. GoGo Technologies, Inc. allows seniors to use Uber and Lyft without the need of a smartphone and provides a 24/7 call center with an automated and operator-assisted system for customers enrolled in the Berkeley Rides for Seniors and the Disabled program. The City has had a Measure BB-funded contract with GoGo Technologies since 2020.

BACKGROUND

GoGo Technologies, Inc. has been providing 24/7 concierge call center services for the coordination of Uber and Lyft rides to seniors since 2016. They leverage the services of Uber and Lyft and tailor their services to the needs of seniors; they match a senior with mobility limitations with a driver and car that meets their special needs, and operators can monitor the rides and provide any needed alerts to family members and emergency contacts. GoGo Technologies, Inc. is the only 24/7 call center concierge service for the provision of Uber and Lyft rides that tailors their services specifically to seniors and people with disabilities. For this reason, staff are recommending a contract with GoGo Technologies without conducting a competitive process.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

The use of ridesharing services such as Uber and Lyft reduce several tons of greenhouse gas emissions each year.

RATIONALE FOR RECOMMENDATION

Since 2015, there has been a consistent and significant decrease in the number of permitted taxi companies and taxi drivers in the City of Berkeley. In 2015, there were 59 taxi companies and 110 taxi drivers; currently there are 22 taxi companies and 22 taxi drivers.

With continued diminishing numbers of taxi cabs and taxi cab drivers, this trend will impact the City's ability to provide an on-demand transportation service to our senior and disabled community. For what will likely be a continued trend in the City of Berkeley, partnering with GoGo Technologies, Inc. ensures we are moving in the direction of continuing to provide an on-demand transportation service that our senior and disabled community members have come to depend upon.

ALTERNATIVE ACTIONS CONSIDERED

The City Council could decide not to adopt this resolution. This would significantly reduce transportation options for Berkeley's seniors and people with disabilities.

CONTACT PERSON

Tanya Bustamante, Aging Services Division Manager, HHCS, (510) 981-5178

Attachments:  
1: Resolution

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

CONTRACT: GOGO TECHNOLOGIES, INC. FOR PROVISION OF  
TRANSPORTATION SERVICES FOR SENIORS AND THE DISABLED

WHEREAS, Berkeley Rides for Seniors and the Disabled is an Aging Services Division transportation services program funded by Measure BB by the Alameda County Transportation Commission; and

WHEREAS, Berkeley Rides for Seniors and the Disabled provides transportation services for over 1,324 Berkeley community members; and

WHEREAS, GoGo Technologies, Inc. is a 24/7 concierge call center that arranges rides with Uber and Lyft for the City's senior and disabled community; and

WHEREAS, funding for GoGo Technologies, Inc. contract will be from Measure BB Direct Local Distribution funds in the amount of \$350,000; and

WHEREAS, funding in the amount of \$5,300 for this contract is available in the FY2023 budget in the Measure BB Fund: HHAMBB2301-NonPersonn-Consultant-Consultant; and

WHEREAS, funding is subject to appropriation in the FY2024, FY2025, and FY2026 budgets in the Measure BB Fund: HHAMBB2301-NonPersonn-Consultant-Consultant.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager, or her designee, is authorized to execute an expenditure contract and any amendments or extensions thereto with GoGo Technologies, Inc. in the amount of \$350,000 for the period April 1, 2023 through June 30, 2026 for the purpose of providing a 24/7 concierge call center that arranges rides with Uber and Lyft for the City's senior and disabled community. A record signature copy of said contract and any amendments shall be on file in the office of the City Clerk.





Office of the City Manager

CONSENT CALENDAR

March 14, 2023

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

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

Subject: Contract: mySidewalk, Inc. for HHCS Web-Based Population Health Data Platform

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to execute a contract and any amendments with mySidewalk, Inc. to provide a web-based population health data platform to access, compile, and share Community Health Assessment (CHA) data, and priority issues and strategies for the Community Health Improvement Plan (CHIP) for the Department of Health, Housing and Community Services (HHCS) from March 15, 2023 to March 14, 2026, in an amount not to exceed \$128,315.

FISCAL IMPACTS OF RECOMMENDATION

Funding in the amount of \$128,315 for the Web-Based Population Health Data Platform is available in the FY 2023 budget: \$73,565 in the State Operating Fund (Fund 302), \$5,000 General Fund (Fund 011), and \$25,250 Trust Fund (Fund 152). Funding is subject to appropriation in the FY 2024 budget in the One-Time Grant Fund (Fund 336) for \$24,500.

CURRENT SITUATION AND ITS EFFECTS

As a public health jurisdiction, the City's core functions include assessing the health of the community's population and identifying plans to improve it. California Future of Public Health program funding also requires that the City completes a CHA and a CHIP. In order to complete these, the Department of Health, Housing and Community Services (HHCS) issued a Request for Proposals for a web-based platform to support residents and stakeholders of the City of Berkeley in viewing health data from local, regional, and national sources in an easy-to-understand format, and identified mySidewalk Inc. as the best-qualified vendor.

In the past, preparing the City's Health Status Report required searching for, downloading, analyzing, laying out, and printing health data from many sources.

This application is already designed to pull from multiple, pre-defined datasets, as well as allow the City of Berkeley to post CHA data and areas of need for its CHIP. A web-

based interactive solution will help community members of all backgrounds to quickly understand health data with the added capability to more deeply explore the data in order to answer questions about community health issues.

The City conducted RFP Specification No. 23-11553-C with proposals due no later than December 1, 2022. The City received four proposals. The selection committee was comprised of the Health Officer, the HHCS Epidemiology team, the Public Health Division manager, and a senior program manager. An interview was conducted with the most qualified organization.

HHCS' work to make transparent and clear the health improvement needs and progress of our community is a Strategic Plan Priority Project; advancing our goal to champion and demonstrate social and racial equity and to achieve health equity.

### BACKGROUND

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

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

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

### ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

There are no identifiable environmental sustainability and climate impact effects or opportunities associated with the action requested in this report.

### RATIONALE FOR RECOMMENDATION

The City conducted a competitive bid process and mySidewalk, Inc. successfully met the bid requirements and ranked highest among all bidders given their applicable experience working on similar projects with other jurisdictions in California. Using a



Contract: mySidewalk, Inc. for  
HHCS Web-Based Population Health Data Platform

CONSENT CALENDAR  
March 14, 2023

technological solution will allow HHCS staff to spend less time compiling and manipulating data for publication, and more time working with the community to identify goals and strategies for improving health in Berkeley.

#### ALTERNATIVE ACTIONS CONSIDERED

Instead of choosing a technological solution, the City could continue to compile population health data manually, one source at a time, as had been done in the past, and publish it as a .pdf document. Staff is not recommending the historical approach because using an existing data platform designed for this purpose will be a more efficient way of working with data. In addition, the mySidewalk tool has interactive capabilities that will help support public participation in the project.

#### CONTACT PERSON

Gabriela Schulz, Epidemiologist, HHCS, [gschulz@cityofberkeley.info](mailto:gschulz@cityofberkeley.info)

Attachments:  
1: Resolution

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

CONTRACT: MYSIDEWALK, INC. FOR HEALTH, HOUSING, AND COMMUNITY SERVICES WEB-BASED POPULATION HEALTH DATA PLATFORM

WHEREAS, the City of Berkeley has issued an RFP to obtain a web-based, subscription solution to support residents and stakeholders of the City of Berkeley in viewing health data from local, regional, and national sources in an easy-to-understand format and to support the implementation of a Community Health Assessment (CHA) and a Community Health Improvement Plan (CHIP).

WHEREAS, the City conducted RFP Specification No. 23-11553-C with proposals due no later than December 1, 2022; and

WHEREAS, the City received four proposals in response to this RFP; and

WHEREAS, one finalist was invited to meet with the selection committee for a more in-depth review of their proposal and describe their past work with other jurisdictions in California, resulting in the selection of mySidewalk, Inc. as the best-qualified vendor.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley to adopt a Resolution authorizing the City Manager to execute a contract and any amendments with mySidewalk, Inc. to provide a web-based, subscription solution to support residents and stakeholders of the City of Berkeley in viewing health data from local, regional and national sources in an easy-to-understand format and to support the implementation of a CHA and CHIP in Health, Housing, and Community Services from March 15, 2023 to March 14, 2026, in an amount not to exceed \$128,315.



Office of the City Manager

CONSENT CALENDAR  
March 14, 2023

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: Aram Kouyoumdjian, Director of Human Resources  
 Subject: Contract No. 32000225 Amendment: Its Personnel Consulting for Recruitment, Hiring, and Independent Workplace Investigation

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 32000225 with Its Personnel Consulting for recruitment, hiring and independent workplace investigation services, increasing the amount by \$149,000 for total amount not to exceed \$349,000 and extending the term of the contract through June 30, 2024.

FISCAL IMPACTS OF RECOMMENDATION

The original contract for services with Its Personnel was for the amount of \$49,000. Last year, that amount was increased to \$200,000 at the request of the Fire Department for personnel investigation services. Presently, an additional \$149,000 is needed for subsequent and ongoing services provided by Its Personnel Consulting to the Human Resources (HR) Department, both in the realms of recruitment/hiring and workplace investigations.

Funding for the amendment and additional years will be included in the General Fund budget code 011-34-343-000-0000-000-412-612990.

|                                                 |                  |
|-------------------------------------------------|------------------|
| Original Contract Amount (November 2020)        | \$49,000         |
| Amended Amount (Fire Department Request, 2022)  | \$151,000        |
| Proposed Increase (This Amendment)              | \$149,000        |
| <b>Total New Contract Amount</b>                | <b>\$349,000</b> |
|                                                 |                  |
| Budget Code: 011-34-343-000-0000-000-412-612990 |                  |
| Original Contract                               | \$49,000         |
| Amendment in 2022 (Fire Department)             | \$151,000        |
| Proposed Increase (This Amendment)              | \$149,000        |
| <b>Total Expense Budget for Contract</b>        | <b>\$349,000</b> |
|                                                 |                  |

### CURRENT SITUATION AND ITS EFFECTS

The Human Resources Department relies on Its Personnel Consulting for two types of services: Its Personnel (1) provides supplemental staffing for recruitment and hiring activities that include review of candidate job qualifications; and (2) conducts workplace investigations (interviewing parties and witnesses, collecting and reviewing pertinent information, and issuing reports of findings) whenever the requisite investigations are too voluminous to be handled by the HR Department or involve the need for independent third-party investigators due to their sensitive nature.

### BACKGROUND

The impacts of the COVID-19 pandemic and the high vacancy rates in the HR Department have created capacity challenges with regard to both recruitments/hiring and personnel investigations. The gaps in recruitment/hiring exacerbated high vacancy rates throughout the City, while the absence of investigative staff affected both employee relations and equal employment opportunity (EEO) complaints.

### ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

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

### RATIONALE FOR RECOMMENDATION

As the HR Department rebuilds with a new team, it intends to strategically utilize the services provided by Its Personnel in order to enhance capacity and productivity with recruitment so that hiring can exceed attrition in 2023, and the City can begin bridging its vacancy gap. HR also plans to rely on Its Personnel for highly sensitive workplace investigations that require the involvement of independent third parties in order to eliminate the perception of bias and ultimately lower the risk of liability for the City.

### ALTERNATIVE ACTIONS CONSIDERED

The alternative of assigning these functions solely to in-house staff would limit the City's efforts to fill vacancies and to conduct timely workplace investigations in order to mitigate risk.

### CONTACT PERSON

Aram Kouyoumdjian, Director of Human Resources, 981-6807.

Attachments:

1: Resolution

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

CONTRACT NO. 32000225 AMENDMENT: ITS PERSONNEL CONSULTING SERVICES FOR RECRUITMENT, HIRING, AND INDEPENDENT WORKPLACE INVESTIGATION

WHEREAS, on May 14, 2020, the Human Resources Department entered into an agreement with Its Personnel Consulting as a supplemental provider of recruitment/hiring services and as an independent third party to conduct workplace investigations by gathering facts through interviewing parties/witnesses, collecting and reviewing pertinent information, and reporting such findings to the Human Resources Director; and

WHEREAS, the cost to obtain the services of Its Personnel Consulting from November 1, 2019 to December 31, 2020 was \$49,000, and the original contract was previously amended on April 26, 2022 by Resolution No. 70,307-N.S., when the amount was increased to \$200,000 in 2022 to permit payment by the Fire Department for workplace investigations; and

WHEREAS, an additional \$149,000 is needed to continue the use of Its Personnel Consulting to assist the HR Department in recruitment/hiring efforts and with workplace investigations on an as-needed basis; and

WHEREAS, funds are available and will be budgeted in future fiscal years in an amount not to exceed \$349,000 through June 30, 2024 in budget code 011-34-343-000-0000-000-412-612990.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to execute an amendment to Contract No. 32000225 with Its Personnel Consulting for recruitment, hiring and independent workplace investigation services to increase the amount by \$149,000, for a total not to exceed \$349,000, and to extend the term through June 30, 2024. 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  
March 14, 2023

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: Aram Kouyoumdjian, Director of Human Resources  
 Subject: Contract No. 32100046 Amendment: HR Acuity, LLC for Case Management and Employee Relations Software

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 32100046 with HR Acuity, LLC for case management and employee relations software, increasing the amount by \$139,000 for a total amount not to exceed \$189,000, and extending the contract term to June 30, 2025.

HR Acuity, LLC is a comprehensive HR case management and employee relations software which is utilized by the Human Resources Department, the City Attorney’s Office, and the Library to properly track, manage, and maintain records regarding leaves, discipline, grievances, equal employment opportunity (EEO) complaints, and ADA accommodation matters for consistency in case management and compliance with laws/regulations.

FISCAL IMPACTS OF RECOMMENDATION

The contract amendment with HR Acuity, LLC will add \$139,000 to the original contract through the end of Fiscal Year 2025.

Funding for the amendment and additional years will be included in the General Fund budget code 011-34-343-000-0000-000-412-612990.

|                                         |                  |
|-----------------------------------------|------------------|
| Original Contract Amount (FY 2020-2021) | \$50,000         |
| <b>FY 2021–2022</b>                     | \$28,500         |
| <b>FY 2022–2023</b>                     | \$28,500         |
| <b>FY 2023–2024</b>                     | \$41,000         |
| <b>FY 2024–2025</b>                     | \$41,000         |
| <b>Total New Contract Amount</b>        | <b>\$189,000</b> |

The increase in FY2023-2024 and 2024-2025 is to account for 15 users rather than 10 users in prior years.

### CURRENT SITUATION AND ITS EFFECTS

The City of Berkeley is a full-service city and is responsible for properly recording and maintaining case management records pertaining to employee leaves, ADA accommodations, disciplinary actions, and union grievances to ensure consistent application and compliance with applicable laws, regulations, and collective bargaining agreements.

On October 1, 2020, the City entered into Contract No. 32100046 with HR Acuity, LLC to procure its Human Resources (HR) case management software to centralize and better manage its case records. The original contract was not to exceed \$50,000. Since the inception of the HR Acuity software, the HR Department has realized the benefits of the system, and its use has been extended to the City Attorney's Office, as well as the Library.

The original funds in the contract with HR Acuity have been exhausted, and license fees are owing for last fiscal year and the current fiscal year. Moreover, the HR Department would like to continue the use of the HR Acuity software; therefore, a contract amendment is necessary to continue this contract through FY2024-2025 with additional funding.

### BACKGROUND

HR Acuity's software as a service (SaaS) technology with built-in templates and reporting mechanism allows employers to conduct fair investigations according to best practices, as well as uncover trends and patterns through forward-looking data and analytics. HR Acuity helps document, track, and manage requests for leaves and accommodations, employee performance and behavioral issues, and investigations into higher risk issues, such as harassment and discrimination.

### ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

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

### RATIONALE FOR RECOMMENDATION

HR Acuity, LLC has provided a robust platform through which various units within the HR Department can document, track, and manage employee relations (e.g., discipline matters), labor relations (e.g., grievances), EEO investigations, and leave requests. The software is utilized by users outside the HR Department as well, including the City Attorney's Office and the Library.

### ALTERNATIVE ACTIONS CONSIDERED

None.

### CONTACT PERSON

Aram Kouyoumdjian, Director of Human Resources, 510-981-6807



Contract No. 32100046 Amendment: HR Acuity, LLC

CONSENT CALENDAR  
March 14, 2023

Attachment:  
1: Resolution

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

CONTRACT NO. 32100046 AMENDMENT: HR ACUITY, LLC FOR CASE  
MANAGEMENT AND EMPLOYEE RELATIONS SOFTWARE

WHEREAS, the HR Acuity case management software allows staff the use of modernized and evolving technology to document employee performance and behavioral issues, and conduct investigations into higher-risk issues, such as harassment and discrimination, and maintain proper records of leaves and accommodations;

WHEREAS, on October 1, 2020, the City entered into Contract No. 32100046 with HR Acuity, LLC to procure its HR case management software to centralize and better manage its case records;

WHEREAS, amending the existing contract with HR Acuity, LLC to continue the use of its HR case management software is essential for the Human Resources Department;

WHEREAS, an additional \$139,000 is needed to continue the use HR Acuity, LLC until the end of Fiscal Year 2025; and

WHEREAS, funds are available and will be budgeted in future fiscal years in an amount not to exceed \$189,000 through June 30, 2025 in budget code 011-34-343-000-0000-000-412-613130.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to amend Contract No. 32100046 with HR Acuity, LLC for use of their HR case management software, increasing the amount by \$139,000 for a total amount not to exceed \$189,000, and extending the contract term through June 30, 2025. A record signature copy of said contract and any amendments are to be on file in the Office of the City Clerk.



Office of the City Manager

CONSENT CALENDAR  
March 14, 2023

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: Aram Kouyoumdjian, Director of Human Resources  
 Subject: Purchase Orders – Glassdoor to Provide Search Engine Optimization (SEO) and Ad Work

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to execute purchase orders with Glassdoor to provide search engine optimization (SEO) and ad work for two years from April 1, 2023 until March 31, 2025 in an amount not to exceed \$150,000.

FISCAL IMPACTS OF RECOMMENDATION

Purchase orders will be made from April 1, 2023 until March 31, 2025 in an amount not to exceed \$150,000. Partial funding is already budgeted annually in the Human Resources budget (147-72-742-835-0000-000-422-612410) and may be supplemented by other departments, according to their level of need and availability of funds.

CURRENT SITUATION AND ITS EFFECTS

The Human Resources Department has been working diligently on several recruitment initiatives to boost interest in positions with the City of Berkeley. Indeed and Glassdoor have formed a partnership which will prove beneficial and supportive to ongoing efforts specifically with regard to SEO work, recruitment, and branding.

BACKGROUND

Indeed and Glassdoor have formed a partnership that positions them as a leading recruitment and branding platform in the United States. Their service helps increase profile views and drives more candidates to apply for jobs posted through the platform. This service is only available through this organization and will result in branded job postings on Indeed.com for all city vacancies. It will offer a variety of back-end functionality, branded alerts to city followers, search engine optimization and recruitment ads through Glassdoor, and will allow the City to track what recruitment techniques are working and which are not so that the City's online presence can be enhanced and optimized.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

There is no known environmental sustainability and climate impacts.

RATIONALE FOR RECOMMENDATION

The City is experiencing significant recruitment challenges and needs to enhance its outreach efforts in order to market itself to potential applicants. This will support our goal to attract and retain a talented and diverse City workforce, and shrink the current vacancy rate.

ALTERNATIVE ACTIONS CONSIDERED

Continuing recruitment without utilizing these platforms which have proven to be effective for many other municipalities.

CONTACT PERSON

Aram Kouyoumdjian, Director of Human Resources, (510) 981-6807.

RESOLUTION NO. ##,###-N.S.  
PURCHASE ORDERS - GLASSDOOR TO PROVIDE SEARCH ENGINE  
OPTIMIZATION (SEO) AND AD WORK

WHEREAS, the Human Resources Department for the City of Berkeley is primarily responsible for the oversight of recruitment and retention of talented City staff; and

WHEREAS, the Berkeley Human Resources Department has taken the lead role in engaging public-private partners in support of recruitment and retention efforts Citywide; and

WHEREAS, the funding obtained will be utilized to support supports the City's Strategic Plan's goal to attract and retain a talented and diverse City workforce.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to execute purchase orders with Glassdoor to provide recruitment and branding services for two years from April 1, 2023 until March 31, 2025 in an amount not to exceed \$150,000.





Office of the City Manager

CONSENT CALENDAR  
March 14, 2023

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: Aram Kouyoumdjian, Director of Human Resources  
 Subject: Purchase Orders: Indeed to Provide Search Engine Optimization (SEO) and Ad Work

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to execute purchase orders with Indeed to provide search engine optimization (SEO) and ad work for two years from April 1, 2023 until March 31, 2025 in an amount not to exceed \$110,000.

FISCAL IMPACTS OF RECOMMENDATION

Purchase orders will be made from April 1, 2023 until March 31, 2025 in an amount not to exceed \$110,000. Partial funding is already budgeted annually in the Human Resources budget (147-72-742-835-0000-000-422-612410) and may be supplemented by other departments, according to their level of need and availability of funds.

CURRENT SITUATION AND ITS EFFECTS

The Human Resources Department has been working diligently on several recruitment initiatives to boost interest in positions with the City of Berkeley. Indeed and Glassdoor have formed a partnership, which will prove beneficial and supportive to ongoing efforts specifically with regard to SEO work, recruitment, and branding.

BACKGROUND

Indeed and Glassdoor have formed a partnership that positions them as a leading recruitment and branding platform in the United States. Their service helps increase profile views and drives more candidates to apply for jobs posted through the platform. This service is only available through this organization and will result in branded job postings on Indeed.com for all City vacancies. It will offer a variety of back-end functionality, branded alerts to City followers, search engine optimization, and recruitment ads through Glassdoor, and will allow the City to track what recruitment techniques are working and which are not so that the City's online presence can be enhanced and optimized.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

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

RATIONALE FOR RECOMMENDATION

The City is experiencing significant recruitment challenges and needs to enhance its outreach efforts in order to market itself to potential applicants. This will support our Citywide goal to attract and retain a talented and diverse City workforce, and shrink the current vacancy rate.

ALTERNATIVE ACTIONS CONSIDERED

Continuing recruitment without utilizing these platforms which have proven to be effective for many other municipalities.

CONTACT PERSON

Aram Kouyoumdjian, Director of Human Resources, (510) 981-6807.

Attachments:

1: Resolution



RESOLUTION NO. ##,###-N.S.  
PURCHASE ORDERS: INDEED TO PROVIDE SEARCH ENGINE OPTIMIZATION  
(SEO) AND AD WORK

WHEREAS, the Human Resources Department for the City of Berkeley is primarily responsible for the oversight of recruitment and retention of talented City staff; and

WHEREAS, the Human Resources Department has taken the lead role in engaging public-private partners in support of recruitment and retention efforts Citywide; and

WHEREAS, the funding obtained will be utilized to support supports the City's Strategic Plan's goal to attract and retain a talented and diverse City workforce.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to execute purchase orders with Indeed to provide recruitment and branding services for two years from April 1, 2023 until March 31, 2025 in an amount not to exceed \$110,000.





Office of the City Manager

CONSENT CALENDAR  
March 14, 2023

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: Kevin Fong, Director, Department of Information Technology  
 Subject: Contract No. 31900187 Amendment: LV.NET (formerly Towerstream) for Secondary Internet for Redundancy and Load Balancing

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to amend the contract with LV.NET (formerly Towerstream, Inc.) for redundant secondary internet services, increasing the contract amount by \$106,000 for a total not-to-exceed amount of \$278,000 from October 3, 2017 to June 30, 2024.

FISCAL IMPACTS OF RECOMMENDATION

Funding for the additional services in the amount of \$106,000 will be available in the Information Technology Communications Services Fund (502) as itemized below. Planned spending in future fiscal years (FY) are subject to Council approval of the proposed city-wide budget and Annual Appropriation Ordinances.

| FY 2018-24          | Description                                                                     |
|---------------------|---------------------------------------------------------------------------------|
| \$106,000.00        | Subscription service through June 2024. Budget Code: 502 Fund (Comm Svcs)       |
| \$172,000.00        | Subscription expenditures to date under previous Council spending authorization |
| <b>\$278,000.00</b> | <b>Total FY2018-2024 Not To Exceed Value</b>                                    |

CURRENT SITUATION AND ITS EFFECTS

The City’s reliance on a stable, *redundant* internet connection is critical for the daily functioning of its core operations.

LV.NET provides a secondary (backup and redundant) means to connect to the internet, thereby minimizing any potentials for an outage, should either the City’s AT&T internet connection be interrupted, or vice-versa. Additionally, LV.NET is used to increase data speed and capacity for the City, by utilizing its connectivity in parallel with the City’s AT&T connection.

The LV.NET secondary internet connection for the City is a Strategic Plan Priority Project, advancing our goal to provide state-of-the-art, well-maintained infrastructure, amenities, and facilities. This increase in spending authority will cover the next two (2) years of service (through FY 2024).

### BACKGROUND

In FY 2017, the AT&T internet connection served as the primary internet connection for all City staff with no redundancy in place. In FY 2018, the City upgraded the AT&T internet bandwidth from 250 MB to 500 MB and deployed a Towerstream (now LV.NET) internet connection (500 MB) at the Corporation Yard to serve as a backup internet connection in the event that the primary internet connection, located at City Hall, ever went down.

In addition, the City also implemented load balancing technology for incoming internet traffic, so that both internet connections are sharing the load of incoming traffic to the City network.

In FY 2022, LV.NET acquired Towerstream's customers and network infrastructure in Las Vegas, Reno, San Francisco, and Seattle and informed the City of this sale. Contractual obligations remain unchanged.

### ENVIRONMENTAL SUSTAINABILITY

Providing a fast and reliable internet connection for City staff allows City staff to perform more tasks from their offices, and allows Berkeley residents to use more online tools and services, reducing the need to physically come to City offices to conduct business, and reducing greenhouse gas emissions required for travel to and from their homes.

### RATIONALE FOR RECOMMENDATION

This increase in spending authority will cover the next two (2) years of service by LV.NET.

The City selected LV.NET (formerly Towerstream) over other internet service providers because of their wireless technology. The City's current internet connection runs through AT&T's fiber network, and utilizing a wireless solution as a redundant backup solution makes more sense than acquiring a second fiber-based solution, where both fiber internet connections could be subject to the same kind of damage.

In addition, the City installed the LV.NET (formerly Towerstream) internet connection in a different physical location (the Corporation Yard) than the primary internet connection (City Hall), to provide additional physical redundancy and resilience in the event of a local disaster.

### ALTERNATIVE ACTIONS CONSIDERED

The City considered other fiber-based internet service providers, but given the location of Berkeley and its vicinity to multiple earthquake fault lines, in particular the Hayward fault, Department of Information Technology staff decided to implement a wireless internet solution to minimize a single-point of failure scenario.

### CONTACT PERSON

Kevin Fong, Director, Department of Information Technology, 510-981-6541

Contract No. 31900187 Amendment: LV.NET (formerly Towerstream, Inc.) for  
Secondary Internet for Redundancy and Load Balancing

CONSENT CALENDAR  
March 14, 2023

Attachments:  
1: Resolution

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

CONTRACT NO. 31900187 AMENDMENT: LV.NET FOR SECONDARY INTERNET  
FOR REDUNDANCY AND LOAD BALANCING

WHEREAS, the internet is a vital service for the City functions, enabling e-commerce, online research, customer interaction, data flow, sharing of files;

WHEREAS, the reliability of a fast and dependable internet connection has become increasingly important to conduct day to day business and provide essential services to the community; and

WHEREAS, the projected cost for Fiscal Years 2023-2024 is \$53,000 per year, \$106,000 in total, which will be available in the Department of Information Technology's Communications Services fund (fund 502), planned spending in future fiscal years (FY) are subject to Council approval of the proposed city-wide budget and Annual Appropriation Ordinances.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to amend Contract No. 31900187 (FUNDS) with LV.NET for redundant secondary internet services, increasing the contract amount by \$106,000 for a total not-to-exceed amount of \$278,000 from October 3, 2017 to June 30, 2024.



Office of the Mayor

CONSENT CALENDAR

March 14, 2023

To: Honorable Members of the City Council

From: Mayor Jesse Arreguín (Author), Councilmember Sophie Hahn (Co-Sponsor), Councilmember Kate Harrison (Co-Sponsor), Councilmember Susan Wengraf (Co-Sponsor)

Subject: Opposition to Initiative #1935

RECOMMENDATION

Adopt a Resolution to oppose Initiative #1935, the deceptively named “Taxpayer Protection and Government Accountability Act”.

BACKGROUND

Initiative #1935, the deceptively named “Taxpayer Protection and Government Accountability Act” is an initiative that was recently approved for the November 2024 ballot after a successful signature drive.

The proposed initiative would limit the ability of voters and state and local governments to raise revenues for government services. It does so by requiring any new or higher tax be passed by at least two-thirds. It also eliminates voters’ ability to advise how to spend revenues from proposed general tax on same ballot as the proposed tax, such as what was done with 2014’s Measure D, the Soda Tax, and 2018’s Measure P, the property transfer tax increase. Both these measures were general taxes, with commissions formed to advise how such funds would be spent. All measures passed after January 2022 would be invalidated unless re-voted on, and must comply with the Act’s new rules, including a requirement to have a sunset date. It also expands the definition of “taxes” to include certain regulatory fees, broadening application of tax approval requirements.

This initiative is based on a proposed 2018 proposition that was ultimately withdrawn by its proponents after it received heavy opposition from local governments and various stakeholders. The Berkeley City Council voted unanimously to approve Resolution No. 68,401–N.S., opposing the 2018 version of this proposition. When the latest iteration was first introduced in 2022, the Council expressed its opposition through Resolution No. 70,253-N.S. Now that it has qualified for the ballot, reiterating our opposition and joining a wide coalition of local government, public safety, labor, and infrastructure advocates will help send a message to the voters of the dangerous consequences if this were to pass.

FINANCIAL IMPLICATIONS

If the initiative is approved by California voters, it would make it more difficult for local voters to pass measures needed to fund local services and infrastructure.

ENVIRONMENTAL SUSTAINABILITY

If the initiative is approved by California voters, it would impact our ability to raise funds to advance environmental measures outlined in our Climate Action Plan and related environmental policies.

CONTACT PERSON

Mayor Jesse Arreguín      510-981-7100

Attachments:

1: Resolution



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

IN OPPOSITION OF INITIATIVE #1935

WHEREAS, the California Business Roundtable filed the Taxpayer Protection and Government Accountability Act (Initiative #1935) to be considered for the November 2024 ballot, which would decimate vital local and state revenue-generating methods; and

WHEREAS, on February 2, 2023, the Secretary of State reported that proponents of the Taxpayer Protection and Government Accountability Act submitted 1,075,585 valid signatures, thus exceeding the 997,139 valid signatures required to qualify for the November 5, 2024 ballot; and

WHEREAS, the measure creates barriers for cities to maintain and generate revenue to provide services to communities, including local infrastructure, protecting our environment, water quality, air quality, and natural resources; and

WHEREAS, the measure includes undemocratic provisions that would make it more difficult for local voters to pass measures needed to fund local services and infrastructure; and

WHEREAS, a coalition local government, public safety, labor, and infrastructure advocates have joined together to fight against this measure; and

WHEREAS, according to municipal finance experts, should the Taxpayer Protection and Government Accountability Act be passed by voters, billions of local government fee and charge revenues placed at heightened legal peril. This will result in related public service reductions across virtually every aspect of city, county, special district, and school services especially for transportation, and public facility use; and

WHEREAS, hundreds of millions of dollars of annual revenues from dozens of tax and bond measures approved after January 1, 2022 would become out of compliance and would need to be resubmitted to voters for approval; and

WHEREAS, this initiative would affect recently approved local measures, such as Measure M, the vacancy tax approved in the November 2022 election; and

WHEREAS, the measure puts billions of dollars currently dedicated to state and local services at risk, and could force cuts to fire and emergency response, law enforcement, public health, parks, libraries, harbors, affordable housing, services to support homeless residents, mental health services, and more.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that that it hereby opposes Initiative #1935, deceptively called the "Taxpayer Protection and Government Accountability Act.

BE IT FURTHER RESOLVED that the City of Berkeley will join the NO on Initiative #1935 coalition, a growing coalition of public safety, labor, local government, infrastructure advocates, and other organizations throughout the state.

## The Taxpayer Protection and Government Accountability Act

[Deleted codified text is denoted in ~~strikeout~~. Added codified text is denoted by *italics and underline*.]

### Section 1. Title

This Act shall be known, and may be cited as, the Taxpayer Protection and Government Accountability Act.

### Section 2. Findings and Declarations

(a) Californians are overtaxed. We pay the nation's highest state income tax, sales tax, and gasoline tax. According to the U.S. Census Bureau, California's combined state and local tax burden is the highest in the nation. Despite this, and despite two consecutive years of obscene revenue surpluses, state politicians in 2021 alone introduced legislation to raise more than \$234 *billion* in new and higher taxes and fees.

(b) Taxes are only part of the reason for California's rising cost-of-living crisis. Californians pay billions more in hidden "fees" passed through to consumers in the price they pay for products, services, food, fuel, utilities and housing. Since 2010, government revenue from state and local "fees" has more than doubled.

(c) California's high cost of living not only contributes to the state's skyrocketing rates of poverty and homelessness, they are the pushing working families and job-providing businesses out of the state. The most recent Census showed that California's population dropped for the first time in history, costing us a seat in Congress. In the past four years, nearly 300 major corporations relocated to other states, not counting thousands more small businesses that were forced to move, sell or close.

(d) California voters have tried repeatedly, at great expense, to assert control over whether and how taxes and fees are raised. We have enacted a series of measures to make taxes more predictable, to limit what passes as a "fee," to require voter approval, and to guarantee transparency and accountability. These measures include Proposition 13 (1978), Proposition 62 (1986), Proposition 218 (1996), and Proposition 26 (2010).

(e) Contrary to the voters' intent, these measures that were designed to control taxes, spending and accountability, have been weakened and hamstrung by the Legislature, government lawyers, and the courts, making it necessary to pass yet another initiative to close loopholes and reverse hostile court decisions.

### Section 3. Statement of Purpose

(a) In enacting this measure, the voters reassert their right to a voice and a vote on new and higher taxes by requiring any new or higher tax to be put before voters for approval. Voters also intend that all fees and other charges are passed or rejected by the voters themselves or a governing body elected by voters and not unelected and unaccountable bureaucrats.

(b) Furthermore, the purpose and intent of the voters in enacting this measure is to increase transparency and accountability over higher taxes and charges by requiring any tax measure placed on the ballot—

either at the state or local level—to clearly state the type and rate of any tax, how long it will be in effect, and the use of the revenue generated by the tax.

(c) Furthermore, the purpose and intent of the voters in enacting this measure is to clarify that any new or increased form of state government revenue, by any name or manner of extraction paid directly or indirectly by Californians, shall be authorized only by a vote of the Legislature and signature of the Governor to ensure that the purposes for such charges are broadly supported and transparently debated.

(d) Furthermore, the purpose and intent of the voters in enacting this measure is also to ensure that taxpayers have the right and ability to effectively balance new or increased taxes and other charges with the rapidly increasing costs Californians are already paying for housing, food, childcare, gasoline, energy, healthcare, education, and other basic costs of living, and to further protect the existing constitutional limit on property taxes and ensure that the revenue from such taxes remains local, without changing or superseding existing constitutional provisions contained in Section 1(c) of Article XIII A.

(e) In enacting this measure, the voters also additionally intend to reverse loopholes in the legislative two-thirds vote and voter approval requirements for government revenue increases created by the courts including, but not limited to, *Cannabis Coalition v. City of Upland*, *Chamber of Commerce v. Air Resources Board*, *Schmeer v. Los Angeles County*, *Johnson v. County of Mendocino*, *Citizens Assn. of Sunset Beach v. Orange County Local Agency Formation Commission*, and *Wilde v. City of Dunsmuir*.

Section 4. Section 3 of Article XIII A of the California Constitution is amended to read:

Sec. 3(a) Every levy, charge, or exaction of any kind imposed by state law is either a tax or an exempt charge.

(b)(1) (a) Any change in state statute law which results in any taxpayer paying a new or higher tax must be imposed by an act passed by not less than two-thirds of all members elected to each of the two houses of the Legislature, and submitted to the electorate and approved by a majority vote, except that no new ad valorem taxes on real property, or sales or transaction taxes on the sales of real property, may be imposed. Each Act shall include:

(A) A specific duration of time that the tax will be imposed and an estimate of the annual amount expected to be derived from the tax.

(B) A specific and legally binding and enforceable limitation on how the revenue from the tax can be spent. If the revenue from the tax can be spent for unrestricted general revenue purposes, then a statement that the tax revenue can be spent for "unrestricted general revenue purposes" shall be included in a separate, stand-alone section. Any proposed change to the use of the revenue from the tax shall be adopted by a separate act that is passed by not less than two-thirds of all members elected to each of the two houses of the Legislature and submitted to the electorate and approved by a majority vote.

(2) The title and summary and ballot label or question required for a measure pursuant to the Elections Code shall, for each measure providing for the imposition of a tax, including a measure proposed by an elector pursuant to Article II, include:

(A) The type and amount or rate of the tax;

(B) The duration of the tax; and

(C) The use of the revenue derived from the tax.

(c) Any change in state law which results in any taxpayer paying a new or higher exempt charge must be imposed by an act passed by each of the two houses of the Legislature. Each act shall specify the type of exempt charge as provided in subdivision (e), and the amount or rate of the exempt charge to be imposed.

(d) ~~(b)~~ As used in this section and in Section 9 of Article II, "tax" means every ~~any~~ levy, charge, or exaction of any kind imposed by the State state law that is not an exempt charge, except the following:

(e) As used in this section, "exempt charge" means only the following:

~~(1) a charge imposed for a specific benefit conferred or privilege granted directly to the payor that is not provided to those not charged, and which does not exceed the reasonable costs to the State of conferring the benefit or granting the privilege to the payor.~~

~~(1) (2) A reasonable charge imposed for a specific government service or product provided directly to the payor that is not provided to those not charged, and which does not exceed the reasonable actual costs to the State of providing the service or product to the payor.~~

~~(2) (3) A charge imposed for the reasonable regulatory costs to the State incident to issuing licenses and permits, performing investigations, inspections, and audits, enforcing agricultural marketing orders, and the administrative enforcement and adjudication thereof.~~

~~(3) A levy, charge, or exaction collected from local units of government, health care providers or health care service plans that is primarily used by the State of California for the purposes of increasing reimbursement rates or payments under the Medi-Cal program, and the revenues of which are primarily used to finance the non-federal portion of Medi-Cal medical assistance expenditures.~~

~~(4) A reasonable charge imposed for entrance to or use of state property, or the purchase, rental, or lease of state property, except charges governed by Section 15 of Article XI.~~

~~(5) A fine, or penalty, or other monetary charge including any applicable interest for nonpayment thereof, imposed by the judicial branch of government or the State, as a result of a state administrative enforcement agency pursuant to adjudicatory due process, to punish a violation of law.~~

~~(6) A levy, charge, assessment, or exaction collected for the promotion of California tourism pursuant to Chapter 1 (commencing with Section 13995) of Part 4.7 of Division 3 of Title 2 of the Government Code.~~

~~(f) (e) Any tax or exempt charge adopted after January 1, 2022 2010, but prior to the effective date of this act, that was not adopted in compliance with the requirements of this section is void 12 months after the effective date of this act unless the tax or exempt charge is reenacted by the Legislature and signed into law by the Governor in compliance with the requirements of this section.~~

~~(g) (1) (d) The State bears the burden of proving by a preponderance of the clear and convincing evidence that a levy, charge, or other exaction is an exempt charge and not a tax. The State bears the burden of proving by clear and convincing evidence that the amount of the exempt charge is reasonable and that the amount charged does not exceed the actual cost of providing the service or product to the payor, 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

(2) The retention of revenue by, or the payment to, a non-governmental entity of a levy, charge, or exaction of any kind imposed by state law, shall not be a factor in determining whether the levy, charge, or exaction is a tax or exempt charge.

(3) The characterization of a levy, charge, or exaction of any kind as being voluntary, or paid in exchange for a benefit, privilege, allowance, authorization, or asset, shall not be a factor in determining whether the levy, charge, or exaction is a tax or an exempt charge.

(4) The use of revenue derived from the levy, charge or exaction shall be a factor in determining whether the levy, charge, or exaction is a tax or exempt charge.

(h) As used in this section:

(1) "Actual cost" of providing a service or product means: (i) the minimum amount necessary to reimburse the government for the cost of providing the service or product to the payor, and (ii) where the amount charged is not used by the government for any purpose other than reimbursing that cost. In computing "actual cost" the maximum amount that may be imposed is the actual cost less all other sources of revenue including, but not limited to taxes, other exempt charges, grants, and state or federal funds received to provide such service or product.

(2) "Extend" includes, but is not limited to, doing any of the following with respect to a tax or exempt charge: lengthening its duration, delaying or eliminating its expiration, expanding its application to a new territory or class of payor, or expanding the base to which its rate is applied.

(3) "Impose" means adopt, enact, reenact, create, establish, collect, increase or extend.

(4) "State law" includes, but is not limited to, any state statute, state regulation, state executive order, state resolution, state ruling, state opinion letter, or other legal authority or interpretation adopted, enacted, enforced, issued, or implemented by the legislative or executive branches of state government. "State law" does not include actions taken by the Regents of the University of California, Trustees of the California State University, or the Board of Governors of the California Community Colleges.

Section 5. Section 1 of Article XIII C of the California Constitution is amended, to read:

Sec. 1. Definitions. As used in this article:

(a) "Actual cost" of providing a service or product means: (i) the minimum amount necessary to reimburse the government for the cost of providing the service or product to the payor, and (ii) where the amount charged is not used by the government for any purpose other than reimbursing that cost. In computing "actual cost" the maximum amount that may be imposed is the actual cost less all other sources of revenue including, but not limited to taxes, other exempt charges, grants, and state or federal funds received to provide such service or product.

(b) "Extend" includes, but is not limited to, doing any of the following with respect to a tax, exempt charge, or Article XIII D assessment, fee, or charge: lengthening its duration, delaying or eliminating its expiration, expanding its application to a new territory or class of payor, or expanding the base to which its rate is applied.

(c) (a) "General tax" means any tax imposed for general governmental purposes.

(d) "Impose" means adopt, enact, reenact, create, establish, collect, increase, or extend.

(e) (b) "Local government" means any county, city, city and county, including a charter city or county, any special district, or any other local or regional governmental entity, or an elector pursuant to Article II or the initiative power provided by a charter or statute.

(f) "Local law" includes, but is not limited to, any ordinance, resolution, regulation, ruling, opinion letter, or other legal authority or interpretation adopted, enacted, enforced, issued, or implemented by a local government.

(g) (c) "Special district" means an agency of the State, formed pursuant to general law or a special act, for the local performance of governmental or proprietary functions with limited geographic boundaries including, but not limited to, school districts and redevelopment agencies.

(h) (d) "Special tax" means any tax imposed for specific purposes, including a tax imposed for specific purposes, which is placed into a general fund.

(i) (e) As used in this article, and in Section 9 of Article II, "tax" means every any-levy, charge, or exaction of any kind, imposed by a local government law that is not an exempt charge., except the following:

(i) As used in this section, "exempt charge" means only the following:

(1) A charge imposed for a specific benefit conferred or privilege granted directly to the payor that is not provided to those not charged, and which does not exceed the reasonable costs to the local government of conferring the benefit or granting the privilege.

(1) (2) A reasonable charge imposed for a specific local government service or product provided directly to the payor that is not provided to those not charged, and which does not exceed the reasonable actual costs to the local government of providing the service or product.

(2) (3) A charge imposed for the reasonable regulatory costs to a local government for issuing licenses and permits, performing investigations, inspections, and audits, enforcing agricultural marketing orders, and the administrative enforcement and adjudication thereof.

(3) (4) A reasonable charge imposed for entrance to or use of local government property, or the purchase, rental, or lease of local government property.

(4) (5) A fine, or penalty, or other monetary charge including any applicable interest for nonpayment thereof, imposed by the judicial branch of government or a local government administrative enforcement agency pursuant to adjudicatory due process, as a result of to punish a violation of law.

(5) (6) A charge imposed as a condition of property development. No levy, charge, or exaction regulating or related to vehicle miles traveled may be imposed as a condition of property development or occupancy.

(6) (7) An Assessments and property related fees assessment, fee, or charge imposed in accordance with the provisions of subject to Article XIII D, or an assessment imposed upon a business in a tourism marketing district, a parking and business improvement area, or a property and business improvement district.

(7) A charge imposed for a specific health care service provided directly to the payor and that is not provided to those not charged, and which does not exceed the reasonable costs to the local government of providing the health care service. As used in this paragraph, a "health care service" means a service licensed or exempt from licensure by the state pursuant to Chapters 1, 1.3, or 2 of Division 2 of the Health and Safety Code.

~~The 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.~~

Section 6. Section 2 of Article XIII C of the California Constitution is amended to read:

Sec. 2. Local Government Tax Limitation. Notwithstanding any other provision of this Constitution:

(a) Every levy, charge, or exaction of any kind imposed by local law is either a tax or an exempt charge. All taxes imposed by any local government shall be deemed to be either general taxes or special taxes. Special purpose districts or agencies, including school districts, shall have no power to levy general taxes.

(b) No local law government, whether proposed by the governing body or by an elector, may impose, extend, or increase any general tax unless and until that tax is submitted to the electorate and approved by a majority vote. A general tax shall not be deemed to have been increased if it is imposed at a rate not higher than the maximum rate so approved. The election required by this subdivision shall be consolidated with a regularly scheduled general election for members of the governing body of the local government, except in cases of emergency declared by a unanimous vote of the governing body.

(c) Any general tax imposed, extended, or increased, without voter approval, by any local government on or after January 1, 1995, and prior to the effective date of this article, shall continue to be imposed only if approved by a majority vote of the voters voting in an election on the issue of the imposition, which election shall be held within two years of the effective date of this article and in compliance with subdivision (b). ~~(d) No local law government, whether proposed by the governing body or by an elector, may impose, extend, or increase any special tax unless and until that tax is submitted to the electorate and approved by a two-thirds vote. A special tax shall not be deemed to have been increased if it is imposed at a rate not higher than the maximum rate so approved.~~

(d) The title and summary and ballot label or question required for a measure pursuant to the Elections Code shall, for each measure providing for the imposition of a tax, include:

(1) The type and amount or rate of the tax;

(2) the duration of the tax; and

(3) The use of the revenue derived from the tax. If the proposed tax is a general tax, the phrase "for general government use" shall be required, and no advisory measure may appear on the same ballot that would indicate that the revenue from the general tax will, could, or should be used for a specific purpose.

(e) Only the governing body of a local government, other than an elector pursuant to Article II or the initiative power provided by a charter or statute, shall have the authority to impose any exempt charge. The governing body shall impose an exempt charge by an ordinance specifying the type of exempt charge



as provided in Section 1(j) and the amount or rate of the exempt charge to be imposed, and passed by the governing body. This subdivision shall not apply to charges specified in paragraph (7) of subdivision (i) of Section 1.

(f) No amendment to a Charter which provides for the imposition, extension, or increase of a tax or exempt charge shall be submitted to or approved by the electors, nor shall any such amendment to a Charter hereafter submitted to or approved by the electors become effective for any purpose.

(g) Any tax or exempt charge adopted after January 1, 2022, but prior to the effective date of this act, that was not adopted in compliance with the requirements of this section is void 12 months after the effective date of this act unless the tax or exempt charge is reenacted in compliance with the requirements of this section.

(h)(1) The local government bears the burden of proving by clear and convincing evidence that a levy, charge or exaction is an exempt charge and not a tax. The local government bears the burden of proving by clear and convincing evidence that the amount of the exempt charge is reasonable and that the amount charged does not exceed the actual cost of providing the service or product to the payor.

(2) The retention of revenue by, or the payment to, a non-governmental entity of a levy, charge, or exaction of any kind imposed by a local law, shall not be a factor in determining whether the levy, charge, or exaction is a tax or exempt charge.

(3) The characterization of a levy, charge, or exaction of any kind imposed by a local law as being paid in exchange for a benefit, privilege, allowance, authorization, or asset, shall not be factors in determining whether the levy, charge, or exaction is a tax or an exempt charge.

(4) The use of revenue derived from the levy, charge or exaction shall be a factor in determining whether the levy, charge, or exaction is a tax or exempt charge.

Section 7. Section 3 of Article XIII D of the California Constitution is amended, to read:

Sec. 3. Property Taxes, Assessments, Fees and Charges Limited

(a) No tax, assessment, fee, ~~or~~ charge, or surcharge, including a surcharge based on the value of property, shall be assessed by any agency upon any parcel of property or upon any person as an incident of property ownership except:

(1) The ad valorem property tax imposed pursuant to described in Section 1(a) of Article XIII and Section 1(a) of Article XIII A, and described and enacted pursuant to the voter approval requirement in Section 1(b) of Article XIII A.

(2) Any special non-ad valorem tax receiving a two-thirds vote of qualified electors pursuant to Section 4 of Article XIII A, or after receiving a two-thirds vote of those authorized to vote in a community facilities district by the Legislature pursuant to statute as it existed on December 31, 2021.

(3) Assessments as provided by this article.

(4) Fees or charges for property related services as provided by this article.

(b) For purposes of this article, fees for the provision of electrical or gas service shall not be deemed charges or fees imposed as an incident of property ownership.

Section 8. Sections 1 and 14 of Article XIII are amended to read:

Sec. 1 Unless otherwise provided by this Constitution or the laws of the United States:

(a) All property is taxable and shall be assessed at the same percentage of fair market value. When a value standard other than fair market value is prescribed by this Constitution or by statute authorized by this Constitution, the same percentage shall be applied to determine the assessed value. The value to which the percentage is applied, whether it be the fair market value or not, shall be known for property tax purposes as the full value.

(b) All property so assessed shall be taxed in proportion to its full value.

(c) All proceeds from the taxation of property shall be apportioned according to law to the districts within the counties.

Sec. 14. All property taxed by state or local government shall be assessed in the county, city, and district in which it is situated. Notwithstanding any other provision of law, such state or local property taxes shall be apportioned according to law to the districts within the counties.

Section 9. General Provisions

A. This Act shall be liberally construed in order to effectuate its purposes.

B. (1) In the event that this initiative measure and another initiative measure or measures relating to state or local requirements for the imposition, adoption, creation, or establishment of taxes, charges, and other revenue measures shall appear on the same statewide election ballot, the other initiative measure or measures shall be deemed to be in conflict with this measure. In the event that this initiative measure receives a greater number of affirmative votes, the provisions of this measure shall prevail in their entirety, and the provisions of the other initiative measure or measures shall be null and void.

(2) In furtherance of this provision, the voters hereby declare that this measure conflicts with the provisions of the "Housing Affordability and Tax Cut Act of 2022" and "The Tax Cut and Housing Affordability Act," both of which would impose a new state property tax (called a "surcharge") on certain real property, and where the revenue derived from the tax is provided to the State, rather than retained in the county in which the property is situated and for the use of the county and cities and districts within the county, in direct violation of the provisions of this initiative.

(3) If this initiative measure is approved by the voters, but superseded in whole or in part by any other conflicting initiative measure approved by the voters at the same election, and such conflicting initiative is later held invalid, this measure shall be self-executing and given full force and effect.

C. The provisions of this Act are severable. If any portion, section, subdivision, paragraph, clause, sentence, phrase, word, or application of this Act is for any reason held to be invalid by a decision of any court of competent jurisdiction, that decision shall not affect the validity of the remaining portions of this Act. The People of the State of California hereby declare that they would have adopted this Act and each and every portion, section, subdivision, paragraph, clause, sentence, phrase, word, and application not

declared invalid or unconstitutional without regard to whether any portion of this Act or application thereof would be subsequently declared invalid.

D. If this Act is approved by the voters of the State of California and thereafter subjected to a legal challenge alleging a violation of state or federal law, and both the Governor and Attorney General refuse to defend this Act, then the following actions shall be taken:

(1) Notwithstanding anything to the contrary contained in Chapter 6 of Part 2 of Division 3 of Title 2 of the Government Code or any other law, the Attorney General shall appoint independent counsel to faithfully and vigorously defend this Act on behalf of the State of California.

(2) Before appointing or thereafter substituting independent counsel, the Attorney General shall exercise due diligence in determining the qualifications of independent counsel and shall obtain written affirmation from independent counsel that independent counsel will faithfully and vigorously defend this Act. The written affirmation shall be made publicly available upon request.

(3) A continuous appropriation is hereby made from the General Fund to the Controller, without regard to fiscal years, in an amount necessary to cover the costs of retaining independent counsel to faithfully and vigorously defend this Act on behalf of the State of California.

(4) Nothing in this section shall prohibit the proponents of this Act, or a bona fide taxpayers association, from intervening to defend this Act.





Office of the Mayor

CONSENT CALENDAR

March 14, 2023

To: Members of the City Council

From: Mayor Jesse Arreguín, Councilmember Robinson (Co-Sponsor),  
Councilmember Hahn (Co-Sponsor)

Subject: Resolution to Support SB 50

RECOMMENDATION

Adopt a resolution in support of Senate Bill 50 with amendments, introduced by Senator Steven Bradford. Send a copy of the Resolution to Governor Gavin Newsom, State Senators Nancy Skinner and Scott Weiner, and Assemblymember Buffy Wicks.

SUMMARY

If adopted, California Senate Bill 50 would allow the City of Berkeley to move forward with alternatives to peace officers stopping or detaining the operator of a motor vehicle or bike for low-level infractions, and authorize local authorities to enforce Vehicle Code violations.

BACKGROUND

In the State of California, peace officers can stop an automobile and detain persons when officers possess probable cause that a traffic violation has occurred. Officers may use ulterior motives to justify probable cause leading to a traffic stop. Thus officers are within the law to make a stop despite it not being related to traffic enforcement. This creates an opportunity for other non-traffic related motives to play an outsized role as the basis for probable cause leading to a vehicle stop.

Statewide, drivers identified by officers as Black were 2.2 times more likely to be searched than people identified as White, according to an analysis of millions of vehicle and pedestrian stops in 2021 by the California Racial and Identity Profiling Advisory Board. The board recommends limiting enforcement of traffic laws and minor offenses that pose little risk to public safety, a recommendation in line with the City of Berkeley's commitment to Reimagining Public Safety.

The Public Policy Institute of California (PPIC) released findings in an October 2022 report detailing racial disparities in both the frequency of stops and the collection of evidence to lead to enforcement. Black drivers make up about a third of traffic stops in the hours around midnight, roughly twice the share of white drivers, and while local law enforcement officers are especially likely to search Black and Latino drivers during nighttime stops, discovery rates for contraband or evidence are lower than those of white drivers. Nearly one in three stops of Black drivers in the hours before and after

midnight result in no enforcement of traffic violations or discovery of contraband. Traffic stops that lead to no enforcement or discovery are not only a nuisance to the public, disproportionately effecting people of color, but are worth considering when exploring alternative enforcement methods without endangering public safety.

According to an audit of the City's traffic stop data, Black and Hispanic people are more likely to be stopped and searched by police than white and Asian people. For example, between 2015 and 2019, Black people were stopped at a rate 4.25 times greater than their white counterparts, with 34% of all traffic stops involving Black people despite this group making up 8% of our City's population. Hispanic residents accounted for 13% of officer-initiated stops while making up 11% of our population. During this same period, 55% of police stops were made in response to calls to the city's non-emergency dispatch center.

Senate Bill 50 would amend Section 21 of the Vehicle Code to:

- 1) prohibit a peace officer from stopping or detaining the operator of a motor vehicle or bicycle for a low-level infraction, unless there exists a separate and independent basis for a stop;
- 2) authorize a peace officer to, when they do not have grounds for a stop, determine the identity of the owner of the vehicle or bicycle and send a citation or warning letter to said owner; and
- 3) authorize local authorities to enforce Vehicle Code violations through government employees who are not peace officers.

A low-level infraction is detailed as meaning violations relating to:

- 1) vehicle registration;
- 2) positioning of license plates;
- 3) non-working turn, break lights, headlights, and other illuminating equipment;
- 4) window tints or obstructions to viewing;
- 5) vehicle bumper equipment; and
- 6) bicycle equipment and operation.

Through the City's approved process towards Reimagining Public Safety<sup>1</sup>, we have made commitments to investigating the effects of distributing traffic enforcement responsibility

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<sup>1</sup> On May 5, 2022, Council approved the Mayor's budget referral for Reimagining Public Safety (Item 1.a), which was ultimately approved during the FY 2023 and 2024 biennial budget. These steps included nearly \$1 million in estimated consultant costs to help the City analyze the creation of the Berkeley Department of Transportation (BerkDOT), the creation of a new Department of Community Safety, an evaluation of potential changes to Berkeley's dispatch center; and an analysis of BPD's staffing.

away from our police officers, freeing them to dedicate resources to completing investigatory work on more serious crimes and offenses. Passage of SB 50 will clear a path for the City Manager to continue developing the organizational design and study of a Berkeley Department of Transportation (BerKDOT)<sup>2</sup>, which may remove certain traffic enforcement responsibilities away from police functions.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

No environmental impact.

CONTACT PERSON

Mayor Jesse Arreguín 510-981-7100

Attachments:

- 1: Resolution (SUPPORT OF CALIFORNIA SENATE BILL 50)
- 2: Latest text of SB 50 (as of January 13, 2023)

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<sup>2</sup> On May 5, 2022, and with the passage of the biennial FY 2023 and FY 2024 budget, Council approved the investment of \$300,000 to fund the BerKDOT process that, in addition to furthering the organizational development, also committed to using consultant services to develop a vision for unarmed traffic enforcement and a new paradigm for supporting traffic safety that aligns with vision-zero, and evaluate paths to unarmed enforcement under both the scenario that state law changes to enable non-peace officer enforcement as well as the potential for a new designation of peace officers to enforce the California Vehicle Code

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

SUPPORTING SENATE BILL 50

WHEREAS, According to statewide statistics, drivers identified by officers as Black were 2.2 times more likely to be searched than people identified as White, according to an analysis of millions of vehicle and pedestrian stops in 2021 by the California Racial and Identity Profiling Advisory Board; and

WHEREAS, the City of Berkeley recognizes the benefits of exploring how traffic enforcement may be shifted to unarmed City employees to reduce the likelihood of traffic stops escalating to fatal encounters such as the recent murder of Tyre Nichols; and

WHEREAS, the City acknowledges the historical racial bias traffic stops present in disproportionately stopping and releasing persons of color without evidence needed for traffic enforcement or contraband; and

WHEREAS, the City of Berkeley experiences high racial disparities when considering traffic stop data, including, between 2015 and 2019, Black persons being stopped at a 4.25 times greater rate than their white counterparts, and an average of 34% of traffic stops involving Black people despite making up 8% Berkeley's population; and

WHEREAS, Senate Bill 50, introduced by Senator Steven Bradford, would amend state law to prohibit a peace officer from stopping or detaining the operator of a motor vehicle or bike for low-level infractions, and also the bill would authorize local authorities to enforce Vehicle Code violations through government employees who are not peace officers; and

WHEREAS, in 2020, the City Council launched the process to reimagine public safety including the creation of the Berkeley Department of Transportation (BerkDOT), creating a new civilian department to coordinate traffic enforcement, transportation planning and engineering. The goals of the BerkDOT process are to: 1) develop a vision for unarmed traffic enforcement and a new paradigm for supporting traffic safety that aligns with vision-zero, and 2) evaluate paths to unarmed traffic enforcement under the scenario that state law changes to enable non-peace officer enforcement; and

WHEREAS, the passage of SB 50 will support the City's efforts to design and implement a new Berkeley Department of Transportation (BerkDOT) which may absorb traffic enforcement responsibilities away from armed police officers from the Berkeley Police Department, and

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that it hereby supports SB 50 with its current amendments.



BE IT FRUTHER RESOLVED that copies of the Resolution be sent to Governor Gavin Newsom, State Senators Nancy Skinner and Scott Weiner, and Assemblymember Buffy Wicks.

AMENDED IN SENATE FEBRUARY 13, 2023

SENATE BILL

No. 50

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**Introduced by Senator Bradford**

*(Principal coauthors: Assembly Members Kalra and Bryan)*

*(Coauthor: Senator Wahab)*

*(Coauthors: Assembly Members Jackson and McKinnor)*

December 5, 2022

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*An act to amend Sections 21 and 21100 of, and to add Section 2804.5 to, the Vehicle Code, relating to ~~criminal procedure~~ vehicles.*

LEGISLATIVE COUNSEL'S DIGEST

SB 50, as amended, Bradford. ~~Criminal procedure: arrests. Vehicles: enforcement.~~

Existing law authorizes a peace officer to make an arrest pursuant to a warrant or without a warrant if, among other circumstances, the officer has probable cause to believe that the person has committed a public offense in the officer's presence. Under existing law, it is unlawful to disobey the lawful order, signal, or direction of a uniformed peace officer performing any duties pursuant to the Vehicle Code or to refuse to submit to any lawful vehicular inspection authorized by the Vehicle Code.

Existing case law deems a temporary detention of a person during an automobile stop by the police, even if only for a brief period and for a limited purpose, a seizure, under the Fourth Amendment of the Constitution of the United States, and as such, requires the actions to be reasonable. Under existing case law, the decision to stop an automobile is reasonable if the police have probable cause to believe that a traffic violation has occurred. Existing case law holds that constitutional reasonableness of traffic stops does not depend on the

actual motivations of the individual officers involved and that ulterior motives do not invalidate police conduct that is justifiable on the basis of probable cause to believe that a violation of law has occurred.

~~This bill would state the intent of the Legislature to enact legislation relating to limiting a peace officer’s authority to initiate pretextual stops to reduce racial profiling and the harm stemming from such stops.~~

*This bill would prohibit a peace officer from stopping or detaining the operator of a motor vehicle or bicycle for a low-level infraction, as defined, unless a separate, independent basis for a stop exists. The bill would authorize a peace officer who does not have grounds to stop a vehicle or bicycle, but can determine the identity of the owner, to send a citation or warning letter to the owner.*

*The bill would authorize local authorities to enforce a violation of the Vehicle Code through government employees who are not peace officers.*

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

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

1 *SECTION 1. Section 21 of the Vehicle Code is amended to*  
2 *read:*

3 21. (a) Except as otherwise expressly provided, the provisions  
4 of this code are applicable and uniform throughout the state and  
5 in all counties and municipalities therein, and a local authority  
6 shall not enact or enforce any ordinance or resolution on the matters  
7 covered by this code, including ordinances or resolutions that  
8 establish regulations or procedures for, or assess a fine, penalty,  
9 assessment, or fee for a violation of, matters covered by this code,  
10 unless expressly authorized by this code.

11 (b) To the extent permitted by current state law, this section  
12 does not impair the current lawful authority of the Mountains  
13 Recreation and Conservation Authority, a joint powers authority,  
14 or any member agency constituted therein as of July 1, 2010, to  
15 enforce an ordinance or resolution relating to the management of  
16 public lands within its jurisdiction.

17 (c) *This section does not preclude a county, city, municipality,*  
18 *or any other local authority from enforcing a violation provided*  
19 *in this code through government employees who are not peace*  
20 *officers.*

1 SEC. 2. Section 2804.5 is added to the Vehicle Code, to read:  
2 2804.5. (a) (1) For the purpose of this section, “low-level  
3 infraction” means any of the following:

4 (A) A violation related to the registration of a vehicle or vehicle  
5 equipment in Sections 4000, 5352, and 12951.

6 (B) A violation related to the positioning or number of license  
7 plates when at least one plate is clearly displayed, in Sections  
8 5200, 5201, and 5204.

9 (C) A violation related to vehicle lighting equipment not  
10 illuminating, if the violation is limited to a single brake light,  
11 headlight, or running light, or a single bulb in a larger light of the  
12 same, in Sections 24252, 24400, and 24600.

13 (D) A violation related to window tints or obstructions in  
14 Sections 26708 and 26708.5.

15 (E) A violation related to vehicle bumper equipment in Section  
16 28071.

17 (F) A violation related to bicycle equipment or operation in  
18 Sections 21201 and 21212.

19 (2) “Low-level infraction” does not include violations relating  
20 to commercial vehicles.

21 (b) Notwithstanding any other law, a peace officer shall not  
22 stop or detain the operator of a motor vehicle or a bicycle for a  
23 low-level infraction unless there is a separate, independent basis  
24 to initiate the stop.

25 (c) If an officer does not have grounds to stop or detain the  
26 operator of a motor vehicle or bicycle, and the officer can identify  
27 the owner of the vehicle, the officer’s agency may, consistent with  
28 current law, mail a citation to the owner, or send a warning letter  
29 identifying the violation and instructing the owner to correct the  
30 defect or otherwise remedy the violation.

31 SEC. 3. Section 21100 of the Vehicle Code is amended to read:  
32 21100. Local authorities may adopt rules and regulations by  
33 ordinance or resolution regarding all of the following matters:

34 (a) Regulating or prohibiting processions or assemblages on the  
35 highways.

36 (b) Licensing and regulating the operation of vehicles for hire  
37 and drivers of passenger vehicles for hire.

38 (c) Regulating traffic by means of traffic ~~officers~~; officers or  
39 other government employees.

1 (d) Regulating traffic by means of official traffic control devices  
2 meeting the requirements of Section 21400.

3 (e) (1) Regulating traffic by means of a person given temporary  
4 or permanent appointment for that duty by the local authority when  
5 official traffic control devices are disabled or otherwise inoperable,  
6 at the scenes of accidents or disasters, or at locations as may require  
7 traffic direction for orderly traffic flow.

8 (2) A person shall not be appointed pursuant to this subdivision  
9 unless and until the local authority has submitted to the  
10 commissioner or to the chief law enforcement officer exercising  
11 jurisdiction in the enforcement of traffic laws within the area in  
12 which the person is to perform the duty, for review, a proposed  
13 program of instruction for the training of a person for that duty,  
14 and unless and until the commissioner or other chief law  
15 enforcement officer approves the proposed program. The  
16 commissioner or other chief law enforcement officer shall approve  
17 a proposed program ~~if he or she reasonably determines they~~  
18 *reasonably determine* that the program will provide sufficient  
19 training for persons assigned to perform the duty described in this  
20 subdivision.

21 (f) Regulating traffic at the site of road or street construction or  
22 maintenance by persons authorized for that duty by the local  
23 authority.

24 (g) (1) Licensing and regulating the operation of tow truck  
25 service or tow truck drivers whose principal place of business or  
26 employment is within the jurisdiction of the local authority,  
27 excepting the operation and operators of any auto dismantlers' tow  
28 vehicle licensed under Section 11505 or any tow truck operated  
29 by a repossessing agency licensed under Chapter 11 (commencing  
30 with Section 7500) of Division 3 of the Business and Professions  
31 Code and its registered employees.

32 (2) The Legislature finds that the safety and welfare of the  
33 general public is promoted by permitting local authorities to  
34 regulate tow truck service companies and operators by requiring  
35 licensure, insurance, and proper training in the safe operation of  
36 towing equipment, thereby ensuring against towing mistakes that  
37 may lead to violent confrontation, stranding motorists in dangerous  
38 situations, impeding the expedited vehicle recovery, and wasting  
39 state and local law enforcement's limited resources.

1 (3) This subdivision does not limit the authority of a city or city  
2 and county pursuant to Section 12111.

3 (h) Operation of bicycles, and, as specified in Section 21114.5,  
4 electric carts by physically disabled persons, or persons 50 years  
5 of age or older, on public sidewalks.

6 (i) Providing for the appointment of nonstudent school crossing  
7 guards for the protection of persons who are crossing a street or  
8 highway in the vicinity of a school or while returning thereafter  
9 to a place of safety.

10 (j) Regulating the methods of deposit of garbage and refuse in  
11 streets and highways for collection by the local authority or by  
12 any person authorized by the local authority.

13 (k) (1) Regulating cruising.

14 (2) The ordinance or resolution adopted pursuant to this  
15 subdivision shall regulate cruising, which is the repetitive driving  
16 of a motor vehicle past a traffic control point in traffic that is  
17 congested at or near the traffic control point, as determined by the  
18 ranking peace officer on duty within the affected area, within a  
19 specified time period and after the vehicle operator has been given  
20 an adequate written notice that further driving past the control  
21 point will be a violation of the ordinance or resolution.

22 (3) A person is not in violation of an ordinance or resolution  
23 adopted pursuant to this subdivision unless both of the following  
24 apply:

25 (A) That person has been given the written notice on a previous  
26 driving trip past the control point and then again passes the control  
27 point in that same time interval.

28 (B) The beginning and end of the portion of the street subject  
29 to cruising controls are clearly identified by signs that briefly and  
30 clearly state the appropriate provisions of this subdivision and the  
31 local ordinance or resolution on cruising.

32 (l) Regulating or authorizing the removal by peace officers of  
33 vehicles unlawfully parked in a fire lane, as described in Section  
34 22500.1, on private property. A removal pursuant to this  
35 subdivision shall be consistent, to the extent possible, with the  
36 procedures for removal and storage set forth in Chapter 10  
37 (commencing with Section 22650).

38 (m) Regulating mobile billboard advertising displays, as defined  
39 in Section 395.5, including the establishment of penalties, which  
40 may include, but are not limited to, removal of the mobile billboard

1 advertising display, civil penalties, and misdemeanor criminal  
2 penalties, for a violation of the ordinance or resolution. The  
3 ordinance or resolution may establish a minimum distance that a  
4 mobile billboard advertising display shall be moved after a  
5 specified time period.

6 (n) Licensing and regulating the operation of pedicabs for hire,  
7 as defined in Section 467.5, and operators of pedicabs for hire,  
8 including requiring one or more of the following documents:

9 (1) A valid California driver's license.

10 (2) Proof of successful completion of a bicycle safety training  
11 course certified by the League of American Bicyclists or an  
12 equivalent organization as determined by the local authority.

13 (3) A valid California identification card and proof of successful  
14 completion of the written portion of the California driver's license  
15 examination administered by the department. The department shall  
16 administer, without charging a fee, the original driver's license  
17 written examination on traffic laws and signs to a person who  
18 ~~states that he or she is, or intends~~ *state that they are or that they*  
19 *intend* to become, a pedicab operator, and who holds a valid  
20 California identification card or has successfully completed an  
21 application for a California identification card. If the person  
22 achieves a passing score on the examination, the department shall  
23 issue a certificate of successful completion of the examination,  
24 bearing the person's name and identification card number. The  
25 certificate shall not serve in lieu of successful completion of the  
26 required examination administered as part of any subsequent  
27 application for a driver's license. The department is not required  
28 to enter the results of the examination into the computerized record  
29 of the person's identification card or otherwise retain a record of  
30 the examination or results.

31 (o) (1) This section does not authorize a local authority to enact  
32 or enforce an ordinance or resolution that establishes a violation  
33 if a violation for the same or similar conduct is provided in this  
34 code, nor does it authorize a local authority to enact or enforce an  
35 ordinance or resolution that assesses a fine, penalty, assessment,  
36 or fee for a violation if a fine, penalty, assessment, or fee for a  
37 violation involving the same or similar conduct is provided in this  
38 code.

1 (2) This section does not preclude a local authority from enacting  
2 parking ordinances pursuant to existing authority in Chapter 9  
3 (commencing with Section 22500) of Division 11.

4 (3) *This section does not preclude a county, city, municipality,*  
5 *or any other local authority from enforcing a violation provided*  
6 *in this code through government employees who are not peace*  
7 *officers.*

8 (p) (1) Regulating advertising signs on motor vehicles parked  
9 or left standing upon a public street. The ordinance or resolution  
10 may establish a minimum distance that the advertising sign shall  
11 be moved after a specified time period.

12 (2) Paragraph (1) does not apply to any of the following:

13 (A) Advertising signs that are permanently affixed to the body  
14 of, an integral part of, or a fixture of a motor vehicle for permanent  
15 decoration, identification, or display and that do not extend beyond  
16 the overall length, width, or height of the vehicle.

17 (B) If the license plate frame is installed in compliance with  
18 Section 5201, paper advertisements issued by a dealer contained  
19 within that license plate frame or any advertisements on that license  
20 plate frame.

21 (3) As used in paragraph (2), “permanently affixed” means any  
22 of the following:

23 (A) Painted directly on the body of a motor vehicle.

24 (B) Applied as a decal on the body of a motor vehicle.

25 (C) Placed in a location on the body of a motor vehicle that was  
26 specifically designed by a vehicle manufacturer as defined in  
27 Section 672 and licensed pursuant to Section 11701, in compliance  
28 with both state and federal law or guidelines, for the express  
29 purpose of containing an advertising sign.

30 ~~SECTION 1. It is the intent of the Legislature to enact~~  
31 ~~legislation relating to limiting a peace officer’s authority to initiate~~  
32 ~~pretextual stops to reduce racial profiling and the harm stemming~~  
33 ~~from such stops.~~

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Office of the Mayor

CONSENT CALENDAR

March 14, 2023

To: Honorable Members of the City Council

From: Mayor Jesse Arreguín (Author), Councilmember Hahn (Co-Sponsor), Councilmember Harrison (Co-Sponsor), Councilmember Wengraf (Co-Sponsor)

Subject: Support SB 252 – State Divestment from Fossil Fuels

RECOMMENDATION

Adopt a Resolution in support of SB 252 (Gonzalez), which would prohibit the Public Employees' Retirement System (CalPERS) and the State Teachers' Retirement System (CalSTRS) from investing in fossil fuel companies. Send a copy of the Resolution to Assemblymember Buffy Wicks, State Senators Nancy Skinner and Lena Gonzalez, Governor Gavin Newsom, CalPERS, and CalSTRS.

BACKGROUND

The impacts of human-caused climate change are becoming increasingly unavoidable. Without taking bold and immediate action to reduce our greenhouse gas emissions, the world will heat above 2C by 2100. Such an event would lead to vast ecological destruction and mass extinctions, in addition to increased drought and food crop failures that could destabilized human society, disproportionately impacting those living in poverty.

California has been a leader in addressing climate change. Under State law, California must procure 60% of all electricity from renewable resources by 2030, and be carbon-free by 2045. SB 32, approved in 2016, requires California's greenhouse gas emissions to be 40% below 1990 levels by 2030. State policies around climate change have been evolving based on the latest science, with an acceleration of these efforts necessary to address the projections in the latest report by the United Nations' Intergovernmental Panel on Climate Change (IPCC), which says that the only way to stay below 1.5C is to have carbon emissions peak in 2025, followed by a rapid decline and reaching net-zero by the middle of the century.

Locally, extensive work has been done to mitigate our impacts on the climate. There is a goal to reach net-zero carbon emissions by 2045 or earlier. Electrification policies and improvements to transportation infrastructure to encourage moving away from gasoline-powered vehicles have also been approved. Under the City of Berkeley's Investment Policy, there has been a divestment from publicly traded fossil fuel companies and banks that finance pipelines and fossil fuel infrastructure. The rationale for this is the cost

of the impacts of climate change outweigh any return on investment from such companies.

SB 1173, introduced by State Senator Lena Gonzalez, will help meet the State's climate action goals by prohibiting the California Public Employees Retirement System (CalPERS) and the California State Teachers' Retirement System (CalSTRS) from investing in fossil fuel companies. Additionally, divestment from such companies must be done by 2030. Currently, CalPERS and CalSTRS have approximately \$11.5 billion invested in fossil fuel companies. This bill builds upon the work we have done locally to divest from fossil fuels.

In May 2022, Council unanimously approved Resolution No. #70,348-N.S. in support of SB 1173, which was a previous version of this bill. While that bill did pass the State Senate, the bill died after time ran out for a vote at the Assembly.

FINANCIAL IMPLICATIONS

None.

ENVIRONMENTAL SUSTAINABILITY

Ending reliance on fossil fuels is necessary for achieving Berkeley's Climate Action Plan and related environmental goals.

CONTACT PERSON

Mayor Jesse Arreguín      510-981-7100

Attachments:

- 1: Resolution
- 2: Text of SB 252
- 3: SB 252 Fact Sheet

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

IN SUPPORT OF SB 252 – FOSSIL FUEL DIVESTMENT ACT

WHEREAS, anthropogenic climate change, through rising sea levels, drought, heat waves, extreme precipitation events and increased wildfires is observably affecting human wellbeing, ecosystems and biodiversity; and

WHEREAS, climate change is an issue of environmental justice, disproportionately affects Indigenous communities, communities of color, and low income communities due to historical oppression, inadequate political power and access to resources for prevention and relief; and

WHEREAS, the International Panel on Climate Change concluded in 2018 that we have 12 years to make dramatic cuts in the use of fossil fuels (coal, oil, gas and tar sands) if we are to keep warming to 1.5° C and avoid more catastrophic change; and

WHEREAS, the fossil fuel industry is the single most powerful obstacle to addressing climate change, using its immense lobbying power in Washington, D.C. and Sacramento to block climate legislation; and

WHEREAS, fossil fuel companies' own scientists knew as early as the 1970s that their products were causing climate change, but the companies kept it secret; and

WHEREAS, to effectively address climate change, most fossil fuel reserves must remain in the ground, never to be used. Such reserves held as investments are liable to become stranded assets. This makes fossil fuel stocks a risky investment; and

WHEREAS, a Corporate Knights study found that if CalPERS and CalSTRS had divested in 2010, by 2019 their assets would have increased by \$11.9 and \$5.5 billion, respectively.

WHEREAS, independent studies by financial consulting firms BlackRock and Meketa have found that divestment reduces risk and improves rather than weakens investment returns; and

WHEREAS, divestment from specific segments or business operations by CalPERS and CalSTRS is already standard practice and is specifically allowed by the California Constitution; and

WHEREAS, the “engagement” strategy preferred by CalPERS and CalSTRS has been largely ineffective in moving fossil fuel companies away from fossil fuel exploration, extraction and distribution; and

WHEREAS, divestment means selling directly held or commingled assets including fossil fuel public equities and corporate bonds; and

WHEREAS, SB 252, introduced by State Senator Lena Gonzalez, will help meet the State's climate action goals by prohibiting CalPERS and CalSTRS from investing in fossil fuel companies and to divest from such companies by 2030.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that it hereby supports SB 252.

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

**SENATE BILL**

**No. 252**

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**Introduced by Senators Gonzalez, Stern, and Wiener**

January 30, 2023

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An act to amend Section 16642 of, and to add Section 7513.76 to, the Government Code, relating to public retirement systems.

LEGISLATIVE COUNSEL'S DIGEST

SB 252, as introduced, Gonzalez. Public retirement systems: fossil fuels: divestment.

The California Constitution grants the retirement board of a public employee retirement system plenary authority and fiduciary responsibility for investment of moneys and administration of the retirement fund and system. These provisions qualify this grant of powers by reserving to the Legislature the authority to prohibit investments if it is in the public interest and the prohibition satisfies standards of fiduciary care and loyalty required of a retirement board.

Existing law prohibits the boards of the Public Employees' Retirement System and the State Teachers' Retirement System from making new investments or renewing existing investments of public employee retirement funds in a thermal coal company, as defined. Existing law requires the boards to liquidate investments in thermal coal companies on or before July 1, 2017, and requires the boards, in making a determination to liquidate investments, to constructively engage with thermal coal companies to establish whether the companies are transitioning their business models to adapt to clean energy generation. Existing law provides that it does not require a board to take any action unless the board determines in good faith that the action is consistent with the board's fiduciary responsibilities established in the California Constitution.

This bill would prohibit the boards of the Public Employees' Retirement System and the State Teachers' Retirement System from making new investments or renewing existing investments of public employee retirement funds in a fossil fuel company, as defined. The bill would require the boards to liquidate investments in a fossil fuel company on or before July 1, 2030. The bill would temporarily suspend the above-described liquidation provision upon a good faith determination by the board that certain conditions materially impact normal market mechanisms for pricing assets, as specified, and would make this suspension provision inoperative on January 1, 2035. The bill would provide that it does not require a board to take any action unless the board determines in good faith that the action is consistent with the board's fiduciary responsibilities established in the California Constitution.

This bill would require the boards, commencing February 1, 2025, and annually thereafter, to file a report with the Legislature and the Governor, containing specified information, including a list of fossil fuel companies of which the board has liquidated their investments. The bill would provide that board members and other officers and employees shall be held harmless and be eligible for indemnification in connection with actions taken pursuant to the bill's requirements, as specified.

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

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

- 1 SECTION 1. Section 7513.76 is added to the Government
- 2 Code, to read:
- 3 7513.76. (a) The Legislature finds and declares all of the
- 4 following:
- 5 (1) The combustion of coal, oil, and natural gas, known as fossil
- 6 fuels, is the single largest contributor to global climate change.
- 7 (2) Climate change affects all parts of the California economy
- 8 and environment, and the Legislature has adopted numerous laws
- 9 to mitigate greenhouse gas emissions and to adapt to a changing
- 10 climate.
- 11 (3) Fossil fuel companies' plans to expand production, public
- 12 relations campaigns, and efforts to obstruct climate stabilization

1 policies are incompatible with California’s climate goals, and our  
2 obligation to current and future generations.

3 (4) The production of fossil fuels and the effects of climate  
4 change resulting from the use of fossil fuels all lead to  
5 disproportionate adverse impacts on low-income communities and  
6 communities of color.

7 (5) A transition away from fossil fuels to clean energy will  
8 create greater employment, support the economy, and improve  
9 public health.

10 (6) The purpose of this section is to require the Public  
11 Employees’ Retirement System and the State Teachers’ Retirement  
12 System, consistent with, and not in violation of, their fiduciary  
13 responsibilities, to divest their holdings of fossil fuel company  
14 investments as one part of the state’s broader efforts to decarbonize  
15 the California economy and to transition to clean, pollution-free  
16 energy resources.

17 (b) As used in this section, the following definitions apply:

18 (1) “Board” means the Board of Administration of the Public  
19 Employees’ Retirement System or the Teachers’ Retirement Board  
20 of the State Teachers’ Retirement System, as applicable.

21 (2) “Company” means a sole proprietorship, organization,  
22 association, corporation, partnership, venture, or other entity, or  
23 its subsidiary or affiliate, that exists for profitmaking purposes or  
24 to otherwise secure economic advantage.

25 (3) “Investment” means the purchase, ownership, or control of  
26 publicly issued stock, corporate bonds, or other debt instruments  
27 issued by a company. “Investments” also includes purchase,  
28 ownership, or control of mutual funds and exchange-traded funds,  
29 unless the board is satisfied on reasonable grounds that a mutual  
30 fund or exchange-traded fund is unlikely to have in excess of 2  
31 percent of its assets, averaged annually, directly or indirectly  
32 invested in fossil fuel companies.

33 (4) “Public employee retirement funds” means the Public  
34 Employees’ Retirement Fund described in Section 20062 of this  
35 code, and the Teachers’ Retirement Fund described in Section  
36 22167 of the Education Code.

37 (5) “Fossil fuel” means petroleum oil, natural gas, and thermal  
38 coal. Thermal coal is coal used to generate electricity, such as that  
39 which is burned to create steam to run turbines. Thermal coal does  
40 not mean metallurgical coal or coking coal used to produce steel.

1 (6) “Fossil fuel company” means one of the 200 largest publicly  
2 traded fossil fuel companies, as established by carbon content in  
3 the companies’ proven oil, gas, and coal reserves.

4 (c) The board shall not make additional or new investments or  
5 renew existing investments of public employee retirement funds  
6 in a fossil fuel company.

7 (d) (1) The board shall liquidate investments in a fossil fuel  
8 company on or before July 1, 2030.

9 (2) Notwithstanding paragraph (1), this subdivision shall be  
10 suspended upon a good faith determination by the board that an  
11 act of God, war, or other unforeseeable event creates conditions  
12 that materially impact normal market mechanisms for pricing assets  
13 and shall only be reinstated upon a subsequent good faith finding  
14 of the board that market conditions have substantially returned to  
15 normal ex-ante. Upon such a finding, the board shall have six  
16 months to liquidate any remaining investments in a fossil fuel  
17 company.

18 (3) Paragraph (2) shall remain in effect only until January 1,  
19 2035, and as of that date is inoperative.

20 (e) (1) Commencing February 1, 2025, and annually on  
21 February 1 thereafter, the board shall create a report that includes  
22 the following:

23 (A) A list of fossil fuel companies of which the board has  
24 liquidated its investments pursuant to subdivision (d).

25 (B) A list of fossil fuel companies with which the board still  
26 has not liquidated its investments.

27 (C) A list of fossil fuel companies of which the board has not  
28 liquidated its investments as a result of a determination made  
29 pursuant to subdivision (f) that a sale or transfer of investments is  
30 inconsistent with the fiduciary responsibilities of the board as  
31 described in Section 17 of Article XVI of the California  
32 Constitution and the board’s findings adopted in support of that  
33 determination.

34 (D) An analysis of methods and opportunities to rapidly and  
35 effectively reduce dependence on fossil fuels and transition to  
36 alternative energy sources in a realistic timeframe that avoids  
37 negatively contributing to economic conditions particularly  
38 damaging to public employee retirement funds and to overall net  
39 employment earnings of the state’s workforce.



1 (2) The board shall submit the report to the Legislature, in  
2 compliance with Section 9795, and to the Governor, and shall post  
3 the report on the board's internet website.

4 (f) Nothing in this section shall require a board to take action  
5 as described in this section unless the board determines in good  
6 faith that the action described in this section is consistent with the  
7 fiduciary responsibilities of the board described in Section 17 of  
8 Article XVI of the California Constitution.

9 SEC. 2. Section 16642 of the Government Code, as amended  
10 by Section 3 of Chapter 459 of the Statutes of 2019, is amended  
11 to read:

12 16642. (a) Present, future, and former board members of the  
13 Public Employees' Retirement System or the State Teachers'  
14 Retirement System, jointly and individually, state officers and  
15 employees, research firms described in subdivision (d) of Section  
16 7513.6, and investment managers under contract with the Public  
17 Employees' Retirement System or the State Teachers' Retirement  
18 System shall be indemnified from the General Fund and held  
19 harmless by the State of California from all claims, demands, suits,  
20 actions, damages, judgments, costs, charges, and expenses,  
21 including court costs and attorney's fees, and against all liability,  
22 losses, and damages of any nature whatsoever that these present,  
23 future, or former board members, officers, employees, research  
24 firms as described in subdivision (d) of Section 7513.6, or contract  
25 investment managers shall or may at any time sustain by reason  
26 of any decision to restrict, reduce, or eliminate investments  
27 pursuant to Sections 7513.6, 7513.7, 7513.74, ~~and 7513.75.~~  
28 *7513.75, and 7513.76.*

29 (b) This section shall remain in effect only until Section 7513.74  
30 is repealed, and as of that date is repealed.

31 SEC. 3. Section 16642 of the Government Code, as added by  
32 Section 4 of Chapter 459 of the Statutes of 2019, is amended to  
33 read:

34 16642. (a) Present, future, and former board members of the  
35 Public Employees' Retirement System or the State Teachers'  
36 Retirement System, jointly and individually, state officers and  
37 employees, research firms described in subdivision (d) of Section  
38 7513.6, and investment managers under contract with the Public  
39 Employees' Retirement System or the State Teachers' Retirement  
40 System shall be indemnified from the General Fund and held

SB 252

— 6 —

1 harmless by the State of California from all claims, demands, suits,  
2 actions, damages, judgments, costs, charges, and expenses,  
3 including court costs and attorney's fees, and against all liability,  
4 losses, and damages of any nature whatsoever that these present,  
5 future, or former board members, officers, employees, research  
6 firms as described in subdivision (d) of Section 7513.6, or contract  
7 investment managers shall or may at any time sustain by reason  
8 of any decision to restrict, reduce, or eliminate investments  
9 pursuant to Sections 7513.6, 7513.7, ~~and 7513.75~~; 7513.75, and  
10 7513.76.

11 (b) This section shall become operative upon the repeal of  
12 Section 7513.74.

O



THE OFFICE OF SENATE MAJORITY WHIP  
**LENA A. GONZALEZ**  
 SENATOR 33<sup>RD</sup> SENATE DISTRICT

## SB 252 (Gonzalez) – Fossil Fuel Divestment Act

### SUMMARY

Senate Bill (SB) 252 will prohibit the California Public Employees Retirement System (CalPERS) and the California State Teachers Retirement System (CalSTRS) from investing in fossil fuel companies, and provide they divest any current holdings in these companies by 2030, with an additional 5-year off-ramp should the funds encounter specified market conditions.

### EXISTING LAW

SB 185 (De Leon, Chapter 605, Statutes of 2015) required CalPERS and CalSTRS to divest their investments in thermal coal companies, which has resulted in a positive \$598 million return to the CalPERS fund.

California Constitution Article 16, Section 17 – establishes that: “the Legislature may by statute continue to prohibit certain investments by a retirement board where it is in the public interest to do so, and provided that the prohibition satisfies the standards of fiduciary care and loyalty required of a retirement board.”

### BACKGROUND/PROBLEM

Californians, along with states and nations around the globe, are facing the real and immediate threats of climate change and its ever-growing impacts on our health, safety, environment, and our ability to pass on a livable planet to future generations.

California has been a world leader in taking steps to combat the causes of climate change, setting historic carbon reduction goals, and taking meaningful actions to

help prevent environmental destruction and protect communities who bear the overwhelming brunt of carbon emissions.

Despite these forward-thinking actions, California’s multi-billion dollar retirement pension funds are actively investing billions of dollars in the very fossil fuel companies that are the primary cause of climate change.

CalPERS and CalSTRS, which invest the pension funds of state employees and teachers, have an investing power of \$469 billion and \$327 billion, respectively. Unfortunately, CalPERS estimates that they are currently investing \$7.4 billion of these dollars in the 200 largest fossil fuel companies, and CalSTRS is investing in 174 fossil fuel companies with a combined market value of approximately \$4.1 billion.

With the explosion of investment and development in carbon-free technologies, consumer pressure, and governmental regulation forcing a move away from fossil fuels, it has become clear that the fossil fuel industry may be a risky and myopic financial investment. In fact, data from the last four decades shows that in 1980, the fossil fuel industry claimed 29% of the S&P 500, whereas today, it only occupies 5.3%, the lowest level in more than 40 years.<sup>1</sup>

An estimated 1,500 institutions with over \$39 trillion in assets have already taken action to end direct financial support of climate destruction by committing to some form of fossil fuel divestment, including the University of California, the California State University, the State and

<sup>1</sup> <https://ieefa.org/resources/fossil-fuel-investments-looking-backwards-may-prove-costly-investors-todays-market>

City of New York, the State of Maine, the Vatican, and the province of Quebec.<sup>2</sup>

In October of 2021, Netherland’s ABP, the fifth largest public employee pension fund in the world with \$600 billion in assets, announced it would divest its current \$17.4 billion of fossil fuels investments by the first quarter of 2023, citing corporate engagement as an ineffective strategy to change fossil fuel behavior.<sup>3</sup> These investment numbers dwarf that of CalPERS and CalSTRS, and is following a divestment timeline of under two years.

Major investment management firms, BlackRock and Meketa, have independently concluded that funds can divest from fossil fuels without weakening investment returns.<sup>4</sup> A further study has shown that if CalPERS and CalSTRS had divested from fossil fuels in 2010, they would have gained \$11.9 billion and \$5.5 billion in returns by 2019.<sup>5</sup>

In fact, CalPERS and CalSTRS have taken on divestments that have resulted in positive returns for the funds. CalPERS’s active divestment from Thermal Coal has resulted in \$598 million in gains; divestment from Iran has resulted in \$256 million in gains; and divestment from firearms manufacturers has resulted in \$36 million in gains. Of CalPERS active divestments, only the divestment from tobacco companies has resulted in losses to the pension fund, and no one is arguing that CalPERS reinvest into such a dangerous product that runs afoul of the state’s public interest.

The pension funds have already recognized the need to move investments out of dangerous carbon emitting companies. CalPERS and CalSTRS have committed to reach a goal of NetZero investments at some point over the next 27 years. And while CalSTRS has taken steps in the last year to invest some of its assets in low carbon indexes and establish a partial NetZero goal by 2030, it still retains the ability to invest directly into the largest fossil fuel companies, such as: Gazprom (Russia), Rosneft (Russia), LukOil (Russia), Aramco (Saudi Arabia), and the state-owned PetroChina.

<sup>2</sup> <https://divestmentdatabase.org/>

<sup>3</sup> <https://apnews.com/article/climate-business-united-nations-netherlands-greenpeace-45f4a39e838667d032d2483956f01c9b>

<sup>4</sup> <https://ieefa.org/resources/major-investment-advisors-blackrock-and-meketa-provide-fiduciary-path-through-energy>

<sup>5</sup> <https://drive.google.com/file/d/1k27W2oTzaqueEZrvit4RLfve6pvakqMI/view>

Many of the teachers and state employees whose retirement futures are invested by CalPERS and CalSTRS have passed resolutions calling for the divestment of fossil fuels, including the California Faculty Association, the California Federation of Teachers, associations representing higher education faculty, academic senates at California State University and the University of California, and local chapters of the California Teachers Association from Los Angeles to Oakland.

**SOLUTION**

---

SB 252 seizes the momentum of the worldwide divestment movement and continues the bold and progressive actions that California must take to address climate change. SB 252 ends the contradictory and incongruous actions that position the state as a leader in the fight against climate change, while simultaneously investing billions directly in the fossil fuel companies that are causing climate change.

Specifically, SB 252 will prohibit CalPERS and CalSTRS from making any new investments in the top 200 fossil fuel companies, and provides an off-ramp of 7 years to divest any current investments; with an additional 5-year off-ramp should the funds encounter specified market conditions.

Additionally, SB 252 will require CalPERS and CalSTRS to annually report on their divestment progress beginning in 2025.

**SUPPORT**

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California Faculty Association (Sponsor)  
Fossil Free California (Sponsor)

**CONTACT**

---

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Senator Lena Gonzalez



CONSENT CALENDAR  
March 14, 2023

To: Honorable Mayor and Members of the City Council

From: Councilmember Taplin (Author), Councilmember Kate Harrison (Co-Sponsor),  
Councilmember Rigel Robinson (Co-Sponsor)

Subject: Budget Referral: Vision 2050 Complete Streets Parcel Tax Community  
Engagement and Program Plan

### RECOMMENDATION

Refer \$400,000 to the June 2023 mid-year budget update to conduct community engagement, public information campaign, and program plan development for potential 2024 complete streets and climate-resilient infrastructure revenue measures.

### FINANCIAL IMPLICATIONS

\$400,000 in General Fund impacts with an estimated \$100,000 in cost to conduct community outreach, and an additional \$300,000 to develop a final 2050 Program Plan.

### CURRENT SITUATION AND ITS EFFECTS

Investing Berkeley's deferred maintenance needs with Complete Streets funding and long-range asset management planning is a Strategic Plan Priority Project, advancing our goals to: provide state-of-the-art, well-maintained infrastructure, amenities, and facilities; create a resilient, safe, connected, and prepared city; champion and demonstrate social and racial equity; and be a global leader in addressing climate change, advancing environmental justice, and protecting the environment.

In 2017, the City of Berkeley had the 15th worst pavement condition index (PCI) out of 101 jurisdictions in the Bay Area region. While baseline funding has marginally improved since then, deferred maintenance for infrastructure continues to outpace available resources, and costs continue to grow. In November 2020, the Berkeley City Auditor reported: "Berkeley streets have an asset replacement value of approximately \$777.6 million, and deferred maintenance needs of streets exceeded \$251 million in 2019... In addition to the continued deterioration of pavement condition, the current level of funding would also increase deferred maintenance costs to an estimated \$328 million by 2023. In 2018, a City contractor estimated the City would need \$17.3 million annually to maintain the current PCI or \$27.3 million annually to increase PCI by five points in five years."<sup>1</sup>

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<sup>1</sup> Wong, J., et al (2020). Rocky Road: Berkeley Streets at Risk and Significantly Underfunded. *Berkeley City Auditor*. Retrieved from <https://berkeleyca.gov/sites/default/files/2022-01/Rocky-Road-Berkeley-Streets-at-Risk-and-Significantly-Underfunded.pdf>

In July 2022, the City Council voted to increase the annual street paving budget from \$7.3 million to \$15.3 million. Under 2020 estimates, the funding gap for improving PCI by 5 points citywide in 5 years is still \$12 million annually. However, street paving costs can increase five-to-tenfold when conditions necessitate “full rehabilitation” beyond regular maintenance. Thus, paving costs will continue to increase sharply the longer they are deferred.

In November 2022, Berkeley voters approved Measure L by only 59.4%, short of the two-thirds supermajority required to approve the \$650 million bond measure. Measure L would have funded the following categories of capital projects:

- \$300 million for street safety improvements, including pedestrian crossings, bicycle facilities, and street paving;
- \$200 million for affordable housing;
- \$150 million for public parks, facilities, pools, utility undergrounding along fire evacuation routes, and climate resiliency.

In a January 2022 Work Session, the City Manager presented several revenue measure options to fund deferred infrastructure needs, including: “A parcel tax of \$12M annually (or \$250M if bonded against) to address street repair and traffic safety.” In an online survey of 1,024 Berkeley residents concluding on January 12, 2022, a plurality of 28.5% of respondents ranked “Street Repair” as their top priority.

As deferred maintenance costs continue to increase, it is more urgent than ever to foster broad-based community trust in designing future revenue measures for infrastructure. Developing and finalizing a Program Plan will be essential for identifying and prioritizing projects while maintaining the flexibility to respond to changing conditions.

## BACKGROUND

The City of Berkeley began developing the Vision 2050 Framework in 2018 to ensure that a 30-year long-term investment plan for sustainability and resilience in City infrastructure would reflect the community’s collective vision across the lifespan of our public assets. Berkeley voters supported Vision 2050 with the passage of Measure R in the November 2018 election, which asked: *Shall the measure, advising the Mayor to engage citizens and experts in the development of Vision 2050, a 30-year plan to identify and guide implementation of climate-smart, technologically-advanced, integrated and efficient infrastructure to support a safe, vibrant and resilient future for Berkeley, be adopted?*

The Vision 2050 Framework lays out 5 strategies for a sustainable, “cradle-to-grave” planning process to maintain Berkeley’s infrastructure. Additionally, three core principles have guided planning for the Draft Vision 2050 Program Plan:



1. **Support vibrant and safe communities.** Infrastructure shall take equity into account and improve quality of life of all Berkeley residents, including having green open spaces, safe modes of mobility, and being prepared for fires and earthquakes.
2. **Have efficient, inspired and well maintained infrastructure.** Infrastructure shall be long lasting, use advanced technologies, and be maintained to provide efficient service.
3. **Facilitate a green Berkeley and contribute to saving our planet.** Infrastructure shall accelerate the transition to carbon neutrality and include electrification, develop natural streetscapes using green infrastructure, and prioritize human-powered and public transportation.

In 2022, Berkeley's total estimated infrastructure funding needs—including capital costs and ongoing maintenance costs for streets—totaled \$1.8 billion.

Four major outcomes have been identified as goals in the Draft Program Plan for Vision 2050:

1. Streets are safer, more sustainable, improved to a good condition, and maintained.
2. Infrastructure is resilient, protects the environment, and is adapted to climate change impacts.
3. Open space, parks, and recreation improve our quality of life.
4. Public facilities are safe and provide community placemaking.

### ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

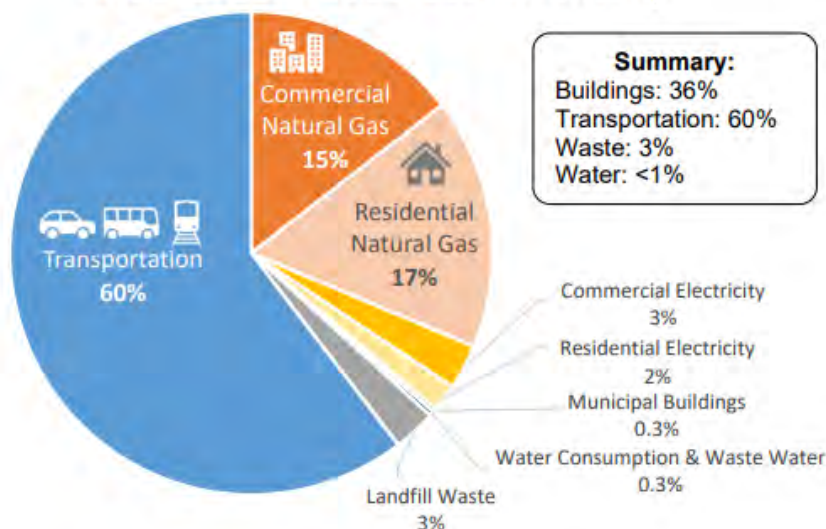
Aligning paving schedules with Complete Streets safety upgrades and design standards identified in the Berkeley Bicycle Plan, Pedestrian Plan, and Vision Zero Action Plan, would reduce planning and construction costs while maintaining consistency with Berkeley's transportation and climate policy goals. At the statewide level, the California Air Resources Board reported in 2018 that even the most optimistic assumptions about Electric Vehicle adoption would still require a 25% reduction in Vehicle Miles Traveled per capita to meet California's emission reduction goals.

Locally, Berkeley's 2019 greenhouse gas inventories identify 60% of the City's carbon footprint coming from the transportation sector. (The decrease in 2020 has been largely attributed to the COVID-19 pandemic.)<sup>2</sup> Meeting our ambitious decarbonization goals will require significant investments in well-paved streets that are safe for all transportation modes, especially increasing safety for pedestrians and cyclists of all body types and abilities.

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<sup>2</sup> <https://berkeleyca.gov/sites/default/files/documents/2021-11-30%20Item%2032%20Berkeley%E2%80%99s%202019%20Community-Wide%20Greenhouse%20Gas%20Emissions%20Inventory.pdf>

### 2019 Greenhouse Gas Inventory



While Berkeley has a strong tradition promoting bicycles and other mobility devices, surveys have consistently shown that transport mode choices are strongly affected at the margins by perceptions and experiences of safety. <sup>3</sup>

### THE SAFER PEOPLE FEEL, THE MORE THEY CYCLE



Base: 20, 907 online adults across 28 countries. The "Global Country Average" reflects the average result for all the countries and markets where the survey was conducted. It has not been adjusted to the population size of each country or market and is not intended to suggest a total result. The samples in Brazil, Chile, China (mainland), Colombia, India, Malaysia, Mexico, Peru, Saudi Arabia, South Africa, and Turkey are more urban, more educated, and/or more affluent than the general population.





Smoother pavement, wider sidewalks, and physical separation from motor vehicles both significantly reduce the risk of dangerous collisions. The Berkeley City Council has consistently supported incorporating Complete Streets safety designs into road maintenance projects to increase safety and reduce automobile dependence, while also reducing traffic congestion for motorists and reducing stress on street pavement.

CONTACT PERSON

Councilmember Taplin      Council District 2      510-981-7120

Attachments:

- 1: Draft Vision 2050 Program Plan
- 2: January 20, 2022 Work Session: Vision 2050 Update



# VISION 2050 PROGRAM PLAN

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# 01

## THE INFRASTRUCTURE PROGRAM PLAN: OVERVIEW

This section provides an overview of the Vision 2050 Initiative and describes the Program Plan.





## 1.1 The Vision 2050 Initiative

The Vision 2050 initiative was introduced by Mayor Arreguin at his 2017 State of the City address. He described a complex network of pipes, streets, utility wires, bikeways, and transportation systems that are old and have suffered from historic disinvestment, neglect, and poor maintenance. As our infrastructure ages, we need a plan to make sure our systems are resilient to handle a growing population and climate change, including sea-level rise, more flooding, and wildfires. As technological innovations emerge and the condition of our infrastructure declines, we have an enormous and exciting opportunity to reimagine our streets and public spaces. This initiative is about building a future for Berkeley that provides essential services for future generations.

In November 2018, Berkeley voters approved Measure R. The Measure asked: “Shall the measure, advising the Mayor to engage citizens and experts in the development of Vision 2050, a 30-year plan to identify and guide implementation of climate-smart, technologically-advanced, integrated and efficient infrastructure to support a safe, vibrant and resilient future for Berkeley, be adopted?” The response was a resounding yes.

A 40-member residents’ task force was formed and the team analyzed quality of life, environmental and technology trends, and funding issues. To help keep focus on the future, the team imagined being on a street corner in Berkeley in the year 2050. What will Berkeley be like then? Figure 1 shows a street corner view from 2050.

The task force worked diligently for 18 months and developed the principles, strategies and

recommended actions shown on Figure 2.

Community engagement was at the center of Vision 2050. Outreach began early in 2018 with four information nights across Berkeley. Outreach continued in an effort to reach people where they already congregate, including neighborhood and faith-based groups and community organizations. From September 2018 to July 2019, the Mayor’s Office presented at thirteen community organization meetings in conversations that ranged from a handful to one hundred people. Community feedback was used to develop the principles, strategies, and recommended actions.



▲ **Figure 1:** Street Corner View from Vision 2050 report

## VISION 2050

The Vision 2050 Framework focused on better coordination, integrated project delivery, utilizing new financing mechanisms, and broad principles and strategies for our infrastructure needs. The Framework was approved by Berkeley's City Council in September 2020. The City Manager then turned to implement the recommendations and assigned the Public Works Department to lead the effort. A timeline for the Vision 2050 initiative is shown below.

- 2017**  
Mayor Arreguin announces Vision 2050 Initiative
- November 2018**  
Measure R approved by voters
- 2018-2019**  
Residents task force conducted analysis
- September 2020**  
City Council approves Vision 2050 Framework
- Current**  
Implementation led by City Manager

▲ **Figure 3:** Timeline for Vision 2050 Initiative



## PRINCIPLES, STRATEGIES AND RECOMMENDED ACTIONS

### 1 STRATEGY ONE Use Integrated and Balanced Planning

- > Use multi-criteria decision-making
- > Use adaptive planning
- > Prepare and implement a Dig Once policy

### 2 STRATEGY TWO Manage Infrastructure from Cradle to Grave

- > Institute structured master planning
- > Develop an Asset Management Program

### 3 STRATEGY THREE Adopt Sustainable and Safe Technologies

- > Accelerate the transition to clean energy and electrification
- > Implement Complete Streets to provide sustainable and healthy transportation
- > Develop natural streetscapes that provide ecosystem services
- > Use sensors, data, and advanced technologies
- > Prepare a wildfire mitigation and safety plan

### 4 STRATEGY FOUR Invest in Our Future

- > Take advantage of a strong financial position to address infrastructure needs and commit to reducing large unfunded infrastructure liability by doubling capital expenditures

### 5 STRATEGY FIVE Prepare the City's Organization to Implement a Major Capital Program

- > Develop an organization that is integrated and has capacity to deliver
- > Prepare a program approach with management tools
- > Provide independent oversight and reporting

▲ **Figure 2:** Vision 2050 Principles, Strategies, and Recommended Actions  
Page 115

## 1.2 What is an Infrastructure Program Plan?

This Infrastructure Program Plan (Plan) is the City of Berkeley's roadmap to rebuild our public infrastructure over the next 30 years. This Plan supports the Vision 2050 principles and provides information on outcome objectives, program elements, community input, the funding plan, program implementation, and program oversight and reporting. The Plan serves as a roadmap to guide the many infrastructure decisions that will be required throughout the next three decades. The Plan is flexible and adaptable, so the City can anticipate and address new challenges that we will face in the future. Why prepare a Plan now?

Improving the City's infrastructure requires new funding and a revenue measure or measures, which voters may consider on the November 2022 ballot. This Plan is prepared to provide the public with an understanding of the "big picture" for Vision 2050 in advance of voting for new funding. This approach is an advancement from prior measures. The Plan describes the work at the asset category level—streets, stormwater, parks, waterfront, etc. It is not a project-by-project prioritization. That will happen if voters approve funding, after which a project and program team will be formed and an oversight committee designated.

## 1.3 Core Values and Principles Guide our Planning

Berkeley's streets, storm drains, sewers, and water lines date back to the early decades of the 20th century. Critical systems are simply wearing out. Recent budgets have been insufficient to address these infrastructure needs, let alone modernize our systems or improve their resilience. As defined in the City's resilience strategy, resilience is the capacity of individuals, communities, institutions, businesses, and systems within a city to survive, adapt, and grow no matter what kinds of chronic stresses and acute shocks they experience.

The growing backlog of aging infrastructure leaves the community vulnerable to unplanned failure and service interruptions. For residents, workers, and businesses, this can translate to unsafe conditions, increased cost, and impediments to quality of life. Examples of infrastructure needs are shown in Figure 4.

As we begin to grapple with Berkeley's unfunded infrastructure needs, new challenges are emerging. The local impacts of the global climate crisis pose a major threat to our aging infrastructure. Extreme storm events, wildfires, heat waves, drought, groundwater, and sea level rise will challenge streets, pipes, and open spaces that were designed for a more benign environment. These vulnerabilities are layered upon other acute risks such as a major earthquake, and chronic challenges such as inequity. If our city is to survive and thrive, we must increase our resilience to these challenges.



### PRINCIPLE ONE

SUPPORT VIBRANT AND SAFE COMMUNITIES

Infrastructure shall take equity into account and improve the quality of life of all Berkeley residents, including having green open spaces, safe modes of mobility, and being prepared for fires and earthquakes.

### PRINCIPLE TWO

HAVE EFFICIENT, INSPIRED AND WELL MAINTAINED INFRASTRUCTURE

Infrastructure shall be long lasting, use advanced technologies, and be maintained to provide efficient service.

### PRINCIPLE THREE

FACILITATE A GREEN BERKELEY AND CONTRIBUTE TO SAVING OUR PLANET

Infrastructure shall accelerate the transition to carbon neutrality and include electrification, develop natural streetscapes using green infrastructure, and prioritize human-powered and public transportation.

▲ **Figure 2:** Vision 2050 Principles

As we rebuild our infrastructure and, at the same time, reimagine a landscape for a changing future, our infrastructure decisions must remain flexible, yet grounded in a set of clear values. For this reason, the Vision 2050 Framework identified four core values as shown in Figure 5. These values will guide implementation of Vision 2050.



**Street Pavement Damage**



**Sidewalk Repair**



**Deteriorated Marina Dock**

▲ **Figure 4:** Example Infrastructure Needs



## CORE VALUES FOR INFRASTRUCTURE DEVELOPMENT



### EQUITY

The benefits of improved infrastructure must be distributed equitably throughout the entire community. Equity should mean that disadvantaged citizens with more pressing needs experience benefits sooner than others and receive benefits particularly tailored to their unique needs.



### STRONG LOCAL ECONOMY

A strong local economy provides resources to Berkeley citizens and creates an opportunity to build local skills and employment opportunities that support the city's diverse community.



### PUBLIC HEALTH AND SAFETY

This core value considers safe and convenient access to greenspaces, public services, clean air, and social support networks, all of which can have a big impact on people's emotional and physical health.



### RESILIENCY AND SUSTAINABILITY

Resilience requires systems and structures that are able to recover quickly from temporary and, sometimes, catastrophic events. Sustainability refers to the ability to minimize our impacts on the environment while still providing core services.

▲ **Figure 5:** Vision 2050 Core Values





# 02

## INFRASTRUCTURE NEEDS AND COMMUNITY PRIORITIES

This section provides an update on the City's infrastructure funding needs and the community's infrastructure priorities.





## 2.1 Infrastructure Needs

The City has an extensive portfolio of capital assets and infrastructure, including 216 miles of streets, more than 300 miles of sidewalks, 255 miles of sewers, 78 miles of underground storm drains, 95 public buildings, 52 parks, 2 pools, and 3 camps. In addition, the City operates and maintains the Berkeley Waterfront and its related facilities, including the pier, docks, pilings, channel, streets, pathways, parking lots, buildings, trails, Adventure Playground, and 1,000 berth marina.

A City budget is prepared every two years and it includes a Capital Improvement Program (CIP). The City's ability to fund its CIP is limited by the total available resources that are competing with other community priorities. CIP funding resources include the General Fund, a number of special revenue funds, grants, and loans. The CIP attempts to identify all known CIP projects, categorizing them as baseline (annual, recurring program), one-time (special allocations, grants, loans), and unfunded (funding source has yet to be identified).

The FY2022 CIP identified an infrastructure capital funding need of more than \$1 billion in Berkeley. However, these infrastructure needs are constantly changing due to increased construction costs and new planning studies that result in updated cost estimates. Past estimates also focused primarily on "fix it first" type repairs rather than the transformational infrastructure sought by the Vision 2050 Framework.

For this reason, Table 1 provides an updated list of infrastructure needs. This list includes updates from prior estimates and advances Vision 2050 in several significant ways. It adds asset categories

that are more than simply fixing or repairing an asset and are about the ultimate use and safety of the asset. For example, instead of solely identifying the deferred maintenance in our pavement, the list includes the cost of fully implementing our adopted Bicycle and Pedestrian Plans, which would keep our streets safe for all users, especially bicyclists and pedestrians. Instead of focusing solely on traditional infrastructure, it includes trees as an important infrastructure category and begins to address the climate crises by building in the cost of undergrounding the City's evacuation routes.

Some of these categories have existing, dedicated funding for which an increase is necessary to cover these needs. Others categories may require multiple revenue sources, such as the General Fund, grants, State and Federal funding, developer contributions, user rates, and new revenue sources. An estimate of potential revenue from these funding sources is provided in Section 4.

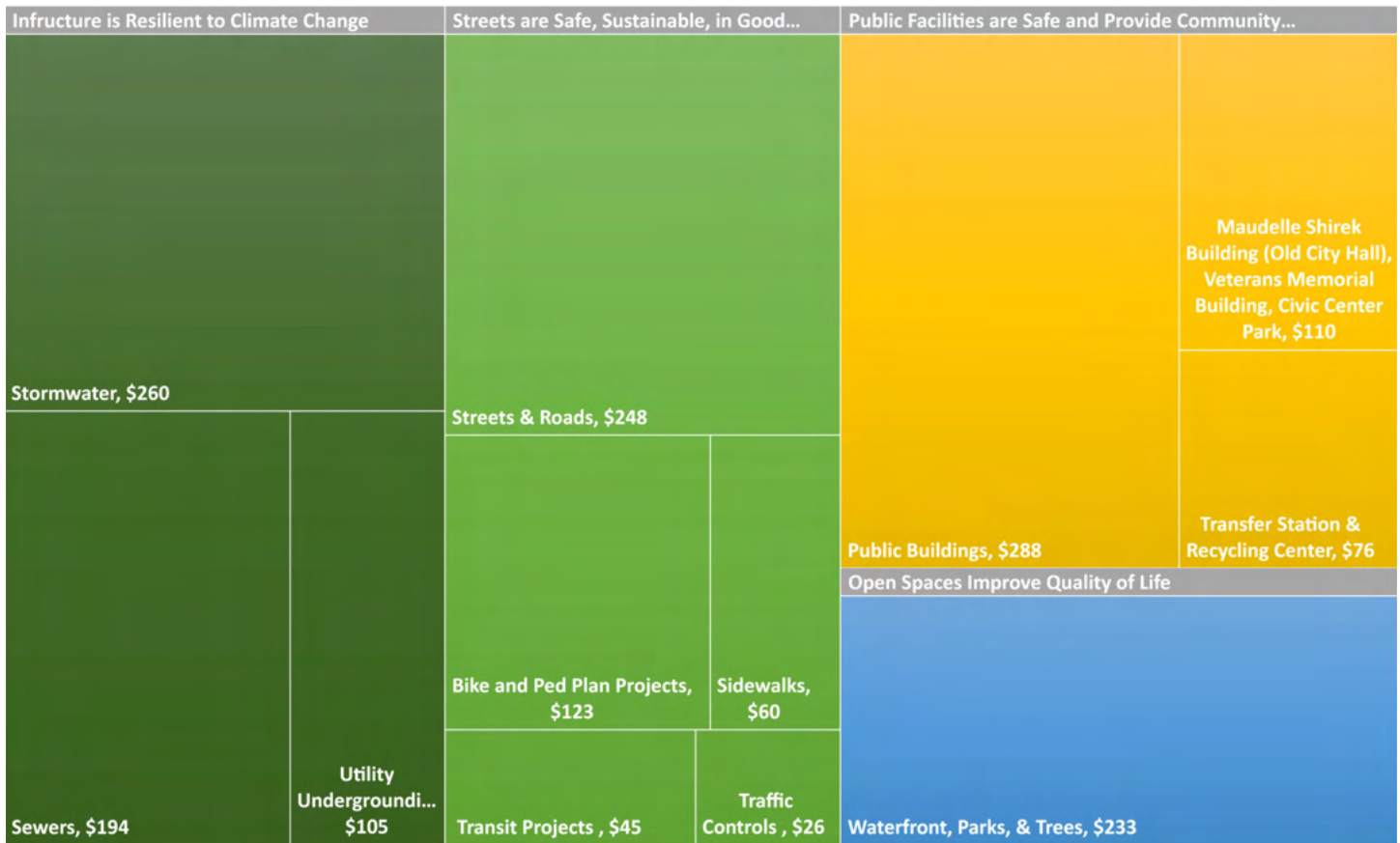
Figure 6 summarizes these same needs, grouped by asset category within each of the four Vision 2050 Program outcomes discussed in Section 3. If these needs are addressed, then Vision 2050's goal of resilient and sustainable infrastructure will be reached.

**TABLE 1**  
**INFRASTRUCTURE FUNDING NEEDS**  
 (These are updated on an ongoing basis)

| Asset Category                                                                             | Infrastructure Funding Needs, in 2022 dollars |
|--------------------------------------------------------------------------------------------|-----------------------------------------------|
| <b>More immediate needs</b>                                                                |                                               |
| Parks, camps, and pools                                                                    | \$116,000,000                                 |
| Waterfront                                                                                 | \$131,000,000                                 |
| Public buildings                                                                           | \$288,000,000                                 |
| Sidewalks                                                                                  | \$60,000,000                                  |
| Streets                                                                                    | \$248,000,000                                 |
| Sewers                                                                                     | \$194,000,000                                 |
| Stormwater                                                                                 | \$259,500,000                                 |
| Traffic Controls, Streetlights, and Parking                                                | \$26,000,000                                  |
| <b>Longer-term needs</b>                                                                   |                                               |
| Bike and Pedestrian plan projects                                                          | \$122,500,000                                 |
| Maudelle Shirek Building (Old City Hall),<br>Veterans Memorial Building, Civic Center Park | \$110,000,000                                 |
| Transfer station and recycling center                                                      | \$76,000,000                                  |
| Transit projects                                                                           | \$45,000,000                                  |
| Trees                                                                                      | \$21,000,000                                  |
| Utility Undergrounding                                                                     | \$105,000,000                                 |
| <b>Total Average</b>                                                                       | <b>\$1,802,000,000</b>                        |

Table 1's cost estimates are largely work that would be capital funded. In some cases, such as with streets and roads, the estimate includes recurring annual costs to keep the asset performing at the

expected level and without deterioration. The requirement to fund the annual maintenance of assets is addressed in the Asset Management Program discussed in Section 6.



▲ **Figure 6:** Infrastructure Funding Needs by Vision 2050 Outcome Objective

## 2.2 Community Input and Priorities

To better understand the community’s infrastructure priorities, the following was completed in winter 2021 through spring 2022:

- › Two statistically-reliable surveys of a representative sample of 500 Berkeley voters
- › Meetings with over 25 commissions and local community organizations
- › An online public survey that received over 1,000 responses
- › An informational mailer to all Berkeley residents
- › Development of a Vision 2050 website [BerkeleyVision2050.org](https://BerkeleyVision2050.org)
- › Four virtual large area public meetings

All of these efforts have been instrumental in sharing information and gaining input in the development of this Program Plan.

A survey in October 2021 of a random, representative sample of 500 Berkeley voters elicited respondents’ infrastructure priorities and found that voters’ top priorities included:

- › Increasing affordable housing for low-income and homeless residents (79% rated as “important”)
- › Upgrading storm drains, green infrastructure, and watersheds to keep pollution from the Bay (79% important)
- › Developing climate change resiliency, including protecting against sea level rise, wildfires and drought (78% important)
- › Undergrounding utilities to reduce the risk of wildfire (73% important)
- › Repairing deteriorating streets (73% important)

An online survey was also conducted and a total of 1,024 responses were received. For the most part, the results from the online survey aligned with the scientific survey. More so than the scientific survey, street repair stood out as a clear top priority followed by affordable housing. The top five ranked priorities are listed below, with percentages indicating the number of respondents who ranked the particular item as top priority:

- › 28.5% - Street repair
- › 19.2% - Affordable housing
- › 8.3% - Bike lanes/safety
- › 7.5% - Climate change resiliency
- › 6.8% - Pedestrian safety

Input on this Program Plan was gained from four large area public meetings held on March 30, April 6, April 13, and April 20 and the following Commissions: Environment and Climate, Disaster and Fire Safety, Disabilities, Parks and Waterfront, Public Works, and Transportation. Berkeley residents brought their questions, input, and comments, a summary of which can be found at [BerkeleyVision2050.org](http://BerkeleyVision2050.org).

This program plan reflects input gathered from these meetings and City Council meetings on May 31 and June 21, 2022:

- › More detail on possible climate and street investments
- › Adding regular five-year updates
- › Address overall vision
- › Incorporate trees as public infrastructure assets
- › Include indicator on tree canopy and diversity
- › Address sidewalks
- › Address equity and reference existing equity-based plans
- › Include transit
- › Explain why affordable housing is being considered for the revenue measure(s)
- › Include developers' fees as source of revenue
- › Address General Fund commitments to maintaining public infrastructure
- › Include public art
- › Revise indicators on EVs, sidewalks, and micromobility
- › Revise Program Delivery section to address paving, traffic safety, and a multi-benefit approach
- › Include more on climate change, e.g., resilience and electrification in buildings
- › Include reference to the San Pablo Park pool
- › Include coordination of programs/projects for multiple benefits









03

# INTRODUCING THE 30-YEAR PROGRAM PLAN





The City's infrastructure systems are very complex, are in daily use, and can't be improved all at once. This Plan proposes making the improvements over a 30-year planning period in order to achieve a sustainable and resilient infrastructure. This is a reasonable time frame given the need to balance the work priority, the funding required, tax impacts, and the ability to deliver the projects. This also allows time for incorporating new technologies as they develop.

This 30-year Program Plan provides the following information:

- › The major outcomes from implementing the Plan
- › Implementing the Plan over 30 years in phases
- › Possible results from the first phase

### 3.1 Outcomes of the Program Plan

This Plan includes visible outcomes. Four major outcomes have been identified that incorporate and advance Vision 2050 principles and core values, and

incorporate community input received to date. The outcomes are shown in Figure 7 and the related infrastructure components are described below.



▲ **Figure 7:** Outcomes of the Program Plan

# Outcome 1 - Have Safe and Good Quality Streets

## Streets are Safer, More Sustainable, Improved to a Good Condition, and Maintained

Having streets and streetscapes that are safer, greener, vibrant and enjoyable, use sustainable technologies, and are in “good” or better condition is a top priority from the community input, has been a subject of City audits, and is a priority of the Council. The asset categories to achieve this outcome are described below.

### Asset Category 1 - Street Surface

The poor condition of Berkeley’s streets has been documented by the City Auditor’s report *Rocky Road: Berkeley Streets at Risk and Significantly Underfunded*, by residents’ complaints, and by an overall low Pavement Condition Index (PCI). On a scale of 0 to 100, streets in a “good” condition have a PCI between 70 - 79. Berkeley’s streets are “at risk” with an overall average PCI of 57 and, without more funding, will continue to deteriorate. From a community survey conducted in the fall of 2021, improving the condition of Berkeley’s streets is one of the community’s highest infrastructure priorities. The target is to improve Berkeley’s streets to a PCI of more than 70.

Berkeley’s streets in 2050 will look much different than today. Personal automobiles will be rarer, and public transit, ride sharing services, bicycling, and walking more common. Streets will better serve all users, and include visible engineering improvements that make bicycling and walking safer. These streets will make transit easier, safer, faster, and more reliable to access and use. Work in our streets will also require a coordinated approach to the infrastructure above, both at and below the street surface. This will require planning that is integrated and uses concepts such as “Dig Once”.

We also will use other street surface technologies that are long lasting, help absorb stormwater and reduce pollution, reduce surface temperatures and the “urban heat island” effect, and reduce our dependence on asphalt paving, the production of which generates greenhouse gas emissions.

The expected outcome is for Berkeley’s street surface to be in an overall “good” condition, to move toward using sustainable technologies, and to have Vision Zero and Dig Once policies fully implemented.

#### Reimagine Streets:

- › Implement Multi modal Streets with Protected Sidewalks and Bike Lanes
- › Introduce Pervious and/or Cool Pavement
- › Reclaim Street Parking for Trees and Vegetation
- › Promote transit use



▲ **Figure 8:** Vision 2050 Streets

### Asset Category 2 - Sidewalks

Most Berkeley residents use a sidewalk daily, and many of us much more. Sidewalks in 2050 will be an even more important part of the transportation network. They will accommodate and promote the City’s trees and healthy urban forest, serve users



of all levels of ability and accessibility, and use materials that help filter stormwater and reduce surface temperatures. At present, the City faces a backlog of thousands of sidewalk repairs that have been requested by residents. While Measure T1 has significantly reduced that backlog, the backlog is about to grow again as City staff complete the first proactive assessment of the City's sidewalks to identify repair locations. This proactive assessment is being conducted as part of the City's update to its Americans with Disabilities (ADA) Transition Plan. The City addresses sidewalk repairs with short-term grinding and filling of problem areas and long-term replacement of damaged sidewalks. Where conflicts with the urban forest exist, tools like meandering sidewalks are used to reduce or resolve those conflicts and make tree removal a last resort.

The expected outcome is for the backlog of Berkeley's sidewalk repairs to be completed and to have adequate resources to address future repair needs.

### Asset Category 3 - Bicycle and Pedestrian Plans

Eighty percent of the collisions that result in deaths or severe injuries on our streets involve someone riding a bike or walking. Making our streets safer means prioritizing bicycle and pedestrian safety. This is especially important to help more residents and workers choose these fossil fuel-free active transportation modes, and is why Berkeley's vision for the future of its transportation network is to be

multi-modal, fossil-fuel free, and equitably accessed. The City has adopted the 2017 Bicycle Plan and the 2020 Pedestrian Plan, and has identified projects to help to bring the City closer to these safe and accessible multi-modal goals.

The City is transforming the City's bicycle network into a low-stress experience with a goal of reducing motor vehicle conflicts and connecting cyclists with the most utilized portions of the City. At the end of the program, over 50 miles of city streets will comprise bikeways, with 15.8 miles of these streets being full bicycle boulevards that criss-cross the City.

Walking is also a core mode of transportation in Berkeley. Improving walkability makes Berkeley safer, more inclusive, and more connected. As the most accessible and affordable form of transportation, walking lies at the core of an equitable mobility network and a healthy community. In addition to enhancing Berkeley's quality of life, improving walking will help the City to achieve its Vision Zero Policy goal of zero traffic deaths and severe injuries.

The Berkeley Pedestrian Plan includes an infrastructure inventory and an assessment of pedestrian demand and safety. The plan identifies ten priority street segments requiring projects to improve pedestrian safety and walkability. Projects provide improved street design, upgraded pedestrian crossings, installed speed management and traffic calming, and improved sidewalk maintenance and accessibility.

The expected outcome is for Berkeley's Bicycle and Pedestrian plans to be fully implemented.





## Asset Category 4 - Traffic Controls, Streetlights, and Parking

In support of creating safe, accessible, and easy to use streets, the City of Berkeley is planning upgrades to existing traffic signals, including detection at 67 locations, ADA accessibility, pedestrian push buttons at 103 locations, and battery back-ups at 124

locations. Public Works maintains 8,011 streetlights and is planning replacements and upgrades of 2,100 parking meters and 240 pay stations.

The expected outcome is for these traffic controls, streetlights, and parking needs to be addressed.

## Outcome 2 - Protect the Environment

### Infrastructure is Resilient, Protects the Environment, and is Adapted to Climate Change Impacts

Global warming is a significant threat to communities globally and to the City of Berkeley. Berkeley's 2009 Climate Action Plan, 2016 Resilience Strategy, and 2019 Local Hazard Mitigation Plan establish city-wide actions to reduce greenhouse gas emissions and adapt to climate change impacts. The message is clear that the City's infrastructure must be resilient to prepare the City for these risks. Key goals of the City's climate action plans are to use energy more efficiently, transition to renewable energy as a power source for both buildings and transportation, improve access to sustainable transportation modes, recycle our waste, and build local food systems. The asset categories to achieve this outcome are described below.

### Asset Category 1 - Stormwater and Watershed Management

The 2012 Watershed Management Plan (WMP) identified projects to improve storm drains, restore creeks, attenuate peak flows and to reduce pollutants entering San Francisco Bay. That project modelled the Potter and Codornices watersheds. The City is in the process of updating the WMP. The updated plan will consider flooding and drought caused by extreme storm events, sea level, and groundwater rise, implementation of the Green Infrastructure Plan, and modelling of all the watersheds. Infrastructure improvements will include storm drains, flow attenuation basins, permeable surfaces, bio-swales, and improvements at Aquatic Park.

The expected outcome is to have a stormwater system that addresses future climate impacts, reduces impervious surfaces, minimizes flooding, meets the City's stormwater discharge permit into San Francisco Bay, prevents pollution from reaching the San Francisco Bay, and revitalizes the urban watershed.

### Asset Category 2 - Sewers

The City's wastewater collection system includes approximately 254 miles of City-owned sanitary



sewers, 7,200 manholes and other sewer structures, seven pump stations, and approximately 31,600 service laterals. The City is responsible for maintenance and repair of the lower portion of the service laterals (located within the public right-of-way) from the property line cleanout to the connection to the City's sewer main. Wastewater generated in the City's collection system is conveyed to the East Bay Municipal Utility District (EBMUD) wastewater interceptor system and is treated at EBMUD's Main Wastewater Treatment Plant.

During the 1980s, EBMUD and the seven Satellite agencies conducted studies to address the problem of overflows and bypasses of untreated wastewater that occurred during large wet weather events due to excessive infiltration and inflow (I/I) into the collection systems. These studies resulted in a long-term program of construction of collection system relief sewers and sewer rehabilitation. The City has rehabilitated or replaced over 200 miles of its gravity sewers and associated lower laterals over the past 30 years. Since 2006, the City has also implemented a private sewer lateral (PSL) certification program requiring the inspection and/or repair or replacement of private (upper) sewer laterals at the time of property transfer or major building remodel.

The seven Satellites and EBMUD are in a Consent Decree with the U.S EPA, the State Water Resources Control Board, and the Regional Water Quality Control Board, which establishes requirements for achieving the elimination of untreated wastewater overflows and bypasses over the next 20 to 25 years.

The expected outcome is to comply with the City's requirements in the Consent Decree and seal the sewer system from storm water intrusion, thereby reducing the risk of untreated sewage reaching the Bay during wet weather. This will become even more important as storms intensify due to the climate crisis.

### Asset Category 3 - Undergrounding Overhead Utility Wires

The City of Berkeley's stated goal, as outlined in the General Plan, Disaster Preparedness and Safety Element, is to ensure the City's disaster related efforts are directed toward preparation, mitigation, response and recovery from disaster shocks. The Berkeley Local Hazard Mitigation Plan states that our two greatest disaster challenges are a Hayward Fault rupture and Wildland Urban Interface (WUI) fire. The climate crisis will result in periods of drought followed by very wet winters, producing heavy vegetation, dry summers, and hot easterly winds in the late summer. These conditions are known to create significant fires such as the 1991 Oakland Hills Tunnel Fire and fires in many parts of California in the past five years.

Methods to reduce the threat of overhead wires creating WUI fires include aggressive vegetation management and other fire hardening techniques. Overhead power lines, more so than undergrounded wires, can exacerbate unsafe conditions either by contributing to the disaster itself or hampering public safety efforts and evacuations. Earthquakes and landslides can knock over utility poles creating a special hazard. In an earthquake,



poles have a tendency to sway in opposite directions causing wires to snap and throw sparks. Some of California’s biggest fires have started because of live wires in contact with combustible fuel.

The Public Works Commission led a three-phase study to underground overhead utility wires in Berkeley. The Phase 3 report recommended undergrounding along evacuation routes to support public safety through ingress of first responders and egress of community members in the event of a major disaster.

The expected outcome is to implement the Phase 3 study recommendations to underground overhead utility wires along Berkeley’s evacuation routes and to support neighborhoods in fire zones that choose to underground.

### Asset Category 4 - Electrification of Buildings Neighborhoods and Transportation

A major goal of Vision 2050 is to decrease the City’s overall climate impact. This effort requires both the reduction of City-wide energy use and transition away from fossil fuels to renewable energy. The Existing Buildings Electrification Strategy in 2021 transitions existing buildings in Berkeley from natural gas appliances to all-electric alternatives in a way that benefits all residents, especially members of historically marginalized communities. As identified in the City’s Resilience Strategy and Climate Action Plan, Berkeley seeks an energy system that, by 2045, is carbon neutral and delivers carbon-free electricity across a highly distributed system. Multifaceted changes to existing infrastructure and its uses are required to achieve carbon neutrality. Improvements to the existing energy grid may include, among other items:

- › Increasing electricity distribution capacity to accommodate neighborhood electrification and mobility charging, in coordination with streets and other infrastructure improvements
- › Improving or expanding access to transformers, vaults, and switchgears
- › Seeking opportunities to decommission gas pipes in areas where buildings or neighborhoods are transitioning to all-electric
- › Supporting solar energy and storage for critical facilities that prioritizes renewable backup power over diesel generators, including mobile batteries and electric vehicle-to-building connections
- › Increasing electric vehicle infrastructure for municipal fleet and distributed mobility charging for residents

The expected outcome is to achieve the City’s goal of becoming a fossil fuel-free city as soon as possible.

### Asset Category 5 - Urban Forest

The City’s municipal forest includes approximately 42,000 street, park, and median trees. These are often referred to as “city trees” or “public trees.”

#### CLIMATE EQUITY FUND PILOT PROGRAMS

In 2021, the Berkeley City Council allocated \$600,000 for Climate Equity Fund Pilot Programs that provide decarbonization and resilience programs for low income community members to retrofit homes, increase access to electric bikes or other forms of electric micro mobility, and gain access to resilience measures and other electrification measures.



They are maintained by the Parks, Recreation, and Waterfront’s Urban Forestry Unit, which performs pruning, removing, and planting trees. These trees are hard at work. They remove pollutants and carbon dioxide from the air, help cool the City during the summer, absorb stormwater during storms, and help the City stay green and support a high quality of life. However, there are approximately 10,000 vacant tree locations and many of these locations are in areas with higher proportions of low-income residents of color. The expected outcome is to increase our City’s tree canopy by planting thousands more trees for the purpose of enhancing our urban forest, sequestering carbon, addressing equity, mitigating urban heat island impacts, and improving quality of life.

### Asset Category 6 - Specific Resilience Infrastructure Assets

While limiting City-wide climate impact is necessary, the effects of global warming are already testing traditional infrastructure and will continue to push our resources to their limits. Worsening drought conditions, increased risk of extreme weather events such as flooding and sea level rise create major challenges for our water supplies, watershed management, and resilience of our underground infrastructure systems. These events also have implications on the safety, health, and well-being of the community. The City has identified several new technologies and infrastructure to build while working towards climate adaptation and resilience. Some of the new infrastructure and adaptation strategies include:

- › Develop rainwater catchments, expanding the use of gray water and expanding the distribution and use of EDMUD recycled water (purple pipe) for landscaping irrigation.
- › Use natural green infrastructure solutions including infiltration basins, wetlands, bioswales, permeable paving, etc. to mitigate

flooding from the combined effects of groundwater, sea level rise, and extreme rain events.

- › Increase the urban forestry canopy and use cool paving technologies to protect against extreme heat.
- › Upgrade Community Resilience Centers and Resilience Hubs to ensure respite and evacuation capacity.
- › Identify and manage urban - wildland forest canopy to mitigate wildfire risks.
- › Install technologies such as air filtration to mitigate wildfire smoke impacts.
- › Use “cool” paving and reduce dark asphalt street surfaces to combat urban heat island effects.
- › Improve seismic safety systems in City facilities to reduce impacts from future earthquakes.





## Outcome 3 - Promote Quality of Life

### Open Space, Parks, and Recreation Improve Our Quality of Life

A key outcome of the Vision 2050 initiative is to improve our overall quality of life through the promotion of open spaces, parks, and recreational opportunities. The asset categories to achieve this outcome are described below.

#### Asset Category 1 - Parks

The City has 52 parks that contain 15 athletic fields, 49 sports courts (basketball and tennis), and 63 play areas. Many parks need significant improvements to pathways, lighting, irrigation systems, play structures, and athletic fields. The expected outcome is to implement these improvements.



#### Asset Category 2 - Pools

The City has two swimming pools, one by King Middle School and the other at West Campus. The pools require improvements to the locker rooms and office areas, and improvements to piping, decking, tiling, and roofs. While the King pool has a 30-year lease, the West Campus site has a five-year lease with the possibility that a new pool will be built at San Pablo Park that serves south and west Berkeley residents.

#### Asset Category 3 - Park Buildings and Restrooms

The City has four community centers, 2 clubhouses, 29 restrooms, and outbuildings. Many of the

required improvements have been made with funding from Measure T1. Future improvements include seismic/deferred maintenance at some park buildings, renovation of existing restrooms, and construction of new restrooms. The expected outcome is to implement the required improvements, including electrification, elimination of natural gas connections, and the addition of solar and battery storage, where feasible.

#### Asset Category 4 - Camps

The City of Berkeley's non-resident camps include Cazadero Camp located off the Russian River, Echo Lake Camp located just above South Lake Tahoe, and Berkeley Tuolumne Camp located just east of Yosemite Park. These camps include hundreds of facilities, amphitheaters, bridges, pathways, water systems, and swimming pools.

There are two significant camp projects in progress. The rebuilding of Berkeley Tuolumne Camp is nearly completed and is scheduled to reopen in the summer of 2022. At Cazadero Camp, the Jensen Dorm, which was destroyed by a landslide in 2016, has been reconstructed. These projects are primarily funded by insurance.

The expected outcome is to complete the construction at the camps and to have them back in operation.

#### Asset Category 5 - Waterfront

The Waterfront is the largest public marina in the Bay Area located on 125 acres of land and 50 acres of water, and includes approximately 1,040 berths, public access docks, pilings, channels, streets, pathways, parking lots, buildings, restrooms, buildings, and small boat launch ramps.

There are many funding needs at the Waterfront, where many of the facilities have reached the end of their useful life and are starting to fail. As documented in multiple reports, there is a diminishing ability to pay for the pressing capital needs in the Waterfront. The Marina Fund is the City’s mechanism for managing all Waterfront revenues and expenditures. Revenues steeply declined in the last two years as a result of safety and security concerns and failing infrastructure. The combination of falling revenue and increasing expenditure needs have strained the relatively small Marina Fund to a breaking point.

The City has begun a long-term planning effort – the Berkeley Marina Area Specific Plan (Figure 9)– to establish the community’s vision for the Waterfront and to plan for making the Marina Fund viable and stable. There is still a need to address urgent infrastructure repairs to finger docks, pilings, electrical systems, and restrooms.

If these investments are not made, facilities and infrastructure will either require more costly emergency funding or be closed as in the case of the Berkeley Pier.

The expected outcome is to make the urgent repairs, complete the Berkeley Marina Area Specific Plans, and to return the Marina Fund to solvency.



▲ Figure 9: Marina Community Vision

## Outcome 4 – Have Safe Public Facilities

### Public Facilities are Safe, Resilient, and Provide Community Placemaking

The City is responsible for maintenance of 95 facilities, not including Library facilities and facilities leased to other entities. These facilities include 39 facilities in the Parks, Recreation, and Waterfront inventory and 56 facilities in the Public Works inventory. These facilities house City staff and are places where residents receive public services. These facilities need to be safe, healthy, and resilient, and provide community placemaking, where the connection between people and these places is strengthened. The asset categories to achieve this outcome are described below.

#### Asset Category 1 – Public Buildings

In 2013, staff retained a consultant to perform

assessments and provide updated condition reports and cost estimates for the City’s facility inventory. The recommended improvements are extensive. All projects included in these assessments are considered either major maintenance or capital projects. Despite support from a variety of City funds, the cost for routine maintenance, major maintenance, and capital improvements far exceeds currently existing sources of funds.

The expected outcome is that condition assessments of the City’s public buildings will be conducted regularly, and necessary improvements identified and completed. These improvements include electrification, elimination of natural gas

connections, and addition of solar and battery storage, where feasible.

### Asset Category 2 - Civic Center

The Civic Center comprises portions of the area surrounding Martin Luther King Jr. Civic Center Park including the Maudelle Shirek Building “Old City Hall” (1909) and the Veterans Memorial Building (1928). Presently, the historic buildings have decades of accumulated deferred maintenance and are seismically unsound. As part of the city’s Measure T1 program, the Veterans Memorial Building and Old City Hall were slated for structural analysis and visioning of possible conceptual design alternatives, in concert with Civic Center Park. A consultant was retained to conduct a community outreach strategy, perform an assessment of the existing infrastructures, identify programs and functions for the two buildings, develop concepts for improvements for the Park. The consultant completed this work and presented a suite of financing and revenue generation strategies for the facility. City Council approved the following vision:

#### CIVIC CENTER VISION

The Civic Center will be the heart of Berkeley’s community. Civic Center will be the prime space for civic life, culture, and the arts. It will reflect the city’s diverse identities, celebrating its history, and contributing to shaping its future. A place of shared resources and a platform for free expression accessible to all, Civic Center aims to manifest the city’s values, advance social justice, and demonstrate the power of true public space.

The expected outcome is to design and construct a Civic Center consistent with this vision and to provide placemaking.

### Asset Category 3 - Transfer Station and Recycling Center

The city’s current solid waste transfer station was opened in 1983. In the late 1980s, Berkeley’s recycling operations relocated to the site to be operated by the Community Conservation Center. In the 1990s, the residential recyclable collection operator, the Ecology Center, was allocated an area at the site for its operations yard and office building. These facilities are not integrated and operations are not coordinated in a way that provides customers ease of use, access, or efficient drop-off of materials. These facilities do not meet current seismic requirements, have not been upgraded or improved since constructed, exceed their serviceable life, and cannot help meet the city’s Zero Waste Goal. The city retained a consultant to conduct a feasibility study to build a new solid waste transfer and recycling facility. Through active collaboration and community participation between November 2018 to May 2019, the city has developed a consensus around two conceptual facility designs.

The expected outcome is that the CEQA analysis and design of the approved project will be completed and a replacement facility constructed that helps the city achieve its Zero Waste goal.



**Award Winning Remodel of the Mental Health Building**



## 3.2 Work Prioritization and Phasing

The Vision 2050 program is planned to be implemented over 30 years in approximately three, 10-year phases. Due to the work's complexity and volume, an understandable prioritization process is needed to sequence the work. The Program Plan uses a scoring system based on these components and weighting:

- › Envision criteria, 60% weighting
- › Community input criteria, 40% weighting

The Vision 2050 report recommended the use of multi-criteria decision-making and suggested using the Envision criteria as prioritization tool. Envision is a program that is organized by the Institute for Sustainable Infrastructure and provides an objective framework of criteria designed to help identify ways in which sustainable approaches can be used to plan, design, construct, and operate individual infrastructure projects.

The Envision framework includes 64 sustainability and resilience indicators organized around five categories: quality of life, leadership, resource allocation, natural world, and climate and resilience. Envision is now widely applied to civil infrastructure projects akin to LEED certification. This criteria is given a weighting of 60%.

The other criteria comprises community input from the surveys, online feedback and community meetings. What the community wants for Berkeley is important and this criteria is given a weighting of 40%. The resulting criteria and score sheet is shown on Table 2.

**TABLE 2:  
PRIORITIZATION SCORE CARD**

| Envision Criteria (Weight 60%)                                                                                      |                                            |
|---------------------------------------------------------------------------------------------------------------------|--------------------------------------------|
| <b>Quality of Life</b>           |                                            |
|                                                                                                                     | Public Health and Safety                   |
|                                                                                                                     | Equity                                     |
|                                                                                                                     | Public Space                               |
| <b>Leadership</b>                 |                                            |
|                                                                                                                     | Integrated Planning                        |
|                                                                                                                     | Lifecycle Maintenance                      |
|                                                                                                                     | Local Economy                              |
| <b>Resource Allocation</b>       |                                            |
|                                                                                                                     | Sustainable and Durable Materials          |
|                                                                                                                     | Reduces Energy Use                         |
|                                                                                                                     | Preserves Water Resources                  |
|                                                                                                                     | Ready to Implement                         |
| <b>Natural World</b>           |                                            |
|                                                                                                                     | Green Infrastructure                       |
|                                                                                                                     | Open Space and Habitats                    |
| <b>Climate and Resilience</b>  |                                            |
|                                                                                                                     | Reduces Greenhouse Gas Emissions           |
|                                                                                                                     | Extreme Climate Impacts                    |
|                                                                                                                     | Resilience Strategy                        |
|                                                                                                                     | <b>Total Envision Points</b>               |
| <b>Community Input Criteria (Weight 40%)</b>                                                                        |                                            |
|                                                                                                                     | Complies with Community Survey Input       |
|                                                                                                                     | Complies with Commissions and Public Input |
|                                                                                                                     | <b>Total Community Input Points</b>        |



Each asset category was rated using the score sheet, and initial scoring was completed by managers in the Public Works and Parks, Recreation and Waterfront departments. A summary of the scoring results is shown on Table 3. This rating is intended as a general guideline for resource allocation. It does not dictate when the works gets done as there may be other project requirements.

For planning purposes, the work can be placed in three priority groups as shown in Table 3. This can serve as a start for the planning of a 30-year program. More details of the 3-phase program will be developed by the program team, should voters approve new funding for the program. Ultimately, the City Council will select the projects to fund and their timing.

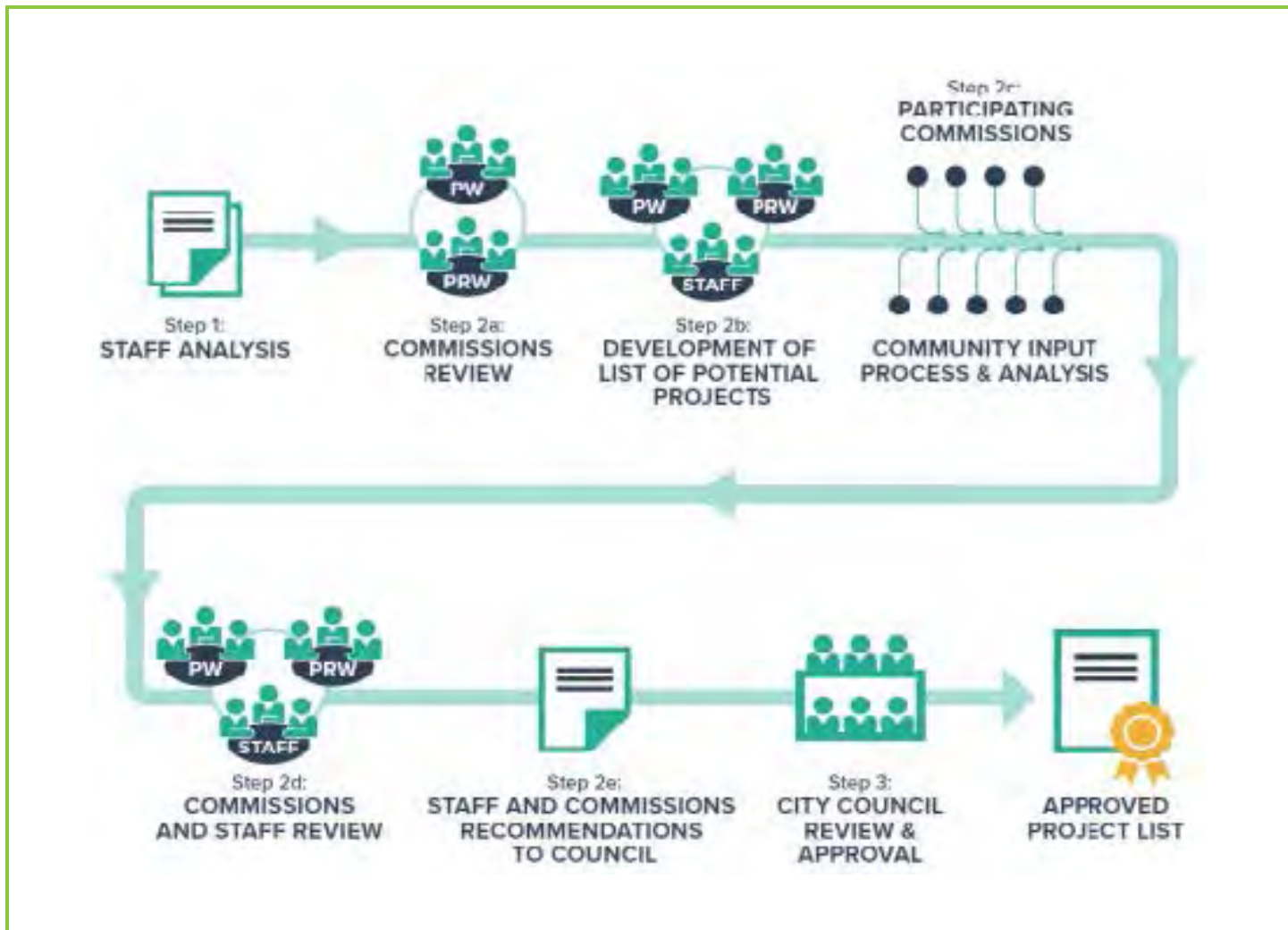
**TABLE 3**  
**SUMMARY OF PRIORITY SCORING**

| Priority | Asset Category by Score                     |
|----------|---------------------------------------------|
| 1        | Streets                                     |
|          | Bicycle and Pedestrian Plan projects        |
|          | Sidewalks                                   |
| 2        | Undergrounding                              |
|          | Stormwater                                  |
|          | Parks                                       |
|          | Trees                                       |
|          | Waterfront                                  |
| 3        | Traffic Controls, Streetlights, and Parking |
|          | Transit projects                            |
|          | Civic center                                |
|          | City buildings                              |
|          | Transfer station                            |
|          | Sewer                                       |

The Program Plan’s goal is to ensure all of these asset categories become Priority 1 well before 2050. Asset categories in Priorities 1 and 2 are most aligned to resilience and sustainability measures in the criteria and are closest to being able to move into construction. Many of the asset categories in Priorities 2 and 3 require more public process, planning, and/or engineering, some of which may be supported by a revenue measure or measures.

Some of these asset categories, such as sewer, have sufficient, dedicated funding sources that make them unnecessary to prioritize for new revenue funding.

When sufficient funding mechanisms and the project team are in place, the work of selecting projects will begin. The process will be carried out separately for each 10-year program phase. The project selection process is shown on Figure 10. This process is being used successfully on the second phase of the Measure T1 program. Projects that are identified as high priority for implementation within each 10-year phase will move forward to final acceptance after staff analysis, community and Commission input, and City Council review and approval. The prioritization of the projects will use the scorecard shown on Table 2, or as updated at the time.



▲ **Figure 10:** Project Approval Process



# 04

## THE PLAN'S FUNDING, RESULTS, AND TAX IMPACT

This section describes a high-level funding approach to achieving resilient and sustainable infrastructure by 2050, the various sources of funds available for this work, results that could be delivered, and a review of the tax impacts on residents for implementing a Vision 2050 program.

MARTIN LUTHER KING JR  
CIVIC CENTER

2180  
Milvia Street

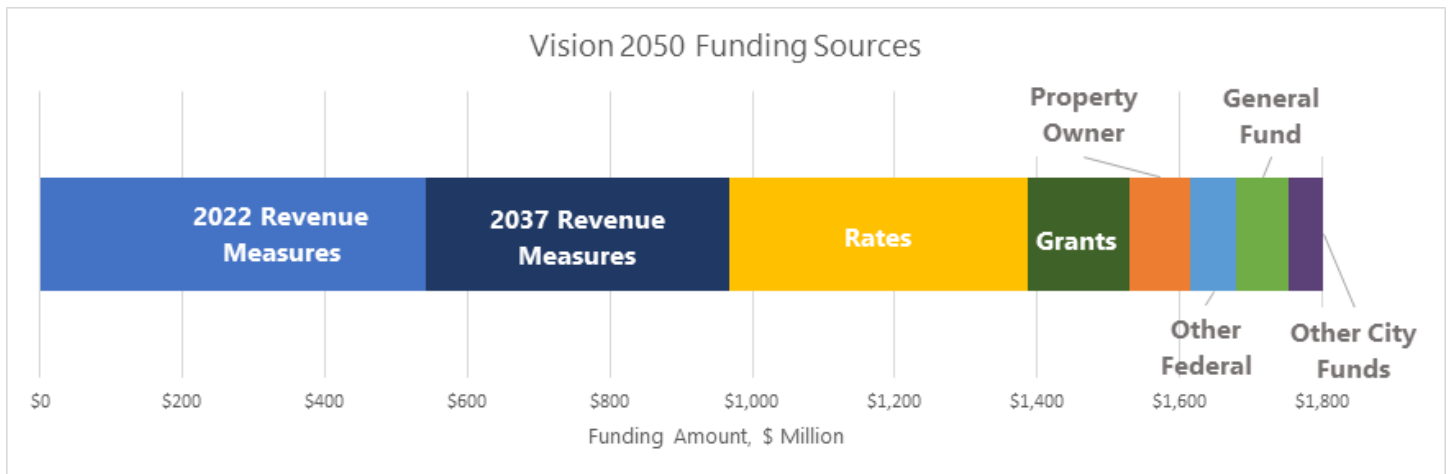


## 4.1 Funding Sources

Achieving a resilient and sustainable infrastructure by 2050 will require new revenue from a variety of sources, including new voter-approved measures. Adjustment to user fees and rates that are dedicated to certain services will be another important source of infrastructure funding. For example, Berkeley’s sewer system is operated and maintained through user fees charged to customers. Through financial analysis, staff have determined that the \$194 million needed in the city’s sewer systems can be addressed in the next decade or so with cost-of-living adjustments to existing rates. Other services have dedicated funding sources (or rates), but that funding falls short. This is true of the city’s

stormwater fee and a special parcel tax for parks and trees. Other sources of funds include grants (federal, state, and other), developer fees, city funds (including the General Fund), and property owner fees, e.g., 50/50 sidewalk repairs.

Figure 11 shows the anticipated funding sources that will be available to complete each of the four Program outcomes and deliver sustainable and resilient infrastructure by 2050. This is a high-level projection with many assumptions yet to be proven, but is offered to show a funding path to the Vision 2050 destination and its dependence on a variety of revenue sources.



▲ **Figure 11:** Vision 2050 Funding Sources





## 4.2 Funding Alternatives

For the November 2022 ballot, two types of infrastructure revenue measures are being considered: a General Obligation Bond (or Infrastructure Bond) and Parcel Tax.

**General Obligation Bonds** (GO Bonds) are paid by an ad valorem property tax based on taxable property assessed value and can only be used to fund capital improvements (no maintenance, operations or services). GO Bonds are considered the most secure type of municipal debt and carry the lowest interest rates given the taxing power for repayment of the debt service. GO Bonds can also be structured to match the life expectancy of the infrastructure improvements and be issued in independent series as required based on project costs and timing. This phasing can allow for a better alignment of infrastructure utilization and repayment of the debt. Also, bond measures are generally considered progressive forms of taxation since they are based on the assessed value of properties.

The city has historically managed its GO Bond program for each authorization (Measures G, S, I, FF, M, T1 and O) through the issuance of individual bond series calculated to meet the capital funding requirements of the projects. Bonds were issued in amounts that minimized the impact on the tax rate required to make debt service payments. Since 1992, the city has maintained annual tax rates below original projections represented to voters for each of the GO Bond authorizations.

A **Parcel Tax** is a property tax that generates annual special revenues for capital, operations, maintenance and services. State law provides for

a number of different tax formulas for levies to all properties (residential and commercial) including per parcel, building square footage or land use. A parcel tax cannot be based on property value. A parcel tax based on building square feet is generally considered a progressive form of taxation since larger properties pay more than smaller properties, exemptions for seniors and low-income property owners are allowed.

Given the scale of the infrastructure need, the Program Plan assumes two 2022 Revenue Measures. First, a parcel tax of \$0.30 per building square foot for 14 years, raising approximately \$25 million annually, that is dedicated to streets, sidewalks, and traffic safety as described under Outcome Number 1. Second, an infrastructure bond of \$300 million with \$150 million to address affordable housing for low-income persons and the unhoused and \$150 million to improve resilience to climate change, wildfire prevention and protection, and to improve other select public infrastructure, as described in Outcome Numbers 2, 3, and 4.

These measures fund the community's top priorities voiced in the public outreach: affordable housing, street repair, and resilience to climate change. Multiple measures provide more flexible sources of funding that could address maintenance needs in addition to capital improvements. Street repair, sidewalk repair, and traffic safety are also top needs identified by online survey respondents, and is supported by the city's prioritization using the Vision 2050/Envision scorecard. These measures would significantly reduce the city's risk related to infrastructure unfunded liabilities, and improve the City's streets for all users.

**TABLE 4**  
**FUNDING MECHANISMS**

| Type                     | GO Bond                                                                      | Parcel Tax                                                                    |
|--------------------------|------------------------------------------------------------------------------|-------------------------------------------------------------------------------|
| <b>TAX BASIS</b>         | Assessed Value (AV)                                                          | Building square footage                                                       |
| <b>USE OF FUNDS</b>      | Capital only                                                                 | Capital + Maintenance                                                         |
| <b>TAX PROGRESSIVITY</b> | Progressive                                                                  | Progressive                                                                   |
| <b>EXEMPTIONS</b>        | None                                                                         | Low income/senior                                                             |
| <b>PROS</b>              | Relative tax burden decreases as total AV increases                          | Fixed payments with cost of living adjustments, funds capital and maintenance |
| <b>CONS</b>              | Cannot pay for maintenance or operations<br>Does not adjust for future costs | Increases tax burden if building square footage increases                     |

### **Why is affordable housing included in these possible revenue measures?**

The Vision 2050 Framework focused on infrastructure, not affordable housing. However, on April 27, 2021, City Council approved exploring revenue measures that addressed both infrastructure and affordable housing, given both were top priorities for residents. Housing and infrastructure are connected. Ensuring affordable housing in a city such as Berkeley reduces greenhouse gas emissions because it affords lower and middle-income residents an opportunity to live closer to where they work, which means less emissions getting to work. At the same time, ensuring affordable housing is an important tool for ensuring a diverse and equitable city, which is an important priority of our community and City Council.

## Results

Per Section 4.1, these results assume:

- › The City continues its track record of successfully leveraging state, federal, and regional grants.
- › City Council allocates a total of \$15 million to annual paving from non-revenue measure sources in order to ensure proper ongoing maintenance of the City's streets, as accomplished for FY 2024.
- › Parcel tax revenue of \$25M annually is distributed roughly two-thirds to paving condition and one-third to traffic safety and sidewalks.
- › GO bond revenue is distributed roughly 60% to climate change, resiliency, and wildfire protection projects; and 40% to public realm and other infrastructure projects.

These investments would:

- › Improve streets to good paving condition and repave 97% of street mileage across the City.
- › Implement 100% of adopted traffic safety plans (bike/ped) and achieve Berkeley's vision of a low-stress bike network
- › Begin to underground the City's evacuation routes to enable emergency responders' ingress and evacuating residents' egress in the event of a wildfire, earthquake, or other disaster
- › Complete selected sea level rise projects at the Waterfront
- › Replace and improve Aquatic Park, storm drain, and green infrastructure citywide to prevent pollution from reaching the Bay and improve the City's resiliency from climate-infused storms
- › Assist in advancing the city's park and public realm projects, e.g., Waterfront, Civic Center Renovation, and San Pablo Park pool





## 4.3 Review of Tax Implications

Property tax rates for Berkeley property owners are comparable to neighboring cities. After accounting for ad valorem taxes, city voter-approved taxes and assessments, school district taxes, and other fixed charges, FY 2021 tax rates in Berkeley (1.58%) were on par with Oakland (1.54%) and lower than in Albany (1.89%).

The city's prior bond issuances include Measure FF (neighborhood libraries), Measures G, S, and I (public safety, main library/seismic retrofit, animal shelter), Measure O (affordable housing), Measure M (streets and watershed), and Measure T1 (infrastructure and public facilities). Debt service from prior bond measures constitutes only 3.2% of the average property owner's tax bill.

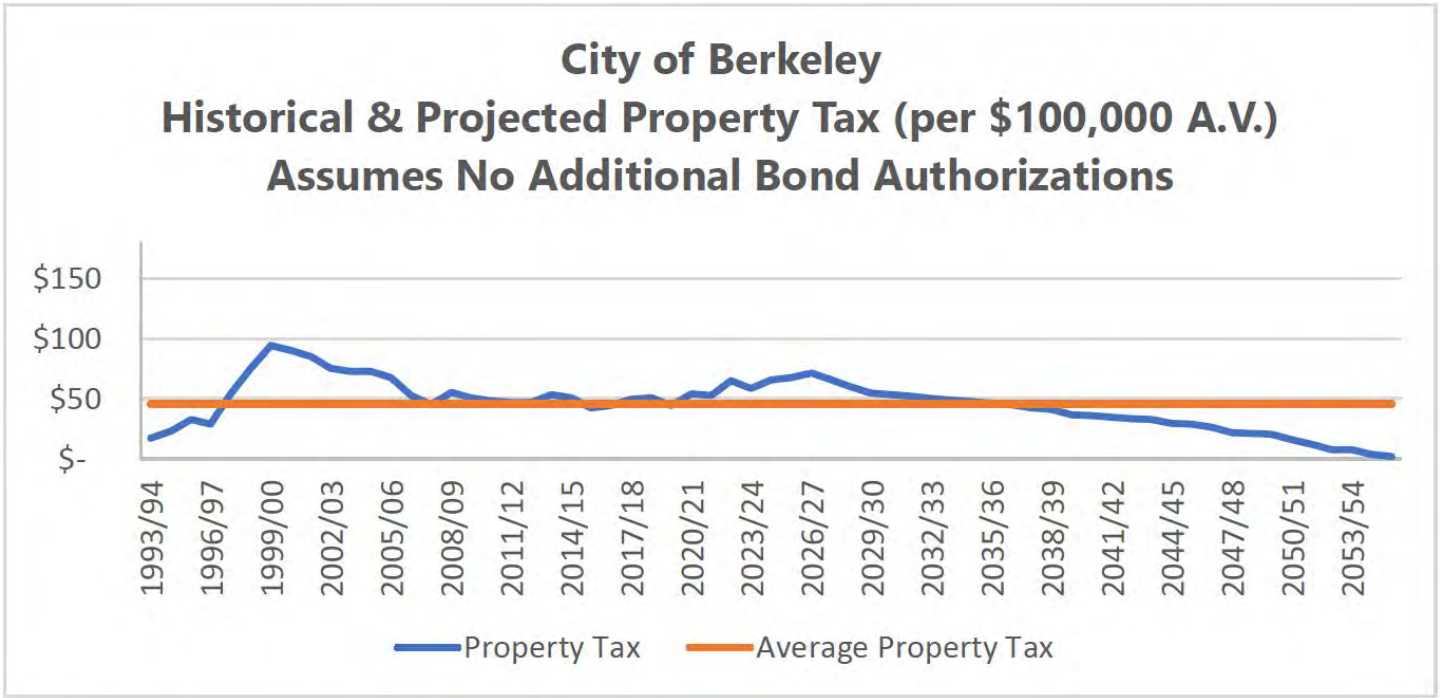
The city has a current debt service of \$52.90 per \$100,000, which is low compared to nearby cities and their school districts, as shown in the table below. Even after implementation of a \$300M GO bond, the city's debt service will continue to be lower than nearby cities and school districts.

| <b>2021/22 Tax Rates</b>                                       | <b>Total GO Bond Tax Burden</b> |
|----------------------------------------------------------------|---------------------------------|
| Per \$100,000                                                  | \$52.90                         |
| Average Tax<br>(based on assessed property value of \$647,972) | \$342.78                        |

| <b>City or District</b>           | <b>Debt Service per \$100,000 of Assessed Value</b> |
|-----------------------------------|-----------------------------------------------------|
| City of Oakland                   | \$201.10                                            |
| Albany School District            | \$195.00                                            |
| Berkeley School District          | \$145.10                                            |
| City of Albany                    | \$130.30                                            |
| Oakland School District           | \$120.20                                            |
| City of Berkeley plus \$300M bond | \$79.75<br>(average)                                |
| City of Berkeley (current)        | \$52.90<br>(average)                                |

The city has historically maintained low GO Bond tax rates as shown in Figure 12. This represents the previously approved bond measures including the remaining bonds for Measures T1 and O to be issued over the next four years.

If voters approved a \$300 million GO bond, the average tax required for the new bond authorization will be \$27 per \$100,000 of assessed value. Assuming the existing GO bond authorization capacity are issued as scheduled, the cumulative debt service on all GO Bonds will increase through 2036, and then begin to decrease as prior bonds are paid off.



▲ **Figure 12:** Historical & Projected Property Tax

Assuming average developed property size of 1,900 square feet, a parcel tax of 30 cents per square foot would add \$570 annually to the average property owner’s tax bill, which is comparable to the annual cost of refuse service based on a 32-gallon cart.

Below is a summary of the tax impacts on an average property, assumed to be an average valued house at \$647,972 (assessed value) with 1,900 sq ft.

| TABLE 7<br><b>SUMMARY OF TAX IMPACTS</b>  |                                                     |
|-------------------------------------------|-----------------------------------------------------|
|                                           | <b>\$300M<br/>GO Bond + Parcel Tax</b>              |
| Tax Rate (\$100,000 A.V.)                 | Avg Bond = \$27<br>Parcel = 30 cents per sq. ft.    |
| Tax (Avg Home: \$647,972;<br>1,900 sq ft) | Avg Bond = \$166<br>Parcel = \$570<br>Total = \$736 |

## 4.4 Other Benefits of Infrastructure Spending

Infrastructure spending has other benefits. It creates jobs. The U.S. Department of Transportation has found that for every \$1 billion in infrastructure investment, 13,000 jobs are created. In a place like Berkeley, which follows both state law on public works expenditures and local law via a Community Workforce Agreement, this means jobs that pay prevailing wages and benefits.

Infrastructure spending also can add art to our public spaces. If 1 percent of a revenue measure is dedicated to local public art, as was the case with Measure T1, or City Council commits an annual General Fund allotment of a similar amount, then Berkeley's public spaces will get more public art. Public art plays an integral role in improving our community's wellbeing by creating inspired spaces that reflect the unique character of our city. Public art breathes life into the built environment, engages the community with creative art experiences, and fosters a sense of belonging.



Art Installation at Civic Center Garage



Statue of William Byron Rumford



Art Installation at Shattuck & Center

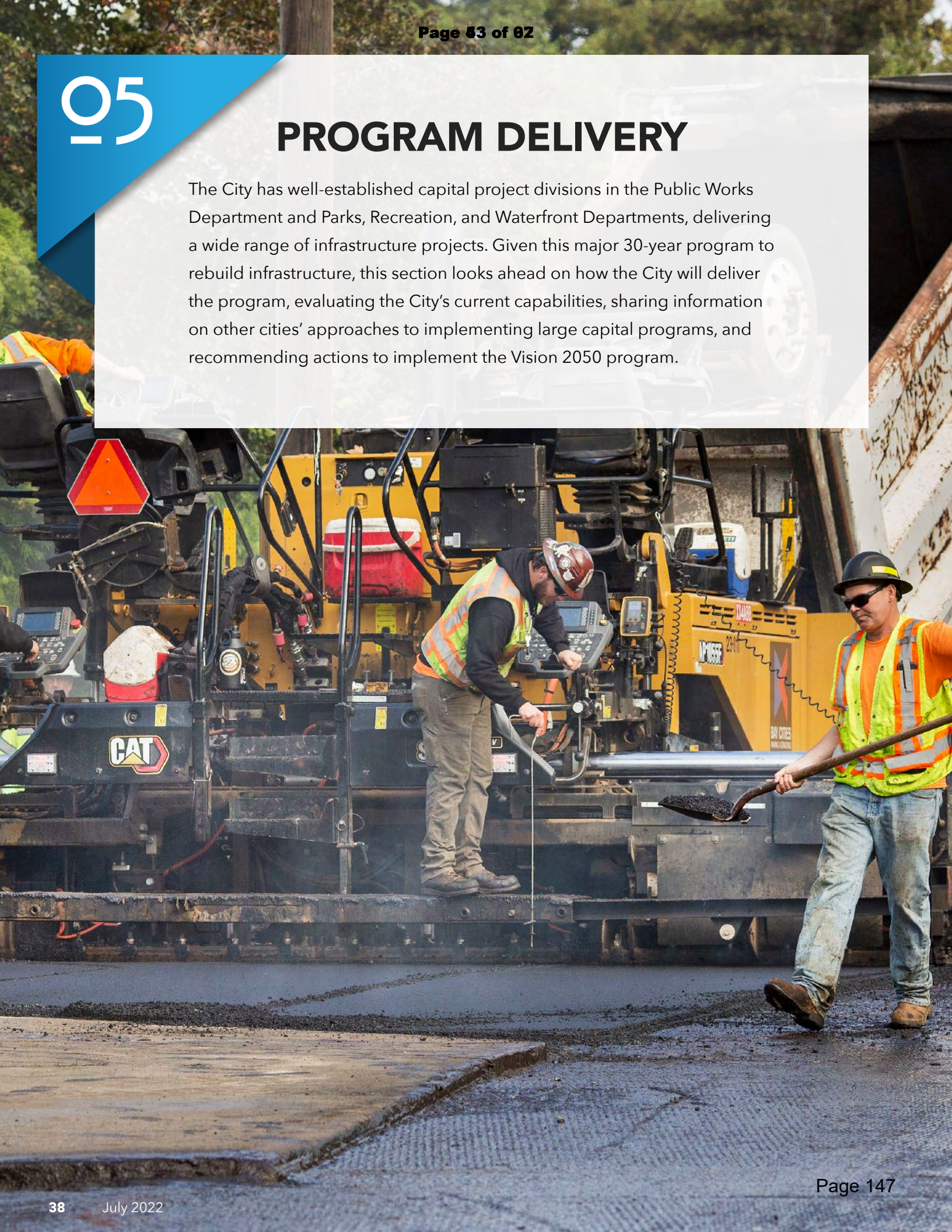




# 05

## PROGRAM DELIVERY

The City has well-established capital project divisions in the Public Works Department and Parks, Recreation, and Waterfront Departments, delivering a wide range of infrastructure projects. Given this major 30-year program to rebuild infrastructure, this section looks ahead on how the City will deliver the program, evaluating the City's current capabilities, sharing information on other cities' approaches to implementing large capital programs, and recommending actions to implement the Vision 2050 program.





## 5.1 Current Organization and Measure T1 Implementation

Capital projects are delivered by the Engineering and Transportation Divisions in the Public Works Department, and Capital Projects Division of the Parks, Recreation and Waterfront Department. Most of this work is based on regular, annual contributions from special funds, including ratepayer funds (sewer, stormwater, and streetlight) and a parks-focused parcel tax.

As shown in the table below, capital investments have more than doubled in the last decade.

| Year | Capital Program |
|------|-----------------|
| 2010 | \$41.6 million  |
| 2020 | \$114.5 million |

This growth has largely been driven by Measure T1 and the large project to rebuild Tuolumne Camp. In November of 2016, Berkeley voters passed Measure T1, authorizing the city to sell \$100 million of General Obligation Bonds to repair, renovate, replace, or reconstruct portions of the city's aging infrastructure.

The City of Berkeley has managed all T1 projects internally with a team that includes administrative, financial, and project management staff from the Public Works and Parks, Recreation, and Waterfront Departments. Five full-time equivalent positions were allocated across 11 staff within PW and PRW. One of the five FTEs is a T1 Associate Management Analyst. While projects are managed by city staff, the planning, design, and construction management of projects are largely completed by consultants.

As a part of preparing this Program Plan, interviews were conducted with the T1 Management Team and project managers to learn what has worked well and how things can be done better in the future.

### Positive outcomes of T1 implementation:

- › The City has completed nearly all of the 39 projects in Phase 1. Phase 2 projects are approved and are on track to be completed by 2026
- › Interdepartmental collaboration has been very effective with regular meetings and open communications
- › Community messaging has been regular and recurring, with ongoing updates to the website and email distribution lists, periodic reporting to Council, and a January 2022 informational brochure mailed to residents
- › The program team has been able to staff up and retain staff during the program
- › Staff costs have been kept to a minimum, i.e., less than 12% of project costs
- › Meetings are held at the conclusion of each project to discuss challenges, successes, and lessons learned
- › The project teams have largely been able to keep up with the project schedules



**Ideas for future improvements:**

- › Reduce the time it takes to hire staff
- › Increase IT and legal support to match the program size
- › Add consultants to help with certain tasks in project management
- › Improve tools to aid in project management

- › Streamline contracting policies, including bid protest procedures and purchasing policies

It is important to note there will be overlap with the T1 team completing the Phase 2 projects and the Vision 2050 team ramping up. The future organization will need to account for this to ensure the success of both programs.

## 5.2 Research on Other Programs

The City and its consultants conducted interviews with three cities implementing large capital programs. Interview topics included organization, tools, implementation, and accountability.

Successes, challenges, and lessons learned were discussed with each group, too. Table 8 summarizes the cities and their programs.

TABLE 8

### CITIES INTERVIEWED AND THEIR CAPITAL PROGRAMS

| City                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | Program Description | Budget and Staff                                        |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------|---------------------------------------------------------|
| <p><b>City of Oakland</b></p> <ul style="list-style-type: none"> <li>› Measure KK’s funding allocations are a) \$350 million for streets and roads, b) \$150 million for facilities and c) \$100 million for anti-displacement and affordable housing</li> <li>› CIP projects are delivered through Public Works (PW) and Transportation (OakDOT). PW delivers non-transportation projects, such as sewer, drainage, and parks. OakDOT delivers transportation projects through two divisions: a) Great Streets (large projects) and b) Safe Streets (street repairs)</li> <li>› Program management is primarily done with City staff with some consultant support. There are about 20 dedicated staff members for program management</li> <li>› Staffing vacancies have been as high as 25%</li> </ul> |                     | <p>\$87M / 20 employees =<br/>~\$4.4M per employee.</p> |

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                            |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------|
| <p><b>City of Oakland (cont.)</b></p> <ul style="list-style-type: none"> <li>› Oakland’s PCI was 53 in 2019 and increased to 58 in 2021. They are using \$100 M of Measure KK funds over 3 years to improve 350 miles of street surface</li> <li>› Measure KK has a 9 member Public Oversight Committee. The members were appointed by the Mayor and report to the City Council</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                                                            |
| <p><b>City of Sunnyvale</b></p> <ul style="list-style-type: none"> <li>› The Public Works Engineering Division delivers all capital projects through four groups: a) special projects, b) project design, c) construction management, and d) land development</li> <li>› The special projects group manages very large capital projects, e.g., \$1 billion wastewater treatment plant re-build. Consultants handle the day-to-day project management but do not have monetary authority</li> <li>› There are 8 staff in the project design group, who manage the smaller on-going capital projects</li> <li>› The City uses e-Builder software</li> <li>› Staffing vacancies are a problem</li> <li>› City Council’s target PCI is 80. Their current PCI is about 76</li> </ul>                                                                                                                                          | <p>\$176.5M / 30 employees<br/>= ~\$5.9M per employee.</p> |
| <p><b>City of San Diego</b></p> <ul style="list-style-type: none"> <li>› The City delivers capital projects through two departments: a) Capital Projects and b) Strategic Capital Projects. Capital Projects perform projects that are \$5 to 20 million in size, the work is long-term and they have about 700 staff. The Strategic Capital department works on projects over \$100 million in size, the work requires special expertise, there are about 50 staff and there is a high reliance on consultants</li> <li>› The current 5-year CIP has a funding need of \$8.4 billion</li> <li>› The City uses OCI (overall condition index) instead of PCI. The City’s target for OCI is 70</li> <li>› Staff vacancies range from 15 - 20%</li> <li>› A State of CIP Report is provided to City Council twice per year</li> <li>› San Diego is a participant in a California multi-agency benchmarking group</li> </ul> | <p>\$830M / 750 employees<br/>= ~\$1.1M per employee</p>   |

While Berkeley uses City staff for project management and consultants for planning, design, and construction management, by comparison, the larger programs are managed by a combination of City staff and consultants. Berkeley's 5 full time equivalent employees are handling \$45 million projects at present, a higher ratio than these other cities. City staff make all financial decisions, manage City processes, and complete repeatable tasks. Consultants assist City staff with a wide variety of tasks involving project planning, design, construction management, and execution, and provide necessary specialized expertise and knowledge. Some program teams include a

dedicated group who administer grant funding. Challenges experienced during large program implementation include difficulty in recruiting and retaining a talented workforce, having sufficient administrative and support services, and having effective and efficient hiring and on-boarding processes, including a continuous recruitment process.

These issues could be addressed in part by including dedicated financial and recruiting staff that are funded through the revenue measure, and developing program-specific hiring policies and procedures.

## 5.3 Recommendations for Vision 2050 Implementation

The recommendations presented in the section below build off the successes and lessons learned from implementation of Measure T1 and the City's regular capital program, and from the three cities we interviewed and researched. These recommendations will help in delivering a more significant investment in the city's infrastructure:

- › **Responsible organization** - A Vision 2050 program management team should be formed and report to the Public Works Director for the first phase of improvements, given this phase's focus is likely within the right of way, which is Public Works' responsibility. This team would be multi-discipline, meaning the team would be responsible for implementing all aspects of the Vision 2050 program, including projects outside of the normal purview of Public Works. In future phases, as determined by future Vision 2050 priorities, this program management team could report either to Directors of Public Works or Parks, Recreation, and Waterfront, a Deputy City Manager, or the City Manager.

- › **Multiple Benefits** - The Vision 2050 Framework recommended infrastructure improvements that have multiple benefits. Given this Plan's initial focus on streets and traffic safety, the program management team will ensure projects are delivered that, to the extent feasible, combine paving, traffic safety, and green infrastructure improvements. Recent annual paving projects demonstrated progress in this regard, as they have included paving, green infrastructure, and various traffic safety features such as traffic circles, traffic diverters, and pedestrian islands. Given this plan prioritizes the co-benefits of street paving and traffic safety, staff have modeled how to meet both goals simultaneously. By dedicating two-thirds of streets-focused investments to paving and one-third to traffic safety, this Plan's goals can be met in ten years or so.

- › **Program management team and staffing** - The City should initiate a recruitment for a new full-time position, Vision 2050

Program Manager. The manager should have an administrative support person and project managers (the number to be determined prior to implementation). The City team would ideally include dedicated staff in lieu of 3-year limited term positions, given the duration of the work. In addition, the city team should include both an in-house construction inspector and a project coordinator to assist with time-intensive tasks such as compiling budget data, preparing public outreach materials, and coordinating meetings. Outreach support should be included on this team as well. The Program Manager should also have a mix of staff and consultant support in a blended team. Consultant support may include: a) preparation of a project management manual, b) project cost tracking, c) performance indicator tracking, and d) management of special projects.

- › **Engineering functions** - As discussed above, the engineering and capital delivery divisions in the Public Works and Parks, Recreation and Waterfront Departments will continue to deliver ongoing projects. These include aspects of street paving, sidewalk repairs, sewer rehabilitation, and park and playground improvements.

- › **Special projects** - Projects that are not normally handled by the City's engineering

divisions should be managed by the program management team or assigned to a consultant. Examples of these projects may include utility undergrounding, seismic improvement to public buildings, public realm projects, etc

- › **Supporting departments** - Advanced planning needs to be held with the City's procurement, legal, human resources and information technology departments. Challenges experienced during large program implementation include difficulty in recruiting and retaining a talented workforce and having effective on-boarding processes. In addition, the City's procurement procedures need updating and improvement. The ideal Vision 2050 organization may include dedicated recruitment and financial staff, as well as new policies that are developed specifically for the program. For example, the City of Oakland cut 500 staff hours and months from project timelines by reducing the number of project and procurement approvals.

- › **Tools, software and procedures** - An evaluation of current and new tools will be made for delivering the program. This will include: a) procurement tools for goods and services, b) project scheduling and tracking software, c) document management, and d) reporting.





# 06

## SUPPORTING STRATEGIES

This section describes the performance monitoring, oversight and reporting and on-going maintenance that will be a part of implementing a successful Vision 2050 program.





## 6.1 Performance Indicators

A large complex program like Vision 2050 can benefit from identifying Key Performance Indicators (KPIs) to track progress. An initial list of KPIs is shown on Table 9 and are organized around the four Vision 2050 outcome objectives. The indicators go beyond the traditional tracking of cost and schedule progress and incorporate indicators that reflect sustainability and resilience goals.

It will be important to update these KPIs at the beginning of each phase of this thirty-year program, and more frequently in some areas, in order to incorporate changing conditions, new technologies, and new priorities.

TABLE 9

### VISION 2050 KEY PROGRAM PERFORMANCE INDICATORS

| 1. Streets are Safer, More Sustainable, Improved to a Good Condition, and Maintained               |                                                                              |
|----------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------|
| Paving condition                                                                                   | % of sidewalks in safe condition                                             |
| Three year average of severe injuries/fatalities                                                   | % of Bicycle, Pedestrian, and ADA Transition Plans implemented               |
| % of 2020 pavement surface converted to pervious surface                                           | Public satisfaction with right of way                                        |
| % of commute trips by solo occupant vehicle                                                        | % of trips by walking, micro mobility or transit                             |
| 2. Infrastructure is Resilient, Protects the Environment, and is Adapted to Climate Change Impacts |                                                                              |
| Citywide GHG reductions                                                                            | % of public buildings fossil-fuel free                                       |
| Citywide natural gas consumption                                                                   | % of automobiles that are EV citywide                                        |
| % of Stormwater and GI plans implemented                                                           | % of sea level rise, undergrounding, and evacuation route projects completed |
| % of target acres treated by Green Infrastructure                                                  | % of 2022 vacant street tree sites planted                                   |
| % of public buildings seismically retrofitted                                                      |                                                                              |
| 3. Open Space, Parks, and Recreation Improve our Quality of Life                                   |                                                                              |
| % of Backlog Addressed Annually                                                                    | Diversity of the Urban Forest                                                |
| # of Street Trees/Tree Canopy Ratio                                                                | Public satisfaction at Parks and open spaces                                 |
| 4. Public Facilities are Safe and Provide Community Placemaking                                    |                                                                              |
| % of public realm/placemaking opportunities implemented                                            | % of Backlog Addressed                                                       |
| % of ADA Transition Plan implemented in buildings                                                  | Public satisfaction in public spaces                                         |
| % of public buildings with battery storage                                                         |                                                                              |

## 6.2 Equity

Incorporating equity into infrastructure is a core value of the Vision 2050 Framework, and is something Berkeley residents want. Three-fourths of voters said an infrastructure measure should incorporate equity.

Poorly maintained infrastructure is inherently inequitable, as it is more detrimental to Berkeley's most vulnerable residents. Those with mobility impairments can find potholes, deficient sidewalks, failing hand rails, or out-of-service elevators as insurmountable challenges. Those on bikes or walking, instead of in vehicles, are more at risk of death or serious injury on streets with potholes, failing pavement markings, and lacking traffic safety controls. As reported by the city auditor, low-income residents who depend on their automobile to get to work face greater risk from the estimated annual \$1,049 repair bill attributable to poorly maintained streets. The state of our parks, recreation and senior

centers has a serious impact on the programs and services delivered to children of color and lower income seniors.

In implementing equity into Vision 2050, Berkeley will build on recent progress. The City's transportation plans prioritize projects in historically underinvested neighborhoods in Berkeley, including improvements like bus bulbouts and dedicated bus lanes which help lower income residents more likely to use transit. Many capital projects approved in Measure T1 implementation advanced equity. These projects include the African American Holistic Resource Center, South Berkeley Senior Center, the Martin Luther King Jr. Youth Services Center, and public restrooms citywide approved as part of Measure T1, Phase 2. In addition, Phase 1 projects such as paving and park improvements at San Pablo Park and 10 play structures in West Berkeley also advance equity.

## 6.3 Reporting and Oversight

A Vision 2050 program team will prepare a Program Management Manual. The manual will include the performance indicators and a format for reporting progress. Typically, performance monitoring reports are prepared on a semi-annual basis. The reports will be provided to Council and will be available to the public via the Vision 2050 website.

To ensure accountability, independent oversight for the revenue measures will be provided by two of the City's Commissions: Transportation and Infrastructure, and Parks, Recreation, and Waterfont. These Commissions will review expenditures

for conformance with the measure's purposes, propose how future revenue measures proceeds are spent, and monitor progress toward Vision 2050's outcomes and performance indicators.

## 6.4 Lifecycle Maintenance

Asset Management is an important concept in which the city's infrastructure systems are managed throughout the life cycle from 'cradle to grave.' Taking an asset management approach was a key part of the City Council adopted Vision 2050 recommendations.

A Strategic Asset Management Plan (SAMP) was recently submitted to City Council and the Council adopted an Asset Management Policy. The SAMP develops policy guidance, reviews the city's current maintenance practices, and prepares a roadmap of key initiatives for implementing a full Asset Management Program (AMP) in Berkeley's Public Works and Parks, Recreation & Waterfront Departments. Critical systems that we depend on every day are simply wearing out. Recent budgets were inadequate for infrastructure capital and maintenance needs, let alone modernizing them. An AMP is needed to manage our infrastructure assets throughout their useful life.

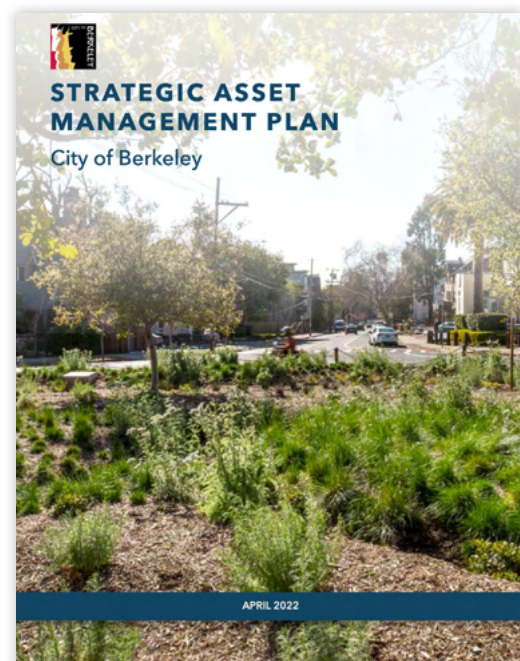
The city retained a consultant to assess the city's current asset management practices against a global standard benchmark on Asset Management in six areas: asset strategy and planning, asset management decision-making, lifecycle delivery, asset information, organization and people, and risk assessment. Based on the benchmark, Berkeley's average assessment was in the 'developing' level of asset management implementation and comparable to many U.S. cities, but not nearly good enough. The consultant worked with city staff to develop a 'Roadmap' of key initiatives in the next two

years to implement an effective AMP.

The components include:

- › Prepare an Asset Management policy for City Council's adoption
- › Form an Asset Management team, consisting of a team leader and two program staff
- › Form an AM Steering Committee to guide the program implementation
- › Provide consultant support
- › Prepare the strategies, procedures and analyses to implement an AMP

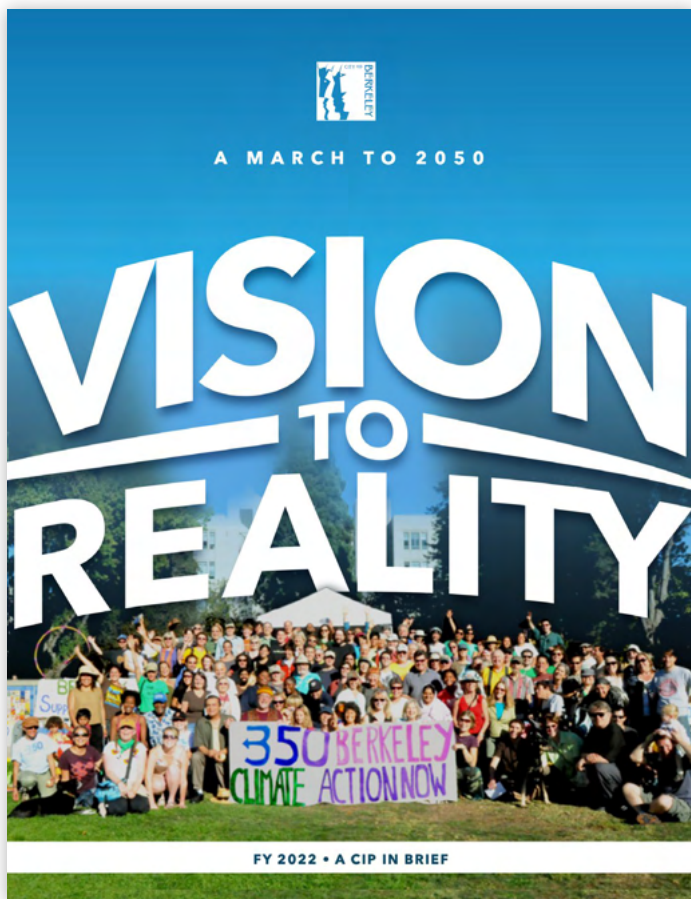
The SAMP conducted an asset-by-asset review of annual infrastructure maintenance funding and found that some asset categories such as streets and city buildings had insufficient maintenance funding by a wide margin, while other assets like sewer and streetlights had adequate maintenance funding. Assets such as stormwater have sufficient maintenance funding now. However, climate change and green infrastructure might make current funding commitments insufficient in future years.



## 6.5 General Fund Support for Infrastructure Maintenance

The level of General Fund contribution for public infrastructure in the last 12 years has remained flat in nominal terms. Given escalating annual costs, this led to a decline in General Fund support for infrastructure. A common theme from community engagement has been to grow General Fund support for infrastructure and, at the very least, that revenue from any new measures not replace existing General Fund commitments to infrastructure.

In recognition of the need for more infrastructure funding, the City Council has revamped its capital budget and allocated an additional \$14M+ for street maintenance, \$5M+ for the Waterfront and Parks, and \$4M+ for other infrastructure. If these investments become a new “floor” for the City’s infrastructure, the City will be on track to achieve a resilient and sustainable infrastructure by 2050.



The FY 2022 CIP in Brief was the beginning of melding Vision 2050 into the City’s capital budget

# APPENDICES

## A. Acknowledgements

### City of Berkeley

Paul Buddenhagen, Deputy City Manager

Liam Garland, Director, Public Works

Scott Ferris, Director, Parks, Recreation and Waterfront

Ray Yep, Vision 2050 Implementation Team Member (volunteer)

Margo Schueler, Vision 2050 Implementation Team Member (volunteer)

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Andrew Brozyna, Deputy Director, Public Works

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Farid Javandel, Deputy Director, Public Works

Joe Enke, Manager of Engineering, Public Works

Input from the Leadership Teams in the Public Works and Parks, Recreation and Waterfront Departments

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Woodward & Curran: Dave Richardson, Principal

Daniel Windsor

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## B. GLOSSARY OF TERMS AND ABBREVIATIONS

| Terminology                    | Definition                                                                                                                                                                                                                                                                                                                                                                 |
|--------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>ADA</b>                     | Americans with Disabilities Act                                                                                                                                                                                                                                                                                                                                            |
| <b>AMP</b>                     | Asset Management Program                                                                                                                                                                                                                                                                                                                                                   |
| <b>Asset categories</b>        | A logical grouping of similar assets or equipment types used to categorize, organize, and manage the asset portfolio.                                                                                                                                                                                                                                                      |
| <b>Asset management</b>        | Data driven planning that improves operational, maintenance and capital forecasting of potential needs, and optimization of investments to realize the greatest value from assets while operating over their lifecycle.                                                                                                                                                    |
| <b>CEQA</b>                    | California Environmental Quality Act                                                                                                                                                                                                                                                                                                                                       |
| <b>CIP</b>                     | Capital Improvement Program                                                                                                                                                                                                                                                                                                                                                |
| <b>City</b>                    | City of Berkeley                                                                                                                                                                                                                                                                                                                                                           |
| <b>Council</b>                 | City Council of Berkeley                                                                                                                                                                                                                                                                                                                                                   |
| <b>EBMUD</b>                   | East Bay Municipal Utility District                                                                                                                                                                                                                                                                                                                                        |
| <b>Envision</b>                | Developed by the Institute for Sustainable Infrastructure and Harvard University, Envision provides industry-wide sustainability metrics for all types and sizes of infrastructure to help users assess and measure the extent to which their project contributes to conditions of sustainability across the full range of social, economic, and environmental indicators. |
| <b>KPI</b>                     | Key Performance Indicator                                                                                                                                                                                                                                                                                                                                                  |
| <b>General obligation bond</b> | A General Obligation bond is a common type of municipal bond that is secured by a government's pledge to use legally-available resources, including tax revenues, to repay bondholders.                                                                                                                                                                                    |
| <b>Parcel tax</b>              | The parcel tax is a tax on parcels of real property collected as part of a property tax bill. Unlike the property tax, the parcel tax cannot be based on property value. To impose a parcel tax, governments must win support from two-thirds of voters.                                                                                                                   |
| <b>PCI</b>                     | Pavement Condition Index, which is a scale of 0 to 100 (with 100 being the best) that indicates the condition of an asphalt street surface.                                                                                                                                                                                                                                |
| <b>Program plan</b>            | A structured approach to organizing a long term complex array of subcomponents. The plan typically describes the project components, schedule, outcomes, funding, and reporting.                                                                                                                                                                                           |
| <b>SAMP</b>                    | Strategic Asset Management Plan. This is a high level plan that reviews an organization's policies, assesses its maturity on maintenance, and develops a roadmap to implement a lifecycle maintenance management program.                                                                                                                                                  |
| <b>U.S. EPA</b>                | United States Environmental Protection Agency                                                                                                                                                                                                                                                                                                                              |
| <b>Vision 2050</b>             | An initiative of Berkeley's Mayor Jesse Arreguin to take a long term approach to improving Berkeley's aging infrastructure. The approach incorporates sustainability and resiliency and anticipating a future world with climate impacts.                                                                                                                                  |
| <b>WMP</b>                     | Watershed Management Plan                                                                                                                                                                                                                                                                                                                                                  |

## C. Reference Documents

1. Information on Vision 2050 can be found on its website: [BerkeleyVision2050.org](http://BerkeleyVision2050.org).
2. Reference documents referenced in this program plan can be found on the City of Berkeley website ([BerkeleyCA.gov](http://BerkeleyCA.gov)) using the search feature
3. Information on Berkeley's Measure T1 program can be found on its website: [BerkeleyCA.gov/your-government/our-work/ballot-measures/measure-t1](http://BerkeleyCA.gov/your-government/our-work/ballot-measures/measure-t1).
4. Information on the Envision process can be found on the Institute for Sustainable Infrastructure's website: [SustainableInfrastructure.org](http://SustainableInfrastructure.org).

MEET YOUR COUNCILMEMBERS



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**JESSE ARREGUIN**

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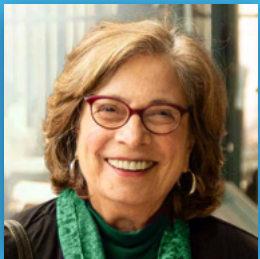
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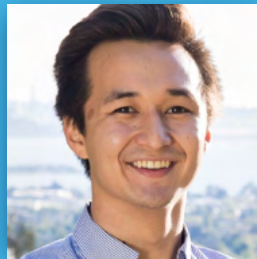
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Office of the City Manager

01

WORKSESSION  
January 20, 2022

To: Honorable Mayor and Members of the City Council  
From: Dee Williams-Ridley, City Manager  
Submitted by: Paul Buddenhagen, Deputy City Manager  
Subject: Discuss Vision 2050, Infrastructure Priorities, Stakeholder and Community Engagement, and City’s Bonding Capacity; and Seek Direction on November 2022 Revenue Measure(s)

SUMMARY

This report provides an update on Vision 2050 and its recommended exploration of an infrastructure-focused revenue measure or measures for the November 2022 ballot. It includes results of recent stakeholder and community engagement, comparisons of revenue measure options, and an update on the City’s bonding capacity; and seeks City Council’s direction on revenue measure options for the November 2022 ballot.

City Council adopted the principles, strategies, and actions laid out in the Vision 2050 Framework in September 2020, after a resident-led, volunteer effort to develop a long-term plan centered on resiliency and sustainability. Strategy Four of the Vision 2050 Framework identified inadequate funding of the City’s infrastructure and recommended action to address this need through new revenue. The City Manager formed a Vision 2050 implementation team and, as a result of this team’s work, City Council approved a project in FY 2022 to explore a significant revenue measure or measures focused on infrastructure, including affordable housing. In Fall and Winter 2020, staff hired a consulting team, conducted a scientific survey (topline results in Attachment 1), opened and closed an online community survey, held more than 20 stakeholder meetings, performed financial analysis on the measure alternatives, and made progress on the study of the City’s bond capacity.

Staff seeks City Council’s direction on several questions that will drive the next actions on the project:

1. Is the November 2022 election the right time to include an infrastructure-focused revenue measure or measures?
2. If yes, should it be *one* infrastructure-focused measure or *multiple* measures? And what should be the approximate dollar amount of the measure(s)?

3. What should the top infrastructure spending priorities be for the measure(s)? And should affordable housing and traditional infrastructure both be addressed in such measure(s)?

In addition, staff seeks to learn what City Council would like to see incorporated in the upcoming *Vision 2050 Program Plan* for which public input will be solicited in March and April.

With direction from City Council, staff will proceed to draft a *Vision 2050 Program Plan*, engage Commissions and the public on the draft *Program Plan*, conduct a follow-up scientific survey of voters in April, and return to City Council in May with a proposed *Program Plan* and language for revenue measure(s) for City Council to consider placing on the November 2022 ballot.

### CURRENT SITUATION AND ITS EFFECTS

Most of Berkeley's streets, sidewalks, sewers, parks, playgrounds and public buildings were built over 75 years ago and need repair. However, local revenues have not kept pace with the need for investments to maintain and/or update aging infrastructure or promote sustainability and housing affordability. This underinvestment has led to an estimated \$1.2 billion in deferred maintenance as shared with the City Council during the development of the FY 2022 budget.<sup>1</sup> (An updated estimate will be reported to City Council as part of the *Program Plan* in May 2022.)

Studies show that \$1 spent in early maintenance of infrastructure, such as streets, can save \$7 in later, more expensive repairs. This explains why delays in addressing deferred maintenance in the City's streets will quadruple the cost of addressing these needs by 2050.

The \$1.2 billion in citywide infrastructure needs is an undercount, as this estimate does not include significant affordable housing need, nor does it include many needs related to new or improved infrastructure, such as utility undergrounding, bicycle and pedestrian improvements recommended in adopted City plans, some improvements that make the City's infrastructure more sustainable and resilient, or costs to transform the City's public spaces and commons.

Nevertheless, this size and scale of these infrastructure needs is very important, as they show the challenge ahead. This challenge exists despite proactive steps taken to address these needs in the last decade. Local voters approved the first phase of upgrades to local infrastructure through the passage of Measure M (\$30M) in 2012, the Parks Tax increase in 2014, Measure T1 in 2016 (\$100M), and Measure O in 2018

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<sup>1</sup> Attachment 2 provides the infrastructure needs reported to City Council at the March 16, 2021 session on *Unfunded Liability Obligations and Unfunded Infrastructure Needs*. In response to questions raised in stakeholder meetings, staff have added a second page to explain how these infrastructure needs were derived.



(\$135M). Together, these measures have provided additional resources to address affordable housing and the repair and improvement of Berkeley's aging infrastructure, including sidewalks, storm drains, parks, streets, senior and recreation centers, watershed and other City facilities.

While marking important progress, these measures have not been large enough to address this size of the infrastructure and affordable housing need. A measure or measures on the November 2022 ballot would secure a dedicated funding source to support local infrastructure and affordable housing, and accelerate the City's path toward sustainability and resilience as envisioned in the Vision 2050 Framework.

*Scientific Survey of Berkeley Voters.* A random, representative sample of 500 Berkeley voters were surveyed regarding their infrastructure priorities in October 2021 via telephone and text-to-online technology using professional interviewers. The survey had a margin of error of +/- 4.4%, and top line survey results are found in Attachment 1. It elicited respondents' infrastructure priorities, and support or opposition to an infrastructure-focused general obligation (or "infrastructure") bond, parcel tax, or sales tax increase.

The survey found that voters' top priorities included:

- Increasing affordable housing for low-income and homeless residents (79% rated as "important"),
- Upgrading storm drains, green infrastructure, and watersheds to keep pollution from the Bay (79% important);
- Developing climate change resiliency, including protecting against sea level rise, wildfires and drought (78% important),
- Undergrounding utilities to reduce the risk of wildfire (73% important), and
- Repairing deteriorating streets (73% important).

This survey found broad support for an infrastructure-focused revenue measure, but support fell short of the two-thirds necessary to pass a revenue measure dedicated to infrastructure, whether an infrastructure bond, parcel tax, or sales tax. Voters' support and opposition did not differ much between the larger-sized measures and the smaller-sized measures. The "No" vote (between 27-32%) common to these measures is higher than previous pre-placement surveys, and the undecided vote is smaller than previous surveys.

The survey also found that three-fourths of this representative group of voters believe an infrastructure measure should address equity, and a majority support a definition of equity where infrastructure benefits are provided first (or more) to lower-income neighborhoods and communities of color that have been historically underfunded.

*Revenue Measure Options.* The survey tested three revenue measure options:

- General Obligation (or Infrastructure) Bond:** debt issued to fund capital improvements that is repaid over the bond duration by property tax revenues. Funds from a bond measure may only be used for capital investments and cannot be used for maintenance, operations, or services. Bond measures are generally considered among the most progressive forms of taxation since they are based on the assessed value of properties.
- Parcel Tax:** a form of property tax typically based on the square footage of one parcel. Funds from a parcel tax measure are flexible and can be used for both capital, operations, maintenance, and services. The tax is based on the improved square footage of properties. It is generally considered a progressive form of taxation since larger properties pay more than smaller properties, and exemptions for seniors and low-income property owners are allowed.

| OPTIONS FOR FUNDING MECHANISMS  |                                             |                       |                                                                             |                                     |                                  |
|---------------------------------|---------------------------------------------|-----------------------|-----------------------------------------------------------------------------|-------------------------------------|----------------------------------|
| TYPE                            | Bond <sup>2</sup>                           |                       | Parcel Tax <sup>3</sup>                                                     |                                     | Sales Tax <sup>4</sup>           |
| AMOUNT                          | \$27 per \$100,000 AV                       | \$54 per \$100,000 AV | \$0.15 per square foot                                                      | \$0.30 per square foot              | \$0.05 per \$1.00                |
| ESTIMATED TOTAL FUNDING         | \$250 million                               | \$500 million         | \$12M/yr or \$250 million if bonded                                         | \$25M/yr or \$500 million if bonded | \$9M/yr, \$110 million if bonded |
| AVG. ANNUAL PROPERTY OWNER COST | \$200                                       | \$400                 | \$300                                                                       | \$600                               | Varies                           |
| TAX BASIS                       | Assessed Value (AV)                         |                       | Building square footage                                                     |                                     | Taxable purchases                |
| USE OF FUNDS                    | Capital only                                |                       | Capital + Maintenance                                                       |                                     | Capital + Maintenance            |
| TAX PROGRESSIVITY               | Progressive                                 |                       | Progressive                                                                 |                                     | Least Progressive                |
| EXEMPTIONS                      | None                                        |                       | Low income/senior                                                           |                                     | Essential purchases              |
| PROS                            | Relative tax burden lessens as AV increases |                       | Fixed payments, funds both operations/maintenance and capital               |                                     | Visitors pay share               |
| CONS                            | Cannot pay for maintenance or operations    |                       | Relative tax burden stays flat if citywide square footage does not increase |                                     | Impact on low-income residents   |

<sup>2</sup> These calculations assume four equal issuances over the first eight years and an interest rate of 4%. The average assessed value is for a single-family home of \$647,972.

<sup>3</sup> These calculations assume 83,073,012 taxable square feet and an average single-family home of ~2,000 square feet.

<sup>4</sup> These calculations assume \$6.5 million of the additional \$9 million in revenue would be available for bonding.

- **Sales Tax:** this is a consumption tax on the sale of goods and services for which the City has State permission to raise one half-cent per dollar more. Funds from a sales tax measure are flexible and can be used for capital, maintenance, operations, and services. Sales taxes are generally considered a less progressive form of taxation since low-income residents spend a larger portion of their incomes on taxable purchases than higher income populations. However, essential purchases like groceries and prescription medicine are exempt from sales tax and the cost is paid by anyone who shops locally, not just residents.

*Stakeholder and Community Engagement.* Staff held meetings with 20+ community organizations and the following Commissions: Community Environmental Advisory, Disability, Disaster and Fire, Energy, Parks and Waterfront, Public Works, and Transportation. These meetings were an opportunity to share more about the City's infrastructure needs, solicit input on possible revenue measures, answer questions, and highlight an online community survey that was opened in October 2021 and closed on January 12, 2022.

From the 20+ meetings with various stakeholders, the following issues and themes emerged:

- Request for more explanation of the \$1.2B in infrastructure need
- General belief that November 2022 was the right time for an infrastructure-focused measure
- Importance of trees, biodiversity, and green space in investment priorities
- Desire to see an integrated approach to infrastructure investments
- Some concern that a "fix-it-first" approach to infrastructure did not align well with ambition of Vision 2050 or the City's climate and resilience strategy
- Sales tax was not preferred given the impact on low-income residents
- Some concern over voters' (mis)trust of the City's financial management
- Varying opinions on whether affordable housing and traditional infrastructure should be included in one measure, split between two, or dealt with in different elections
- Support for equity in any measure
- Some concerns about the tax burden of an infrastructure bond versus parcel tax on new(er) property owners versus long-time owners
- Request for better understanding of results from affordable housing investments
- Request that federal, state, and regional grant funding be leveraged
- Some interest in a parcel tax given its ability to fund both capital improvements and ongoing maintenance
- Concern that ongoing maintenance be adequately funded to ensure whatever is constructed is properly maintained

For the online survey, a total of 1,024 responses were received. For the most part, the results from the online survey aligned with the scientific survey. However, the online survey afforded additional insight. For example, respondents were asked to rank their top three priorities for a potential measure from a list of infrastructure priorities. More so than the scientific survey, street repair stood out as a clear top priority followed by affordable housing. The top five ranked priorities are listed below, with percentages indicating the number of respondents who ranked the particular item as top priority:

1. 28.5% – Street Repair
2. 19.2% – Affordable Housing
3. 8.3% – Bike Lanes/Safety
4. 7.5% – Climate Change Resiliency
5. 6.8% – Pedestrian Safety

When respondents were asked to rank the urgency of various infrastructure priorities, repairing deteriorating streets stood out as a top priority, with housing and other infrastructure priorities considered urgent but less so. Respondents ranked the priorities on a five-point scale, with one the most urgent and five the least urgent, and the numbers in parentheses refer to the average rating of each item:

1. Repairing deteriorating streets (1.96)
2. Improving traffic safety (2.25)
3. Upgrading storm drains, green infrastructure, and our watersheds to keep pollution from the Bay (2.35)
4. Repairing sidewalks to improve pedestrian safety and ADA accessibility (2.37)
5. Undergrounding utilities to help reduce the risk of wildfire (2.40)
6. Climate change resiliency including protecting against sea level rise, wildfires, and drought (2.42)
7. Planting and caring for trees (2.52)
8. Increasing affordable housing for low-income and homeless residents (2.57)
9. Expanding bike lanes and improving bike safety (2.62)
10. Upgrading traffic signals, pavement markings, and street signs (2.66)

*Bond Capacity Study.* The Finance Department has engaged the Government Finance Officers Association to initiate a study of the City's bond capacity. Initial findings from that study will be shared during the staff presentation at the January 20<sup>th</sup> Work Session.

*Vision 2050 Program Plan.* After gaining City Council's direction, staff will develop a *Program Plan* and return to City Council for approval of this plan, along with proposed measure(s) for November 2022. The *Program Plan* will lay out a long-term program to address Berkeley's infrastructure needs through 2050, address this and future revenue measures, describe the impacts of infrastructure investments, identify an organizational approach to delivering on funded projects, and recommend a process for developing and approving projects funded by this and future revenue measures. While this plan will

not be binding and will be flexible enough to adapt as infrastructure needs evolve, it will provide a blueprint for future action. Other issues the *Program Plan* may address include:

- Ensuring capital improvements are properly maintained, and where maintenance is not properly funded for a particular infrastructure asset, recommend actions to address the shortfall.
- Reconciling immediate repair needs in the City's infrastructure, especially the City's street condition, with the re-envisioning of the public commons/space suggested in Vision 2050.
- Explaining how these investments will promote sustainability, and address climate change and resilience.
- Exploring an approach where property owners' tax burden stays level between 2023 and 2050, while still addressing significant infrastructure need.

#### *November 2022 Election and Measure Options*

The November 2022 election may include state, county, school, special district or additional City measures. Staff believe the ballot will not include a Berkeley Unified School District measure. Staff will request City Council's placement of an Article 34 measure, which is required by the California Constitution in order to develop affordable housing projects with state or local public financing. Such an approval has occurred in at least four previous elections and has had strong support. More information about state, regional, and Alameda County measures will be available in the spring or summer. Needless to say, there is a lot of uncertainty leading up to the November 2022 election given ongoing challenges with inflation, employment, and the global pandemic.

With that context and the findings from community and stakeholder engagement to date, staff seek direction among four possible revenue measure options.

Option #1, \$500M Infrastructure Bond. Such as measure could have the following investment priorities:

- \$200 Million - Street repair and traffic safety
- \$150 Million - Affordable housing for low-income and homeless residents
- \$75 Million - Climate change, sea level rise, wildfire prevention and protection
- \$75 Million - Other public infrastructure improvements<sup>5</sup>

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<sup>5</sup> *Other Public Infrastructure Improvements* could include one-time projects, e.g., Old City Hall, Veterans Memorial Building, Waterfront and Marina, etc.



This option funds voters' top priorities—affordable housing, street repair, and climate change—and invests most in street repair, as it is the top and most urgent need identified by online survey respondents. This option overall is large enough to address a significant portion of the City's infrastructure needs. Investments in affordable housing at this range would generate up to 660 new affordable units, pave more than 120 street miles, and improve traffic safety. If City Council direct staff to pursue a measure of this size and type, the *Program Plan* will provide more detail on how these funds may be spent and results attained.

Option #2, Multiple Measures. These measures could include:

- A parcel tax of \$12M annually (or \$250M if bonded against) to address street repair and traffic safety.
- An infrastructure bond of \$150M to address affordable housing for low-income persons and the unhoused.
- An infrastructure bond of \$100M to address climate change, wildfire prevention and protection, and other public infrastructure.

This option also funds voters' top priorities and provides more flexible sources of funding that could address maintenance needs. Results from these investments are likely to track the results from Option #1. However, each of these measures would have to separately meet the two-thirds threshold for approval, which is likely to be more difficult than one measure meeting the two-thirds threshold.

Options #3, Variants of the above options. City Council could direct staff to develop Options #1 or #2 but with different funding mechanisms, e.g. Option #1 but with a similarly-sized parcel tax in lieu of infrastructure bond, at different funding levels (lower or higher amounts), or with different investment priorities, e.g., more or less for affordable housing, street repair, etc.

Option #4, None of the above. City Council could choose to delay this discussion until a future election; ask for other measure options, such as the sales tax, to be developed further; or direct staff to consider an option not yet considered.

## BACKGROUND

Vision 2050 is a City Council-supported, resident-engaged initiative to address Berkeley's \$1.2+ billion in infrastructure needs. With voter approval of Measure R, Vision 2050 was defined as engaging residents and experts in developing a 30-year plan to identify and guide implementation of climate-smart, technologically-advanced, equitable and efficient infrastructure to support a safe, vibrant and resilient future for Berkeley.

On April 27, 2021, City Council approved a referral to the City Manager to “explore various options for a future city bond measure in November 2022 to support the growing

need for infrastructure investment, including street repaving, Complete Streets infrastructure that promotes bike and pedestrian safety, restoration of public buildings and facilities, and affordable housing citywide.” The adopted FY 2022 budget included a \$400,000 project to execute on this project after which the City Manager convened a working team of residents and City staff to assist with Vision 2050 implementation.

The table below summarizes activities both completed and anticipated for the potential revenue measure(s).

| Month     | Activities                                                                                                                                                                                                                                               |
|-----------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Sep. 2021 | <ul style="list-style-type: none"> <li>• Begin various analyses and start drafting outreach materials.</li> <li>• Establish contracts with TBWBH Props and Measures and V.W. Housen &amp; Associates for Vision 2050 Implementation Services.</li> </ul> |
| Oct. 2021 | <ul style="list-style-type: none"> <li>• Conduct community survey #1.</li> <li>• Begin virtual stakeholder meetings.</li> </ul>                                                                                                                          |
| Nov. 2021 | <ul style="list-style-type: none"> <li>• Continue virtual stakeholder meetings.</li> </ul>                                                                                                                                                               |
| Dec. 2021 | <ul style="list-style-type: none"> <li>• Continue virtual stakeholder meetings.</li> </ul>                                                                                                                                                               |
| Jan. 2022 | <ul style="list-style-type: none"> <li>• Hold January 20 work session to gain City Council direction.</li> </ul>                                                                                                                                         |
| Feb. 2022 | <ul style="list-style-type: none"> <li>• Informational mailer to residents with invitation for input at March and April public meetings.</li> </ul>                                                                                                      |
| Mar. 2022 | <ul style="list-style-type: none"> <li>• Present draft <i>Program Plan</i> to Commissions and large area public meetings for feedback.</li> </ul>                                                                                                        |
| Apr. 2022 | <ul style="list-style-type: none"> <li>• Continue <i>Program Plan</i> meetings.</li> </ul>                                                                                                                                                               |
| May 2022  | <ul style="list-style-type: none"> <li>• Conduct community survey #2.</li> <li>• Present survey results and seek City Council’s approval on Vision 2050 funding measure(s) and <i>Program Plan</i>.</li> </ul>                                           |
| Aug. 2022 | <ul style="list-style-type: none"> <li>• Last date to submit measure(s) to County Registrar of Voters.</li> </ul>                                                                                                                                        |
| Nov. 2022 | <ul style="list-style-type: none"> <li>• Election</li> </ul>                                                                                                                                                                                             |

After the January 20 work session, the interdepartmental team will incorporate City Council’s direction. In March and April, the team will present a draft *Program Plan* to Commissions and obtain public feedback through five large area virtual meetings that combine two City Council districts per meeting, similar to the public meetings held during the T1, Phase 2 process. Then staff will return to City Council on May 31 with the results of this public engagement, a draft *Program Plan*, and proposed revenue measure(s) that have been reviewed by the City Manager, City Attorney, and City Clerk.

Progress on overall implementation of Vision 2050 has continued. This includes completion of short-term items, such as convening a Vision 2050 team, preparing an implementation plan, participating in Council workshops, and submitting a Vision 2050 budget. There are also a number of other items underway, including development of a

Strategic Asset Management Plan. This work is described in more detail in the [November 16, 2021, Council report](#).<sup>6</sup>

As indicated in this [16-page information guide](#), progress on implementation of T1 continues. During Phase 1 (2017-2022), \$40M was spent on 39 different projects, leveraging an additional \$23M from grants and special funds to deliver \$63M in infrastructure improvements. T1, Phase 1 projects resulted in seismically safe, solar-equipped, and accessible community buildings, repaving some of the City's most neglected streets, new green infrastructure, replaced play structures, increased resilience through improvements that reduce water consumption, a renovated Rose Garden, and an Aquatic Park with much improved water quality. This phase's planning projects included the San Pablo Park Community Center and new pool, the Willard Clubhouse, citywide restrooms, and the community space/restroom at the Tom Bates Sports Complex. Phase 2 (2021-2026) is currently underway and includes an additional \$60M on various projects, including South Berkeley buildings, citywide restrooms, paving, and sidewalk repairs. The John Hinkel Park project, which includes repairs to the creek, lower picnic area, play area and amphitheater, is the first T1, Phase 2 project to be under construction and will be complete in late Spring of 2022.

#### ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

Implementing Vision 2050 would result in more resilient public infrastructure that creates fewer greenhouse gases, and reduces conflict between our built and natural environment. More affordable housing in Berkeley would reduce greenhouse gas emissions caused by employees finding lower cost housing farther away from employment centers and requiring longer commutes.

#### FISCAL IMPACTS OF POSSIBLE FUTURE ACTION

If a potential revenue measure or measures are placed on the ballot and subsequently approved by voters, the City would receive additional funds from increased tax revenues. One goal for any potential revenue measure or measures is to ensure any resulting increased tax burden is held steady over the long term.

#### CONTACT PERSON

Paul Buddenhagen, Deputy City Manager, (510) 981-7000  
Liam Garland, Director, Public Works, (510) 981- 6300

#### Attachments:

- 1: Topline of October 2021 Scientific Survey Results
- 2: Prior Estimate of Infrastructure Need and Methodology

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<sup>6</sup> [https://www.cityofberkeley.info/Clerk/City\\_Council/2021/11\\_Nov/Documents/2021-11-16\\_Item\\_08\\_Vision\\_2050.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2021/11_Nov/Documents/2021-11-16_Item_08_Vision_2050.aspx)

**City of Berkeley Community Survey  
Live Phone and Text-to-Online  
October 12 – 17, 2021  
FINAL WEIGHTED TOPLINES**

**N=500 Likely Nov 2022 General Election Voters  
Splits: A/B, C/D, E/F**

|                              | TOTAL<br>N= 500 | MEN<br>221 | WOMEN<br>262 |
|------------------------------|-----------------|------------|--------------|
| <b>Region</b>                |                 |            |              |
| Council District 5/6/8 ..... | 42              | 46         | 41           |
| Council District 3/4/7 ..... | 29              | 27         | 27           |
| Council District 1/2 .....   | 29              | 26         | 32           |
| <b>Party Registration</b>    |                 |            |              |
| Democrat .....               | 80              | 77         | 84           |
| Republican .....             | 2               | 3          | 1            |
| No Party Preference .....    | 16              | 19         | 12           |
| Others .....                 | 2               | 1          | 2            |

**Q1.** Before we begin, I need to know if I have reached you on a cell phone, and if so, are you in a place where you can talk safely?

|                                                           |    |    |    |
|-----------------------------------------------------------|----|----|----|
| Yes, cell and can talk safely .....                       | 34 | 40 | 31 |
| Yes, cell and cannot talk safely <b>[CALL BACK]</b> ..... | 0  | 0  | 0  |
| No, not on cell, but own one .....                        | 10 | 10 | 10 |
| No, not on cell, and do not own one .....                 | 2  | 2  | 2  |
| (Don't know/refused) <b>[TERMINATE]</b> .....             | 0  | 0  | 0  |
| Text to online .....                                      | 54 | 48 | 57 |

**Q2.** Could you please tell me your gender? **[DO NOT READ OPTIONS]**

|                        |                    |     |     |
|------------------------|--------------------|-----|-----|
| Male .....             | 44                 | 100 | 0   |
| Female .....           | 52                 | 0   | 100 |
| Non-binary/other ..... | 4                  | 0   | 0   |
| (Refused) .....        | <b>[TERMINATE]</b> |     |     |

|    | TOTAL | MEN | WOMEN |
|----|-------|-----|-------|
| N= | 500   | 221 | 262   |

**Q3.** Although it is some time from now, what are the chances of you voting in the November 2022 general election for Governor, Congress, and other offices? Are you almost certain to vote, will you probably vote, are the chances about 50-50, are you probably not going to vote, or are you definitely not going to vote?

|                                 |    |    |    |
|---------------------------------|----|----|----|
| Almost certain to vote.....     | 95 | 94 | 95 |
| Probably will vote .....        | 5  | 6  | 5  |
| 50-50 [TERMINATE].....          | 0  | 0  | 0  |
| Probably not [TERMINATE] .....  | 0  | 0  | 0  |
| Definitely not [TERMINATE]..... | 0  | 0  | 0  |
| Don't know [TERMINATE].....     | 0  | 0  | 0  |

**Q4. [T]** Generally speaking, do you think that things in the city of Berkeley are going in the right direction, or do you feel things are off on the wrong track?

|                      |    |    |    |
|----------------------|----|----|----|
| Right direction..... | 48 | 48 | 49 |
| Wrong track .....    | 32 | 31 | 31 |
| (Don't know).....    | 21 | 21 | 20 |

**Q5. [T\*]** How would you rate the job the city of Berkeley is doing in providing services to its residents — excellent, good, fair, or poor?

|                       |    |    |    |
|-----------------------|----|----|----|
| Excellent .....       | 6  | 7  | 5  |
| Good.....             | 45 | 45 | 48 |
| Fair .....            | 30 | 31 | 29 |
| Poor.....             | 15 | 15 | 14 |
| (Don't know).....     | 4  | 2  | 5  |
| Excellent /good ..... | 51 | 52 | 52 |
| Just fair /poor ..... | 45 | 46 | 43 |

**Q6. [T]** How much of an impact has the coronavirus pandemic had on you and your household – thinking about all of the effects, including financial concerns and physical and mental health, would you say the impact on your household has been very serious, fairly serious, moderate, minor, or no impact at all?

|                                 |    |    |    |
|---------------------------------|----|----|----|
| Very serious.....               | 15 | 15 | 13 |
| Fairly serious .....            | 23 | 22 | 23 |
| Moderate.....                   | 40 | 41 | 40 |
| Minor.....                      | 18 | 18 | 19 |
| No impact.....                  | 4  | 4  | 4  |
| (Don't know).....               | 0  | 0  | 0  |
| Very /fairly serious .....      | 38 | 37 | 37 |
| Moderate /minor /no impact..... | 62 | 62 | 63 |



|    | TOTAL | MEN | WOMEN |
|----|-------|-----|-------|
| N= | 500   | 221 | 262   |

**Q7.** The next set of questions is about infrastructure needs in Berkeley. I am going to read you some areas that have been identified as types of infrastructure needing repair, investment, or improvement in the City of Berkeley. For each one, please tell me how important that is to you as a resident of Berkeley – extremely important, very important, somewhat important, not too important or not important at all: **[RANDOMIZE]**

#### Sorted by Extremely Important

|                                                                                                                  |    |    |    |
|------------------------------------------------------------------------------------------------------------------|----|----|----|
| B7l.Increasing affordable housing for low-income and homeless residents .....                                    | 54 | 47 | 55 |
| 7p.Developing climate change resiliency including protecting against sea level rise, wildfires, and drought..... | 48 | 39 | 54 |
| A7k.Increasing affordable housing for low-income residents .....                                                 | 42 | 31 | 47 |
| 7c.Undergrounding utilities to help reduce the risk of wildfire.....                                             | 40 | 31 | 45 |
| 7a.Repairing deteriorating streets .....                                                                         | 35 | 33 | 36 |
| B7e.Repairing sidewalks to improve access for those with disabilities.....                                       | 34 | 19 | 45 |
| 7y.Providing free transit passes for low-income residents .....                                                  | 34 | 25 | 37 |
| A7u.Upgrading storm drains, green infrastructure, and our watersheds to keep pollution from the Bay.....         | 31 | 20 | 40 |
| 7j.Planting and caring for trees.....                                                                            | 30 | 19 | 38 |
| 7t.Increasing availability of solar energy, solar batteries, and electric vehicles and equipment ....            | 28 | 23 | 31 |
| A7d.Repairing sidewalks to improve pedestrian safety .....                                                       | 27 | 20 | 34 |
| A7f.Improving traffic safety.....                                                                                | 27 | 22 | 32 |
| B7g.Improving traffic safety and flow.....                                                                       | 26 | 14 | 37 |
| B7v.Upgrading storm drains to reduce flooding and protect against sea level rise .....                           | 25 | 13 | 33 |
| 7i.Expanding bike lanes and improving bike safety ...                                                            | 25 | 21 | 27 |
| 7cc.Making public buildings, streets, and sidewalks more accessible to people with disabilities .....            | 25 | 18 | 27 |
| B7aa.Upgrading City buildings to be energy efficient, seismically safe, and COVID-safe .....                     | 23 | 14 | 30 |
| 7o.Decommissioning natural gas lines to reduce greenhouse gas emissions.....                                     | 21 | 14 | 25 |
| 7ee.Upgrading traffic signals, pavement markings, and street signs.....                                          | 18 | 19 | 17 |
| 7h.Improving streetlighting .....                                                                                | 17 | 12 | 22 |
| 7x.Providing more publicly available electric vehicle charging .....                                             | 16 | 13 | 19 |
| 7r.Repairing Berkeley Pier, including recreational and ferry upgrades.....                                       | 16 | 15 | 17 |
| 7s.Improving the Berkeley waterfront, including                                                                  |    |    |    |

|                                                                                                                                                                                                   | TOTAL<br>N= 500 | MEN<br>221 | WOMEN<br>262 |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------|------------|--------------|
| docks, pilings, streets, parking lots, pathways,<br>and marina dredging .....                                                                                                                     | 15              | 9          | 19           |
| 7w.Making improvements to recreational facilities.....                                                                                                                                            | 13              | 8          | 17           |
| B7n.Renovating Berkeley's Civic Center Buildings<br>and Park to include music and theatre<br>performance spaces, a children's play area, café<br>kiosk and seating, and enhancing green space ... | 12              | 7          | 14           |
| 7q.Replacing the community center and building a<br>public pool in San Pablo Park.....                                                                                                            | 12              | 7          | 15           |
| 7b.Expanding lanes, parking, and charging for e-<br>bikes (electronic bikes), e-scooters, and app-<br>based car, bike, and scooter-shares.....                                                    | 11              | 9          | 14           |
| A7m.Improving seismic safety of historic buildings in<br>Civic Center, including Old City Hall and the<br>Veterans Building .....                                                                 | 11              | 7          | 14           |
| 7bb.Upgrading playgrounds .....                                                                                                                                                                   | 11              | 7          | 14           |
| 7dd.Upgrading senior centers .....                                                                                                                                                                | 11              | 6          | 14           |
| A7z.Upgrading City buildings .....                                                                                                                                                                | 4               | 6          | 3            |

a. Repairing deteriorating streets

|                           |    |    |    |
|---------------------------|----|----|----|
| Extremely important ..... | 35 | 33 | 36 |
| Very important.....       | 38 | 36 | 40 |
| Somewhat important .....  | 24 | 26 | 21 |
| Not too important .....   | 3  | 4  | 1  |
| Not important at all..... | 0  | 0  | 1  |
| (Don't know).....         | 1  | 0  | 1  |
| Important.....            | 73 | 69 | 76 |
| Not important .....       | 27 | 31 | 23 |

b. Expanding lanes, parking, and charging for e-bikes (electronic bikes), e-scooters, and app-based car, bike, and scooter-shares

|                           |    |    |    |
|---------------------------|----|----|----|
| Extremely important ..... | 11 | 9  | 14 |
| Very important.....       | 21 | 27 | 18 |
| Somewhat important .....  | 32 | 27 | 37 |
| Not too important .....   | 20 | 22 | 16 |
| Not important at all..... | 12 | 12 | 13 |
| (Don't know).....         | 3  | 3  | 3  |
| Important.....            | 33 | 36 | 32 |
| Not important .....       | 64 | 61 | 65 |

|  |        |     |       |
|--|--------|-----|-------|
|  | TOTAL  | MEN | WOMEN |
|  | N= 500 | 221 | 262   |

c. Undergrounding utilities to help reduce the risk of wildfire

|                           |    |    |    |
|---------------------------|----|----|----|
| Extremely important ..... | 40 | 31 | 45 |
| Very important.....       | 33 | 37 | 30 |
| Somewhat important.....   | 16 | 17 | 16 |
| Not too important .....   | 7  | 10 | 4  |
| Not important at all..... | 3  | 2  | 4  |
| (Don't know).....         | 2  | 3  | 1  |
| Important.....            | 73 | 68 | 75 |
| Not important .....       | 26 | 29 | 24 |

d. **SSA:** Repairing sidewalks to improve pedestrian safety

|                           |    |    |    |
|---------------------------|----|----|----|
| Extremely important ..... | 27 | 20 | 34 |
| Very important.....       | 39 | 41 | 37 |
| Somewhat important.....   | 23 | 22 | 23 |
| Not too important .....   | 9  | 14 | 5  |
| Not important at all..... | 2  | 3  | 1  |
| (Don't know).....         | 0  | 0  | 0  |
| Important.....            | 66 | 61 | 71 |
| Not important .....       | 34 | 39 | 29 |

e. **SSB:** Repairing sidewalks to improve access for those with disabilities

|                           |    |    |    |
|---------------------------|----|----|----|
| Extremely important ..... | 34 | 19 | 45 |
| Very important.....       | 33 | 40 | 27 |
| Somewhat important.....   | 24 | 28 | 22 |
| Not too important .....   | 5  | 7  | 4  |
| Not important at all..... | 3  | 6  | 1  |
| (Don't know).....         | 0  | 0  | 0  |
| Important.....            | 67 | 59 | 72 |
| Not important .....       | 33 | 41 | 28 |

f. **SSA:** Improving traffic safety

|                           |    |    |    |
|---------------------------|----|----|----|
| Extremely important ..... | 27 | 22 | 32 |
| Very important.....       | 37 | 36 | 38 |
| Somewhat important.....   | 27 | 31 | 23 |
| Not too important .....   | 5  | 6  | 5  |
| Not important at all..... | 2  | 2  | 2  |
| (Don't know).....         | 2  | 4  | 1  |
| Important.....            | 64 | 57 | 70 |
| Not important .....       | 34 | 39 | 30 |

|                                                          | TOTAL<br>N= 500 | MEN<br>221 | WOMEN<br>262 |
|----------------------------------------------------------|-----------------|------------|--------------|
| <b>g. SSB: Improving traffic safety and flow</b>         |                 |            |              |
| Extremely important .....                                | 26              | 14         | 37           |
| Very important.....                                      | 37              | 41         | 32           |
| Somewhat important.....                                  | 23              | 28         | 17           |
| Not too important .....                                  | 10              | 12         | 9            |
| Not important at all.....                                | 2               | 4          | 1            |
| (Don't know).....                                        | 2               | 1          | 3            |
| Important.....                                           | 63              | 55         | 69           |
| Not important .....                                      | 35              | 44         | 27           |
| <b>h. Improving streetlighting</b>                       |                 |            |              |
| Extremely important .....                                | 17              | 12         | 22           |
| Very important.....                                      | 29              | 27         | 32           |
| Somewhat important.....                                  | 34              | 41         | 28           |
| Not too important .....                                  | 16              | 18         | 14           |
| Not important at all.....                                | 3               | 2          | 4            |
| (Don't know).....                                        | 1               | 0          | 1            |
| Important.....                                           | 46              | 39         | 54           |
| Not important .....                                      | 53              | 60         | 45           |
| <b>i. Expanding bike lanes and improving bike safety</b> |                 |            |              |
| Extremely important .....                                | 25              | 21         | 27           |
| Very important.....                                      | 26              | 25         | 29           |
| Somewhat important.....                                  | 30              | 31         | 28           |
| Not too important .....                                  | 12              | 16         | 8            |
| Not important at all.....                                | 6               | 6          | 7            |
| (Don't know).....                                        | 1               | 0          | 2            |
| Important.....                                           | 51              | 46         | 56           |
| Not important .....                                      | 48              | 54         | 42           |
| <b>j. Planting and caring for trees</b>                  |                 |            |              |
| Extremely important .....                                | 30              | 19         | 38           |
| Very important.....                                      | 33              | 36         | 31           |
| Somewhat important.....                                  | 29              | 32         | 26           |
| Not too important .....                                  | 7               | 10         | 4            |
| Not important at all.....                                | 2               | 3          | 1            |
| (Don't know).....                                        | 0               | 0          | 0            |
| Important.....                                           | 62              | 55         | 68           |
| Not important .....                                      | 37              | 45         | 31           |

|    | TOTAL | MEN | WOMEN |
|----|-------|-----|-------|
| N= | 500   | 221 | 262   |

k. **SSA:** Increasing affordable housing for low-income residents

|                           |    |    |    |
|---------------------------|----|----|----|
| Extremely important ..... | 42 | 31 | 47 |
| Very important.....       | 34 | 45 | 26 |
| Somewhat important .....  | 14 | 11 | 16 |
| Not too important .....   | 4  | 3  | 4  |
| Not important at all..... | 6  | 8  | 4  |
| (Don't know).....         | 1  | 1  | 2  |
| Important.....            | 75 | 76 | 73 |
| Not important .....       | 23 | 23 | 25 |

l. **SSB:** Increasing affordable housing for low-income and homeless residents

|                           |    |    |    |
|---------------------------|----|----|----|
| Extremely important ..... | 54 | 47 | 55 |
| Very important.....       | 26 | 24 | 30 |
| Somewhat important .....  | 10 | 12 | 9  |
| Not too important .....   | 6  | 10 | 4  |
| Not important at all..... | 3  | 5  | 2  |
| (Don't know).....         | 1  | 2  | 0  |
| Important.....            | 79 | 71 | 85 |
| Not important .....       | 19 | 27 | 14 |

m. **SSA:** Improving seismic safety of historic buildings in Civic Center, including Old City Hall and the Veterans Building

|                           |    |    |    |
|---------------------------|----|----|----|
| Extremely important ..... | 11 | 7  | 14 |
| Very important.....       | 31 | 32 | 32 |
| Somewhat important .....  | 43 | 44 | 39 |
| Not too important .....   | 10 | 9  | 10 |
| Not important at all..... | 4  | 5  | 3  |
| (Don't know).....         | 2  | 3  | 1  |
| Important.....            | 42 | 39 | 46 |
| Not important .....       | 56 | 58 | 53 |



|    | TOTAL | MEN | WOMEN |
|----|-------|-----|-------|
| N= | 500   | 221 | 262   |

n. **SSB:** Renovating Berkeley’s Civic Center Buildings and Park to include music and theatre performance spaces, a children’s play area, café kiosk and seating, and enhancing green space

|                           |    |    |    |
|---------------------------|----|----|----|
| Extremely important ..... | 12 | 7  | 14 |
| Very important.....       | 24 | 19 | 30 |
| Somewhat important.....   | 34 | 44 | 28 |
| Not too important .....   | 20 | 21 | 19 |
| Not important at all..... | 7  | 7  | 8  |
| (Don't know).....         | 2  | 2  | 2  |
| Important.....            | 36 | 26 | 44 |
| Not important .....       | 61 | 71 | 55 |

o. Decommissioning natural gas lines to reduce greenhouse gas emissions

|                           |    |    |    |
|---------------------------|----|----|----|
| Extremely important ..... | 21 | 14 | 25 |
| Very important.....       | 26 | 22 | 29 |
| Somewhat important.....   | 25 | 27 | 24 |
| Not too important .....   | 13 | 18 | 10 |
| Not important at all..... | 10 | 13 | 7  |
| (Don't know).....         | 5  | 6  | 4  |
| Important.....            | 47 | 36 | 54 |
| Not important .....       | 48 | 58 | 41 |

p. Developing climate change resiliency including protecting against sea level rise, wildfires, and drought

|                           |    |    |    |
|---------------------------|----|----|----|
| Extremely important ..... | 48 | 39 | 54 |
| Very important.....       | 30 | 31 | 30 |
| Somewhat important.....   | 16 | 22 | 12 |
| Not too important .....   | 3  | 4  | 2  |
| Not important at all..... | 2  | 3  | 2  |
| (Don't know).....         | 0  | 0  | 0  |
| Important.....            | 78 | 70 | 84 |
| Not important .....       | 21 | 30 | 16 |

TOTAL  
N= 500      MEN 221      WOMEN 262

q. Replacing the community center and building a public pool in San Pablo Park

|                           |    |    |    |
|---------------------------|----|----|----|
| Extremely important ..... | 12 | 7  | 15 |
| Very important.....       | 18 | 14 | 21 |
| Somewhat important.....   | 28 | 27 | 29 |
| Not too important .....   | 22 | 28 | 17 |
| Not important at all..... | 12 | 15 | 9  |
| (Don't know).....         | 9  | 9  | 9  |
| Important.....            | 30 | 22 | 36 |
| Not important .....       | 62 | 70 | 55 |

r. Repairing Berkeley Pier, including recreational and ferry upgrades

|                           |    |    |    |
|---------------------------|----|----|----|
| Extremely important ..... | 16 | 15 | 17 |
| Very important.....       | 26 | 23 | 30 |
| Somewhat important.....   | 31 | 31 | 31 |
| Not too important .....   | 19 | 19 | 16 |
| Not important at all..... | 6  | 8  | 4  |
| (Don't know).....         | 3  | 3  | 3  |
| Important.....            | 42 | 39 | 46 |
| Not important .....       | 56 | 58 | 51 |

s. Improving the Berkeley waterfront, including docks, pilings, streets, parking lots, pathways, and marina dredging

|                           |    |    |    |
|---------------------------|----|----|----|
| Extremely important ..... | 15 | 9  | 19 |
| Very important.....       | 28 | 30 | 29 |
| Somewhat important.....   | 38 | 43 | 33 |
| Not too important .....   | 15 | 14 | 14 |
| Not important at all..... | 2  | 2  | 2  |
| (Don't know).....         | 2  | 2  | 3  |
| Important.....            | 43 | 40 | 48 |
| Not important .....       | 55 | 58 | 49 |

t. Increasing availability of solar energy, solar batteries, and electric vehicles and equipment

|                           |    |    |    |
|---------------------------|----|----|----|
| Extremely important ..... | 28 | 23 | 31 |
| Very important.....       | 32 | 32 | 33 |
| Somewhat important.....   | 28 | 26 | 29 |
| Not too important .....   | 8  | 13 | 4  |
| Not important at all..... | 4  | 5  | 3  |
| (Don't know).....         | 0  | 1  | 0  |
| Important.....            | 60 | 55 | 64 |
| Not important .....       | 40 | 44 | 36 |

|    | TOTAL | MEN | WOMEN |
|----|-------|-----|-------|
| N= | 500   | 221 | 262   |

u. **SSA:** Upgrading storm drains, green infrastructure, and our watersheds to keep pollution from the Bay

|                           |    |    |    |
|---------------------------|----|----|----|
| Extremely important ..... | 31 | 20 | 40 |
| Very important.....       | 47 | 53 | 43 |
| Somewhat important .....  | 16 | 21 | 11 |
| Not too important .....   | 4  | 3  | 5  |
| Not important at all..... | 1  | 0  | 1  |
| (Don't know).....         | 1  | 3  | 0  |
| Important.....            | 79 | 73 | 83 |
| Not important .....       | 20 | 25 | 17 |

v. **SSB:** Upgrading storm drains to reduce flooding and protect against sea level rise

|                           |    |    |    |
|---------------------------|----|----|----|
| Extremely important ..... | 25 | 13 | 33 |
| Very important.....       | 37 | 32 | 40 |
| Somewhat important .....  | 22 | 30 | 17 |
| Not too important .....   | 10 | 17 | 5  |
| Not important at all..... | 2  | 4  | 1  |
| (Don't know).....         | 4  | 4  | 4  |
| Important.....            | 62 | 45 | 73 |
| Not important .....       | 34 | 51 | 23 |

w. Making improvements to recreational facilities

|                           |    |    |    |
|---------------------------|----|----|----|
| Extremely important ..... | 13 | 8  | 17 |
| Very important.....       | 28 | 27 | 29 |
| Somewhat important .....  | 39 | 45 | 35 |
| Not too important .....   | 13 | 11 | 14 |
| Not important at all..... | 3  | 5  | 2  |
| (Don't know).....         | 3  | 4  | 3  |
| Important.....            | 41 | 35 | 46 |
| Not important .....       | 56 | 61 | 51 |

|                                                                                                    | TOTAL<br>N= 500 | MEN<br>221 | WOMEN<br>262 |
|----------------------------------------------------------------------------------------------------|-----------------|------------|--------------|
| x. Providing more publicly available electric vehicle charging                                     |                 |            |              |
| Extremely important .....                                                                          | 16              | 13         | 19           |
| Very important.....                                                                                | 25              | 25         | 25           |
| Somewhat important .....                                                                           | 32              | 29         | 35           |
| Not too important .....                                                                            | 19              | 22         | 14           |
| Not important at all.....                                                                          | 7               | 9          | 6            |
| (Don't know).....                                                                                  | 1               | 1          | 1            |
| Important.....                                                                                     | 41              | 39         | 44           |
| Not important .....                                                                                | 58              | 60         | 55           |
| y. Providing free transit passes for low-income residents                                          |                 |            |              |
| Extremely important .....                                                                          | 34              | 25         | 37           |
| Very important.....                                                                                | 33              | 35         | 33           |
| Somewhat important .....                                                                           | 24              | 26         | 23           |
| Not too important .....                                                                            | 5               | 6          | 3            |
| Not important at all.....                                                                          | 5               | 7          | 3            |
| (Don't know).....                                                                                  | 0               | 1          | 0            |
| Important.....                                                                                     | 67              | 60         | 70           |
| Not important .....                                                                                | 33              | 39         | 30           |
| z. <b>SSA</b> : Upgrading City buildings                                                           |                 |            |              |
| Extremely important .....                                                                          | 4               | 6          | 3            |
| Very important.....                                                                                | 18              | 11         | 25           |
| Somewhat important .....                                                                           | 40              | 41         | 39           |
| Not too important .....                                                                            | 23              | 24         | 21           |
| Not important at all.....                                                                          | 5               | 6          | 5            |
| (Don't know).....                                                                                  | 9               | 12         | 7            |
| Important.....                                                                                     | 23              | 17         | 28           |
| Not important .....                                                                                | 68              | 71         | 65           |
| aa. <b>SSB</b> : Upgrading City buildings to be energy efficient, seismically safe, and COVID-safe |                 |            |              |
| Extremely important .....                                                                          | 23              | 14         | 30           |
| Very important.....                                                                                | 35              | 34         | 34           |
| Somewhat important .....                                                                           | 30              | 39         | 24           |
| Not too important .....                                                                            | 8               | 10         | 6            |
| Not important at all.....                                                                          | 4               | 3          | 4            |
| (Don't know).....                                                                                  | 1               | 0          | 2            |
| Important.....                                                                                     | 58              | 48         | 64           |
| Not important .....                                                                                | 41              | 52         | 35           |

|  | TOTAL<br>N= 500 | MEN<br>221 | WOMEN<br>262 |
|--|-----------------|------------|--------------|
|--|-----------------|------------|--------------|

bb. Upgrading playgrounds

|                           |    |    |    |
|---------------------------|----|----|----|
| Extremely important ..... | 11 | 7  | 14 |
| Very important.....       | 29 | 27 | 33 |
| Somewhat important.....   | 36 | 38 | 35 |
| Not too important .....   | 17 | 21 | 12 |
| Not important at all..... | 4  | 5  | 4  |
| (Don't know).....         | 2  | 3  | 2  |
| Important.....            | 40 | 34 | 47 |
| Not important .....       | 57 | 63 | 51 |

cc. Making public buildings, streets, and sidewalks more accessible to people with disabilities

|                           |    |    |    |
|---------------------------|----|----|----|
| Extremely important ..... | 25 | 18 | 27 |
| Very important.....       | 36 | 38 | 36 |
| Somewhat important.....   | 28 | 28 | 29 |
| Not too important .....   | 8  | 11 | 5  |
| Not important at all..... | 3  | 5  | 2  |
| (Don't know).....         | 1  | 1  | 1  |
| Important.....            | 60 | 55 | 63 |
| Not important .....       | 39 | 43 | 37 |

dd. Upgrading senior centers

|                           |    |    |    |
|---------------------------|----|----|----|
| Extremely important ..... | 11 | 6  | 14 |
| Very important.....       | 30 | 28 | 33 |
| Somewhat important.....   | 37 | 37 | 36 |
| Not too important .....   | 14 | 14 | 13 |
| Not important at all..... | 3  | 5  | 1  |
| (Don't know).....         | 6  | 9  | 3  |
| Important.....            | 40 | 34 | 47 |
| Not important .....       | 54 | 57 | 50 |

ee. Upgrading traffic signals, pavement markings, and street signs

|                           |    |    |    |
|---------------------------|----|----|----|
| Extremely important ..... | 18 | 19 | 17 |
| Very important.....       | 30 | 29 | 32 |
| Somewhat important.....   | 33 | 31 | 34 |
| Not too important .....   | 15 | 17 | 13 |
| Not important at all..... | 4  | 4  | 4  |
| (Don't know).....         | 1  | 1  | 0  |
| Important.....            | 47 | 48 | 49 |
| Not important .....       | 52 | 51 | 51 |



|    | TOTAL | MEN | WOMEN |
|----|-------|-----|-------|
| N= | 500   | 221 | 262   |

**Now, I'm going to read several versions of a ballot measure that may appear on the ballot in Berkeley next year. I am going to ask about different ways of funding the measure and different dollar amounts for each.**

**[RANDOMIZE Q8/9, 10/11, 12]**

**The [first/next] version of the ballot measure I'm going to ask you about is a bond measure.**

**Q8. SSC [BOND MEASURE 27 CENTS] To:**

- improve aging infrastructure and facilities, including streets, sidewalks, bike lanes, parks, restrooms, senior and recreation centers, and
- provide affordable housing to prevent displacement of vulnerable populations, including low to middle-income households, veterans, artists, seniors, and people with disabilities and provide supportive housing for people experiencing homelessness;

Shall the City of Berkeley enact a measure issuing bonds of 250 million dollars, at rates of 27 cents per 100 dollars of assessed property value, on average, generating approximately 25 million dollars annually while bonds are outstanding and requiring independent oversight?

If the election were held today, would you vote yes or no on this measure, or are you undecided?

**[IF YES/NO]:** And is that Yes/No strongly or not so strongly?

**[IF UNDECIDED]:** Well, to which side do you lean?

|                             |           |           |           |
|-----------------------------|-----------|-----------|-----------|
| Yes - strongly .....        | 28        | 26        | 29        |
| Yes - not so strongly ..... | 13        | 10        | 16        |
| Lean yes .....              | 14        | 11        | 15        |
| <b>Yes .....</b>            | <b>55</b> | <b>48</b> | <b>60</b> |
| <b>Undecided/DK.....</b>    | <b>16</b> | <b>19</b> | <b>14</b> |
| <b>No .....</b>             | <b>29</b> | <b>33</b> | <b>26</b> |
| <br>                        |           |           |           |
| Lean no.....                | 9         | 10        | 9         |
| No - not so strongly.....   | 4         | 4         | 3         |
| No - strongly .....         | 16        | 19        | 14        |
| <br>                        |           |           |           |
| (Refused).....              | 0         | 0         | 0         |

|    | TOTAL | MEN | WOMEN |
|----|-------|-----|-------|
| N= | 500   | 221 | 262   |

**The [first/next] version of the ballot measure I'm going to ask you about is a bond measure.**

**Q9. SSD [BOND MEASURE 54 CENTS] To:**

- improve aging infrastructure and facilities, including streets, sidewalks, bike lanes, parks, restrooms, senior and recreation centers, and
- provide affordable housing to prevent displacement of vulnerable populations, including low to middle-income households, veterans, artists, seniors, and people with disabilities and provide supportive housing for people experiencing homelessness;

Shall the City of Berkeley enact a measure issuing bonds of 500 million dollars, at rates of 54 cents per 100 dollars of assessed property value, on average, generating approximately 50 million dollars annually while bonds are outstanding and requiring independent oversight?

If the election were held today, would you vote yes or no on this measure, or are you undecided?

**[IF YES/NO]:** And is that Yes/No strongly or not so strongly?

**[IF UNDECIDED]:** Well, to which side do you lean?

|                             |    |    |    |
|-----------------------------|----|----|----|
| Yes - strongly .....        | 35 | 35 | 36 |
| Yes - not so strongly ..... | 11 | 16 | 8  |
| Lean yes .....              | 12 | 6  | 16 |
| Yes .....                   | 58 | 57 | 59 |
| Undecided/DK.....           | 12 | 7  | 18 |
| No .....                    | 29 | 37 | 23 |
| Lean no.....                | 10 | 9  | 11 |
| No - not so strongly.....   | 8  | 7  | 7  |
| No - strongly .....         | 12 | 20 | 5  |
| (Refused).....              | 0  | 0  | 0  |

**Q8/9. Combined Bond Measure**

|                             |    |    |    |
|-----------------------------|----|----|----|
| Yes - strongly .....        | 32 | 31 | 32 |
| Yes - not so strongly ..... | 12 | 13 | 12 |
| Lean yes .....              | 13 | 8  | 15 |
| Yes .....                   | 57 | 52 | 59 |
| Undecided/DK.....           | 14 | 13 | 16 |
| No .....                    | 29 | 35 | 25 |
| Lean no.....                | 10 | 10 | 10 |
| No - not so strongly.....   | 6  | 6  | 5  |
| No - strongly .....         | 14 | 20 | 10 |
| (Refused).....              | 0  | 0  | 0  |

|    | TOTAL | MEN | WOMEN |
|----|-------|-----|-------|
| N= | 500   | 221 | 262   |

**The [first/next] version of the ballot measure I'm going to ask you about is a parcel tax.**

**Q10. SSE [PARCEL TAX 15 CENTS ] To:**

- improve aging infrastructure and facilities, including streets, sidewalks, bike lanes, parks, restrooms, senior and recreation centers, and
- provide affordable housing to prevent displacement of vulnerable populations, including low to middle-income households, veterans, artists, seniors, and people with disabilities and provide supportive housing for people experiencing homelessness;

Shall the City of Berkeley enact a measure levying 15 cents per building square foot, generating approximately 13 million dollars annually until ended by voters, with low-income exemptions, independent oversight and all funds staying local?

If the election were held today, would you vote yes or no on this measure, or are you undecided?

**[IF YES/NO]:** And is that Yes/No strongly or not so strongly?

**[IF UNDECIDED]:** Well, to which side do you lean?

|                             |    |    |    |
|-----------------------------|----|----|----|
| Yes - strongly .....        | 37 | 35 | 37 |
| Yes - not so strongly ..... | 14 | 20 | 8  |
| Lean yes .....              | 9  | 4  | 14 |
| Yes .....                   | 60 | 60 | 58 |
| Undecided/DK.....           | 13 | 8  | 17 |
| No .....                    | 27 | 32 | 25 |
| Lean no.....                | 8  | 5  | 11 |
| No - not so strongly.....   | 4  | 5  | 3  |
| No - strongly .....         | 15 | 22 | 11 |
| (Refused).....              | 0  | 0  | 0  |

|    |       |     |       |
|----|-------|-----|-------|
|    | TOTAL | MEN | WOMEN |
| N= | 500   | 221 | 262   |

**The [first/next] version of the ballot measure I'm going to ask you about is a parcel tax.**

**Q11. SSF [PARCEL TAX 30 CENTS] To:**

- improve aging infrastructure and facilities, including streets, sidewalks, bike lanes, parks, restrooms, senior and recreation centers; and
- provide affordable housing to prevent displacement of vulnerable populations, including low to middle-income households, veterans, artists, seniors, and people with disabilities and provide supportive housing for people experiencing homelessness;

Shall the City of Berkeley enact a measure levying 30 cents per building square foot, generating approximately 26 million dollars annually until ended by voters, with low-income exemptions, independent oversight and all funds staying local?

If the election were held today, would you vote yes or no on this measure, or are you undecided?

**[IF YES/NO]:** And is that Yes/No strongly strongly or not so strongly?

**[IF UNDECIDED]:** Well, to which side do you lean?

|                             |    |    |    |
|-----------------------------|----|----|----|
| Yes - strongly .....        | 35 | 34 | 37 |
| Yes - not so strongly ..... | 14 | 12 | 13 |
| Lean yes .....              | 11 | 7  | 15 |
| Yes .....                   | 61 | 53 | 65 |
| Undecided/DK.....           | 12 | 13 | 12 |
| No .....                    | 27 | 33 | 22 |
| Lean no.....                | 6  | 7  | 6  |
| No - not so strongly.....   | 3  | 3  | 3  |
| No - strongly .....         | 18 | 24 | 13 |
| (Refused).....              | 0  | 0  | 0  |

**Q10/11. Combined Parcel Tax**

|                             |    |    |    |
|-----------------------------|----|----|----|
| Yes - strongly .....        | 36 | 35 | 37 |
| Yes - not so strongly ..... | 14 | 16 | 11 |
| Lean yes .....              | 10 | 6  | 14 |
| Yes .....                   | 60 | 57 | 62 |
| Undecided/DK.....           | 13 | 11 | 15 |
| No .....                    | 27 | 33 | 23 |
| Lean no.....                | 7  | 6  | 8  |
| No - not so strongly.....   | 3  | 4  | 3  |
| No - strongly .....         | 17 | 23 | 12 |
| (Refused).....              | 0  | 0  | 0  |

|    | TOTAL | MEN | WOMEN |
|----|-------|-----|-------|
| N= | 500   | 221 | 262   |

**The [first/next] version of the ballot measure I'm going to ask you about is a sales tax.**

**Q12. [SALES TAX HALF CENT] To:**

- Improve aging infrastructure/ facilities, including streets, sidewalks, bike lanes, parks, restrooms, senior/recreation centers; and
- Provide affordable housing to prevent displacement of vulnerable populations, including low to middle-income households, veterans, artists, seniors, people with disabilities and provide supportive housing for people experiencing homelessness;

Shall the City of Berkeley enact a measure increasing the local sales tax by one half cent, generating approximately 9 million dollars annually from residents and visitors until ended by voters, with exemptions for essential purchases like groceries/prescription medicine and requiring independent oversight?

If the election were held today, would you vote yes or no on this measure, or are you undecided?

**[IF YES/NO]:** And is that Yes/No strongly or not so strongly?

**[IF UNDECIDED]:** Well, to which side do you lean?

|                             |    |    |    |
|-----------------------------|----|----|----|
| Yes - strongly .....        | 34 | 34 | 35 |
| Yes - not so strongly ..... | 17 | 20 | 16 |
| Lean yes .....              | 8  | 7  | 8  |
| Yes .....                   | 59 | 60 | 59 |
| Undecided/DK.....           | 9  | 6  | 12 |
| No .....                    | 32 | 34 | 29 |
| Lean no.....                | 8  | 7  | 9  |
| No - not so strongly.....   | 6  | 8  | 4  |
| No - strongly .....         | 18 | 20 | 16 |
| (Refused).....              | 0  | 0  | 0  |



|    | TOTAL | MEN | WOMEN |
|----|-------|-----|-------|
| N= | 500   | 221 | 262   |

**Q13.** In this survey I asked about three different ways to fund this measure: **[RANDOMIZE]**

- \_a sales tax increase
- \_a bond measure
- and
- \_a parcel tax.

Note that the measures generate different amounts of revenue to invest in the city’s infrastructure and housing needs. **[RANDOMIZE STATEMENTS]**

The *sales tax* would generate 9 million dollars annually for these investments.

The *bond measure* would generate **[SSC: 25 million dollars / SSD: 50 million dollars]** annually for these investments.

The *parcel tax* would generate **[SSE: 13 million dollars / SSF: 26 million dollars]** annually for these investments.

Which of these, if any, do you think is the most appropriate way to increase city funding for the infrastructure and affordable housing needs outlined in the ballot measure? You may choose as many as you like. **[ACCEPT MULTIPLE RESPONSES]**

|                         |    |    |    |
|-------------------------|----|----|----|
| Bond measure.....       | 46 | 41 | 49 |
| Parcel tax.....         | 32 | 34 | 29 |
| Sales tax increase..... | 28 | 29 | 25 |
| (None).....             | 10 | 13 | 8  |
| (Don't know).....       | 14 | 9  | 18 |
| (Refused).....          | 0  | 0  | 0  |

**Q14.** The measures I’ve read to you include different funding priorities for the City of Berkeley. If you had to choose, which one or two of these are the highest priorities for you personally? **[RANDOMIZE]**  
**[ACCEPT UP TO TWO]**

|                                                                                      |    |    |    |
|--------------------------------------------------------------------------------------|----|----|----|
| Providing affordable housing for low-income people .                                 | 53 | 49 | 55 |
| Providing supportive housing for people experiencing homelessness .....              | 50 | 45 | 52 |
| Improving streets .....                                                              | 28 | 32 | 26 |
| Improving traffic safety and expanding services for pedestrians and bicyclists ..... | 22 | 25 | 20 |
| Improving parks and related facilities .....                                         | 11 | 12 | 10 |
| Improving senior and recreation centers .....                                        | 5  | 2  | 8  |
| (None).....                                                                          | 3  | 4  | 3  |
| (Don't know).....                                                                    | 2  | 1  | 3  |
| (Refused).....                                                                       | 0  | 0  | 0  |

|    | TOTAL | MEN | WOMEN |
|----|-------|-----|-------|
| N= | 500   | 221 | 262   |

**Q15.** Now thinking just about providing affordable housing in Berkeley, which of the following would be the highest priority for you personally? **[RANDOMIZE]**

|                                                                                                           |    |    |    |
|-----------------------------------------------------------------------------------------------------------|----|----|----|
| Acquiring and building affordable housing units .....                                                     | 33 | 32 | 33 |
| Providing supportive housing for people experiencing homelessness .....                                   | 29 | 29 | 29 |
| Providing housing vouchers so low-income residents have better opportunities for affordable housing ..... | 15 | 15 | 16 |
| Preserving existing affordable housing units .....                                                        | 10 | 10 | 10 |
| (None).....                                                                                               | 7  | 9  | 6  |
| (Don't know).....                                                                                         | 6  | 5  | 6  |
| (Refused).....                                                                                            | 0  | 0  | 0  |

**Q16.** How important is it to you personally that a proposed infrastructure measure include an aspect of equity, whatever that means for you? Would you say it is very important, somewhat important, not to important, or not at all important?

|                           |    |    |    |
|---------------------------|----|----|----|
| Very important .....      | 48 | 38 | 54 |
| Somewhat important .....  | 28 | 32 | 27 |
| Not too important .....   | 6  | 7  | 5  |
| Not at all important..... | 7  | 13 | 3  |
| (Don't know).....         | 10 | 9  | 11 |
| (Refused).....            | 1  | 1  | 1  |
| Important.....            | 76 | 69 | 80 |
| Not important .....       | 13 | 20 | 8  |

**Q17. SSA:** Now I am going to read some ways that people have defined equity in Berkeley. Please tell me which definition is most in line with what equity means to you. **[RANDOMIZE]**

|                                                                                                                                               |    |    |    |
|-----------------------------------------------------------------------------------------------------------------------------------------------|----|----|----|
| Distributing more infrastructure benefits to lower-income neighborhoods and communities of color that have been historically underfunded..... | 55 | 51 | 56 |
| Distributing more infrastructure benefits to the most vulnerable, like children, people with disabilities, and older Berkeleyans. ....        | 18 | 21 | 17 |
| Distributing infrastructure benefits equally between Berkeley's eight City Council districts.....                                             | 9  | 13 | 6  |
| Distributing infrastructure benefits to areas of Berkeley where there are fewer parks, open spaces, and trees.....                            | 9  | 8  | 9  |
| (Don't know).....                                                                                                                             | 9  | 7  | 10 |
| (Refused).....                                                                                                                                | 1  | 0  | 1  |

|    | TOTAL | MEN | WOMEN |
|----|-------|-----|-------|
| N= | 500   | 221 | 262   |

**Q18. SSB:** Now I am going to read some ways that people have defined equity in Berkeley. Please tell me which definition is most in line with what equity means to you. **[RANDOMIZE]**

|                                                                                                                                                 |    |    |    |
|-------------------------------------------------------------------------------------------------------------------------------------------------|----|----|----|
| Distributing infrastructure benefits first to lower-income neighborhoods and communities of color that have historically been underfunded ..... | 52 | 50 | 51 |
| Distributing infrastructure benefits first to the most vulnerable, like children, people with disabilities, and older Berkeleyans .....         | 15 | 18 | 14 |
| Distributing infrastructure benefits equally between Berkeley's eight City Council districts .....                                              | 13 | 15 | 12 |
| Distributing infrastructure benefits to areas of Berkeley where there are fewer parks, open spaces, and trees.....                              | 8  | 6  | 9  |
| (Don't know).....                                                                                                                               | 10 | 7  | 14 |
| (Refused).....                                                                                                                                  | 2  | 3  | 0  |

**Q17/18. Combined Equity Definition**

|                                                                                                                                                   |    |    |    |
|---------------------------------------------------------------------------------------------------------------------------------------------------|----|----|----|
| Distributing infrastructure benefits (first) to lower-income neighborhoods and communities of color that have historically been underfunded ..... | 54 | 50 | 54 |
| Distributing infrastructure benefits first to the most vulnerable, like children, people with disabilities, and older Berkeleyans .....           | 17 | 19 | 15 |
| Distributing infrastructure benefits equally between Berkeley's eight City Council districts .....                                                | 11 | 14 | 9  |
| Distributing infrastructure benefits to areas of Berkeley where there are fewer parks, open spaces, and trees.....                                | 8  | 7  | 9  |
| (Don't know).....                                                                                                                                 | 10 | 7  | 12 |
| (Refused).....                                                                                                                                    | 1  | 2  | 1  |

**Q19.** People in Berkeley have differing opinions about the amount of taxes we pay to fund city services. Some say the amount of taxes we currently pay is appropriate for the services the city provides, while some **[ROTATE]**

\_think taxes are too high  
and others

\_would be willing to pay more in taxes in order to fund more services.

What about you?

|                                             |    |    |    |
|---------------------------------------------|----|----|----|
| Taxes are too high .....                    | 33 | 31 | 34 |
| Would be willing to pay more in taxes ..... | 33 | 35 | 31 |
| Current amount is appropriate.....          | 25 | 25 | 25 |
| (Don't know).....                           | 9  | 8  | 10 |
| (Refused).....                              | 1  | 1  | 1  |

|    | TOTAL | MEN | WOMEN |
|----|-------|-----|-------|
| N= | 500   | 221 | 262   |

**Finally, I would like to ask you a few questions for statistical purposes only.**

**Q20.** In terms of local politics, do you consider yourself progressive, liberal, moderate, or conservative?

|                   |    |    |    |
|-------------------|----|----|----|
| Progressive.....  | 43 | 40 | 43 |
| Liberal.....      | 29 | 26 | 34 |
| Moderate.....     | 19 | 24 | 16 |
| Conservative..... | 3  | 4  | 3  |
| (Don't know)..... | 3  | 4  | 2  |
| (Refused).....    | 2  | 2  | 2  |

**Q21.** What is the last year of schooling that you have completed?

|                                                   |    |    |    |
|---------------------------------------------------|----|----|----|
| 1 - 11th Grade.....                               | 0  | 0  | 0  |
| High School Graduate.....                         | 2  | 3  | 3  |
| Vocational or technical school.....               | 2  | 2  | 2  |
| Some college but no degree.....                   | 13 | 14 | 10 |
| Associate degree.....                             | 7  | 4  | 9  |
| 4-year college graduate or bachelor's degree..... | 34 | 37 | 31 |
| Graduate School or advanced degree.....           | 40 | 36 | 44 |
| (Refused).....                                    | 3  | 4  | 2  |
| Non-college.....                                  | 24 | 23 | 23 |
| College grad.....                                 | 74 | 74 | 75 |

**Q22.** Do you have any children 18 years of age or younger living at home with you?

|                           |    |    |    |
|---------------------------|----|----|----|
| Yes.....                  | 21 | 22 | 22 |
| No.....                   | 76 | 75 | 76 |
| (Don't know/refused)..... | 3  | 3  | 3  |

**Q23. [IF Q22=YES]** Are any of your children currently enrolled in Berkeley public schools?

|                           | N= | 106 | 49 | 57 |
|---------------------------|----|-----|----|----|
| Yes.....                  | 67 | 63  | 70 |    |
| No.....                   | 32 | 37  | 28 |    |
| (Don't know/refused)..... | 1  | 0   | 2  |    |

**Q24.** Do you own your own home or do you rent?

|                           |    |    |    |
|---------------------------|----|----|----|
| Own.....                  | 50 | 51 | 53 |
| Rent.....                 | 45 | 43 | 44 |
| (Other).....              | 2  | 3  | 1  |
| (Don't know/refused)..... | 2  | 3  | 2  |

|    | TOTAL | MEN | WOMEN |
|----|-------|-----|-------|
| N= | 500   | 221 | 262   |

**Q25. How long have you lived in Berkeley? [DO NOT READ, RECORD WITHIN RANGE]**

|                                    |    |    |    |
|------------------------------------|----|----|----|
| Less than two years .....          | 6  | 7  | 3  |
| Two to less than five years.....   | 13 | 13 | 12 |
| Five to less than ten years .....  | 18 | 20 | 15 |
| Ten to less than twenty years..... | 19 | 18 | 20 |
| Twenty years or more .....         | 33 | 29 | 38 |
| All your life .....                | 8  | 8  | 9  |
| (Don't know/refused).....          | 4  | 5  | 3  |

**Q26. [T]** Just to make sure we have a representative sample, could you please tell me whether you are from a Latino, Hispanic, or Spanish-speaking background?

**Q27. [ASK ALL] [T]** And please tell me which one, or more than one, of these racial or ethnic groups you identify with.

**[RANDOMIZE/READ CHOICES]**

**[ACCEPT MULTIPLE RESPONSES]**

**[IF "OTHER" OR "BIRACIAL" OR "MULTI-RACIAL":]** Well which two or three of these do you identify with the most?

|                                         |    |    |    |
|-----------------------------------------|----|----|----|
| White or Caucasian.....                 | 58 | 60 | 60 |
| Black or African American .....         | 10 | 9  | 11 |
| Latino/Latina or Hispanic.....          | 9  | 9  | 9  |
| Asian American or Pacific Islander..... | 12 | 9  | 13 |
| Native or Indigenous American .....     | 4  | 2  | 5  |
| Middle Eastern .....                    | 2  | 1  | 1  |
| (Other) .....                           | 3  | 4  | 2  |
| (Don't know/Refused).....               | 7  | 9  | 5  |

|                              | TOTAL<br>N= 500 | MEN<br>221 | WOMEN<br>262 |
|------------------------------|-----------------|------------|--------------|
| <b>Age</b>                   |                 |            |              |
| 18 - 24 .....                | 11              | 14         | 6            |
| 25 - 29 .....                | 9               | 9          | 8            |
| 30 - 34 .....                | 8               | 9          | 6            |
| 35 - 39 .....                | 9               | 9          | 10           |
| 40 - 44 .....                | 6               | 6          | 7            |
| 45 - 49 .....                | 9               | 9          | 9            |
| 50 - 54 .....                | 8               | 6          | 9            |
| 55 - 59 .....                | 5               | 8          | 4            |
| 60 - 64 .....                | 8               | 6          | 11           |
| 65 - 69 .....                | 6               | 5          | 8            |
| 70 - 74 .....                | 8               | 7          | 10           |
| 75 & older .....             | 12              | 12         | 14           |
| (don't know) .....           | 0               | 0          | 0            |
| Under 30 .....               | 20              | 23         | 14           |
| 30 - 39 .....                | 17              | 19         | 16           |
| 40 - 49 .....                | 15              | 15         | 16           |
| 50 - 64 .....                | 21              | 20         | 24           |
| 65 & older .....             | 27              | 24         | 31           |
| <b>City Council District</b> |                 |            |              |
| CCD 1 .....                  | 13              | 15         | 12           |
| CCD 2 .....                  | 16              | 11         | 19           |
| CCD 3 .....                  | 15              | 13         | 16           |
| CCD 4 .....                  | 8               | 9          | 7            |
| CCD 5 .....                  | 17              | 15         | 19           |
| CCD 6 .....                  | 13              | 17         | 11           |
| CCD 7 .....                  | 5               | 5          | 4            |
| CCD 8 .....                  | 12              | 14         | 11           |



Infrastructure Need as Compiled Prior to FY 2022 Budget Adoption

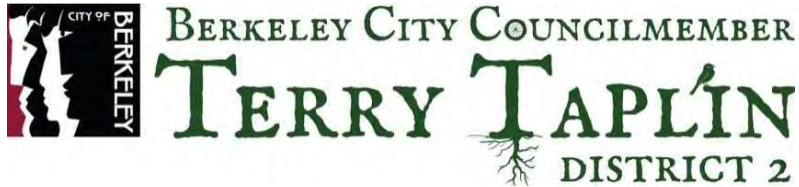
|                                                            | FY 2022<br>Year 1        | FY 2023<br>Year 2        | FY 2024<br>Year 3        | FY 2025<br>Year 4        | FY 2026<br>Year 5        | Total<br>Year 1- 5       |
|------------------------------------------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|
| <b>Parks, Park Buildings, Pools, Waterfront, and Camps</b> |                          |                          |                          |                          |                          |                          |
| Available Funding <sup>(1)</sup>                           | \$1,400,000              | \$1,400,000              | \$1,400,000              | \$1,400,000              | \$1,400,000              | \$7,000,000              |
| Expenditures                                               | \$1,400,000              | \$1,400,000              | \$1,400,000              | \$1,400,000              | \$1,400,000              | \$7,000,000              |
| Capital & Maint. Need <sup>(2)</sup> \$217,039,000         |                          |                          |                          |                          |                          |                          |
| <b>Unfunded Liability</b>                                  | <b>(\$219,951,780)</b>   | <b>(\$222,922,816)</b>   | <b>(\$225,953,272)</b>   | <b>(\$229,044,337)</b>   | <b>(\$232,197,224)</b>   | <b>(\$232,197,224)</b>   |
| <b>Public Buildings</b>                                    |                          |                          |                          |                          |                          |                          |
| Available Funding                                          | \$800,000                | \$800,000                | \$800,000                | \$800,000                | \$800,000                | \$4,000,000              |
| Expenditures                                               | \$800,000                | \$800,000                | \$800,000                | \$800,000                | \$800,000                | \$4,000,000              |
| Capital & Maint. Need \$282,300,000                        |                          |                          |                          |                          |                          |                          |
| <b>Unfunded Liability</b>                                  | <b>(\$287,130,000)</b>   | <b>(\$292,056,600)</b>   | <b>(\$297,081,732)</b>   | <b>(\$302,207,367)</b>   | <b>(\$307,435,514)</b>   | <b>(\$307,435,514)</b>   |
| <b>Sidewalks</b>                                           |                          |                          |                          |                          |                          |                          |
| Available Funding                                          | \$700,000                | \$700,000                | \$700,000                | \$700,000                | \$700,000                | \$3,500,000              |
| Expenditures                                               | \$700,000                | \$700,000                | \$700,000                | \$700,000                | \$700,000                | \$3,500,000              |
| Capital & Maint. Need \$11,120,000                         |                          |                          |                          |                          |                          |                          |
| <b>Unfunded Liability</b>                                  | <b>(\$10,628,400)</b>    | <b>(\$10,126,968)</b>    | <b>(\$9,615,507)</b>     | <b>(\$9,093,818)</b>     | <b>(\$8,561,694)</b>     | <b>(\$8,561,694)</b>     |
| <b>Streets &amp; Roads</b>                                 |                          |                          |                          |                          |                          |                          |
| Available Funding                                          | \$6,820,000              | \$6,820,000              | \$6,820,000              | \$6,820,000              | \$6,820,000              | \$34,100,000             |
| Expenditures                                               | \$6,820,000              | \$6,820,000              | \$6,820,000              | \$6,820,000              | \$6,820,000              | \$34,100,000             |
| Capital & Maint. Need \$250,000,000                        |                          |                          |                          |                          |                          |                          |
| <b>Unfunded Liability</b>                                  | <b>(\$248,043,600)</b>   | <b>(\$246,048,072)</b>   | <b>(\$244,012,633)</b>   | <b>(\$241,936,486)</b>   | <b>(\$239,818,816)</b>   | <b>(\$239,818,816)</b>   |
| <b>Sewers</b>                                              |                          |                          |                          |                          |                          |                          |
| Available Funding                                          | \$21,974,583             | \$16,456,882             | \$20,188,912             | \$24,206,893             | \$24,700,000             | \$107,527,270            |
| Expenditures                                               | \$21,974,583             | \$16,456,882             | \$20,188,912             | \$24,206,893             | \$24,700,000             | \$107,527,270            |
| Capital & Maint. Need \$193,800,000                        |                          |                          |                          |                          |                          |                          |
| <b>Unfunded Liability</b>                                  | <b>(\$175,261,925)</b>   | <b>(\$161,981,144)</b>   | <b>(\$144,628,077)</b>   | <b>(\$122,829,608)</b>   | <b>(\$100,092,200)</b>   | <b>(\$100,092,200)</b>   |
| <b>Storm Water</b>                                         |                          |                          |                          |                          |                          |                          |
| Available Funding                                          | \$1,300,000              | \$1,300,000              | \$1,300,000              | \$1,300,000              | \$1,300,000              | \$6,500,000              |
| Expenditures                                               | \$1,300,000              | \$1,300,000              | \$1,300,000              | \$1,300,000              | \$1,300,000              | \$6,500,000              |
| Capital & Maint. Need \$245,820,000                        |                          |                          |                          |                          |                          |                          |
| <b>Unfunded Liability</b>                                  | <b>(\$249,410,400)</b>   | <b>(\$253,072,608)</b>   | <b>(\$256,808,060)</b>   | <b>(\$260,618,221)</b>   | <b>(\$264,504,586)</b>   | <b>(\$264,504,586)</b>   |
| <b>Traffic Signals &amp; Parking Infrastructure</b>        |                          |                          |                          |                          |                          |                          |
| Available Funding                                          | \$400,000                | \$400,000                | \$400,000                | \$400,000                | \$400,000                | \$2,000,000              |
| Expenditures                                               | \$400,000                | \$400,000                | \$400,000                | \$400,000                | \$400,000                | \$2,000,000              |
| Capital & Maint. Need \$14,838,800                         |                          |                          |                          |                          |                          |                          |
| <b>Unfunded Liability</b>                                  | <b>(\$14,727,576)</b>    | <b>(\$14,614,128)</b>    | <b>(\$14,498,410)</b>    | <b>(\$14,380,378)</b>    | <b>(\$14,259,986)</b>    | <b>(\$14,259,986)</b>    |
| <b>TOTAL</b>                                               |                          |                          |                          |                          |                          |                          |
| Available Funding                                          | \$33,394,583             | \$27,876,882             | \$31,608,912             | \$35,626,893             | \$36,120,000             | \$164,627,270            |
| Expenditures                                               | \$33,394,583             | \$27,876,882             | \$31,608,912             | \$35,626,893             | \$36,120,000             | \$164,627,270            |
| T1 Funding: \$100M Infrastructure Bond <sup>(3)</sup>      | \$10,650,000             | \$10,650,000             | \$10,650,000             | \$10,650,000             | \$10,650,000             | \$53,250,000             |
| Capital & Maint. Need \$1,214,917,800                      |                          |                          |                          |                          |                          |                          |
| <b>Unfunded Liability</b>                                  | <b>(\$1,194,290,681)</b> | <b>(\$1,179,649,613)</b> | <b>(\$1,160,983,693)</b> | <b>(\$1,137,926,474)</b> | <b>(\$1,113,915,004)</b> | <b>(\$1,113,915,004)</b> |

<sup>(1)</sup> Unless otherwise noted, available funding includes recurring sources of capital and major maintenance funding.

<sup>(2)</sup> Capital & Maint. Needs are current estimates of unfunded needs. Needs are estimated to increase at a rate of 2% per year.

<sup>(3)</sup> The remaining \$53.25M of the bond allocated to project budgets is estimated to be equally distributed over 5 years, (\$10.65 million/year).

| Methodology for Infrastructure Need By Asset Category                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p><b>Parks, Park Buildings, Pools, Waterfront, and Camps</b></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| <p>These costs include all infrastructure associated with the City's 52 parks such as irrigation, paths, recreation centers, restrooms, sports fields, and play structures; the waterfront including streets, buildings, paths, docks, parking lots and the pier; resident camps including structures, pools, bridges, pathways and water systems; and pools including locker room buildings, decking, mechanical systems and pool shells.</p>                                                                                                                                                                                                              |
| <p><b>Public Buildings</b></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| <p>This includes 50 Public Works-maintained buildings, including Public Safety Building, Fire Stations, 1947 Center, HHCS buildings, Animal Shelter, Corp Yard, and off-street parking garages. These are not included: Transfer Station, Old City Hall, Veterans Building, Libraries, all PRW buildings, and EV charging stations. Estimates are derived both from staff and from completed facility condition assessments.</p>                                                                                                                                                                                                                            |
| <p><b>Sidewalks</b></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| <p>This includes the City's backlog of resident-requested sidewalk repairs at approximately 3600 properties. The ADA Transition Plan is underway and includes a proactive condition assessment of sidewalks. This assessment will likely result in approximately \$50M in additional unfunded need not included in this calculation.</p>                                                                                                                                                                                                                                                                                                                    |
| <p><b>Streets and Roads</b></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| <p>This represents the one-time cost to raise the City's pavement condition to excellent, as shown by the Metropolitan Transportation Commission's Street Saver Program. The Street Saver Program includes the City's entire street inventory and each street segment's condition, both of which are audited for accuracy biannually and reported through the City's Pavement Management Plan. Curb ramps are included in this estimate, but improvements from a variety of other plans/policies are not included: Bicycle, Complete Streets, Green Infrastructure, Pedestrian, Watershed Management, Strategic Transportation (BeST), and Vision Zero.</p> |
| <p><b>Sewers</b></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| <p>This represents the one-time cost to rehabilitate 61 miles of the City's sewer pipes, which would complete the City's goal of rehabilitating all of the City's sewer pipes per the City's adopted plans. The amount declines over time as a result of the ongoing sewer program and its annually charged sewer fee. The sewer fee is adjusted after a Proposition 218 compliant process every five years, and if more revenue is needed for this asset category, the fee will adjust accordingly.</p>                                                                                                                                                    |
| <p><b>Storm Water</b></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| <p>This represents the \$204M of need as extrapolated from the cost estimates for the Potter/Codornices Creek watersheds identified in the Watershed Management Plan (2012). Staff projected an additional need of \$37M for unfunded capital and maintenance needs in the City's inlets, pipes, cross drains, etc. Staff are initiating the process to adopt a comprehensive stormwater plan to update these needs.</p>                                                                                                                                                                                                                                    |
| <p><b>Traffic Signals and Parking Infrastructure</b></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| <p>Replacements of 2100 parking meters and 240 pay stations at or nearing the end of their useful life, and upgrades to existing traffic signals, including detection at 67 locations, ADA accessibility/pedestrian push buttons at 103 locations, and battery back-ups at 124 locations. New traffic signals, pedestrian hybrid beacons, and rectangular rapid flashing beacons are not included.</p>                                                                                                                                                                                                                                                      |



CONSENT CALENDAR  
March 14, 2023

To: Honorable Mayor and Members of the City Council

From: Councilmember Taplin (Author), Councilmember Rigel Robinson (Co-Sponsor)

Subject: Resolution Supporting Unionization Efforts by Urban Ore workers

### RECOMMENDATION

Adopt a Resolution in support of workers at Urban Ore unionizing under representation by the Industrial Workers of the World (IWW) Union 670.

### FINANCIAL IMPLICATIONS

None.

### BACKGROUND

In 2023, workers at the Urban Ore retail store in Berkeley filed for a labor union representation election with the National Labor Relations Board (NLRB), asking to be represented by IWW Union 670.<sup>1</sup> To date, Urban Ore management has not yet recognized the unionization effort. The NLRB recommends that workers obtain recognition from their employers to maintain the democratic spirit of union elections.

In the recovery following the COVID-19 recession, tight labor markets have led to a resurgence in labor organizing and union activity. The NLRB has reported that union representation petitions increased by 57% in the first half of Fiscal Year 2022. Workers at major corporations like Amazon and Starbucks have recently seen major victories in obtaining union representation. While the overall amount of unionized workers declined amid pandemic-related job losses in 2020 and 2021, the share of unionized workers in the workforce increased, in part because unionized jobs were more resilient.<sup>2</sup> Union representation has helped improve working conditions and provide more stable benefits<sup>3</sup> while closing wage gaps for women and racial minorities in the workforce.<sup>4</sup>

<sup>1</sup> Kwok, I. (2023, Feb. 2). Workers at Urban Ore, Berkeley's last salvage store, announce union drive. *Berkeleyside*. Retrieved from <https://www.berkeleyside.org/2023/02/02/workers-at-urban-ore-berkeleys-last-salvage-store-announce-union-drive>

<sup>2</sup> Shierholz, H., et al. (2022). Latest data release on unionization is a wake-up call to lawmakers. *Economic Policy Institute*. Retrieved from <https://www.epi.org/publication/latest-data-release-on-unionization-is-a-wake-up-call-to-lawmakers/>

<sup>3</sup> Zoorob, M. (2018). Does 'Right to Work' Imperil the Right to Health? The Effect of Labour Unions on Workplace Fatalities. *Occupational and Environmental Medicine*, 75(10), 736–738, <https://dx.doi.org/10.1136/oemed-2017-104747>.

<sup>4</sup> Farber, H.S., et al. (2021). Unions and Inequality Over the Twentieth Century: New Evidence from Survey Data. *Quarterly Journal of Economics*, 136(3), 1325–1385, <https://doi.org/10.1093/qje/qjab012>.

Urban Ore Union

CONSENT CALENDAR  
March 14, 2023

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

None.

CONTACT PERSON

Councilmember Taplin      Council District 2      510-981-7120

Attachments:

1: Resolution

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

RESOLUTION SUPPORTING UNIONIZATION OF URBAN ORE WORKERS

WHEREAS, workers at Urban Ore in Berkeley filed a union representation petition with the National Labor Relations Board (NLRB) in February, 2023; and

WHEREAS, the National Labor Relations Act of 1935 enables workers to petition for union representation by obtaining signatures of at least 30% of the potential bargaining unit; and

WHEREAS, union representation has been consistently shown in empirical studies to improve working conditions; access to healthcare and sick pay; and wage parity for women, Black and Latinx workers, and other disadvantaged groups; and

WHEREAS, workers in major corporations such as Amazon and Starbucks have recently won major victories in obtaining union representation; and

WHEREAS, the NLRB reports that union representation petitions increased by 22% in the first half of Fiscal Year 2022, representing major potential for a stronger labor movement in the United States;

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that Urban Ore management is hereby urged to recognize the union representation petition by its employees seeking to unionize under the Industrial Workers of the World Union 670.

BE IT FURTHER RESOLVED that the Council of the City of Berkeley supports the labor movement in the United States, and welcomes the significant wave of unionization efforts across the country.







CONSENT CALENDAR  
DATE: March 14, 2023

To: Honorable Mayor and Members of the City Council

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

Subject: Support for SB-58: controlled substances

### RECOMMENDATION

Send a letter of support for Sen. Wiener's Senate Bill 58, which would decriminalize psilocybin, psilocyn, MDMA, DMT, ketamine, mescaline, and ibogaine; expunge criminal records for use and possession of these substances; and establish a commission to provide recommendations to the state legislature on therapeutic uses.

### BACKGROUND

In 2021, State Senator Scott Wiener introduced Senate Bill 519 to decriminalize the possession and personal use of the following substances: psilocybin, psilocyn, 4-methylenedioxymethamphetamine ("MDMA"), Lysergic acid diethylamide ("LSD"), ketamine, Dimethyltryptamine ("DMT"), mescaline (from non-peyote sources) and ibogaine, given these substances can have therapeutic and medicinal benefits. The Berkeley City Council sent a letter of support for SB 519 in 2021. The bill stalled in the Assembly Appropriations Committee, but it has been reintroduced for the current session as Senate Bill 58.

SB 519 would also have expunged any criminal records for people convicted of possession or personal use of these substances, as well as establishing a commission that will provide the Legislature with regulatory recommendations that California should adopt to legalize personal and therapeutic use of these specified substances.

Existing law lists psilocybin, psilocybin, mescaline, MDMA, LSD, DMT and ibogaine as Schedule I Drugs. According to the Drug Enforcement Agency (DEA), Schedule I Drugs have "no accepted medical use and high potential for abuse." Ketamine is listed as a Schedule III drug and is Food and Drug Administration (FDA)-approved to treat depression. California law criminalizes the possession, sale, and transfer of Schedule I drugs.

In the 1950s, LSD was studied for its potential benefits in treating alcoholism.<sup>1</sup> Research on the medicinal uses of psychedelics and other controlled substances largely halted after the 1970 signing of the Controlled Substances Act by President Nixon. In later interviews, former Nixon adviser John Ehrlichman explained that Nixon's War on Drugs was explicitly designed for racist and political ends, rather than for public health and safety:

"The Nixon campaign in 1968, and the Nixon White House after that, had two enemies: the antiwar left and black people. You understand what I'm saying? We knew we couldn't make it illegal to be either against the war or black, but by getting the public to associate the hippies with marijuana and blacks with heroin, and then criminalizing both heavily, we could disrupt those communities. We could arrest their leaders, raid their homes, break up their meetings, and vilify them night after night on the evening news. Did we know we were lying about the drugs? Of course we did."<sup>2</sup>

In recent years, emerging medical research has revived an interest in therapeutic uses of psychedelics and other controlled substances.<sup>3</sup> Washington, D.C. voters passed Initiative 81 in 2020, which decriminalized personal use and possession of plant-based psychedelics.<sup>4</sup> In the state of Oregon, voters approved two ballot measures decriminalizing non-commercial possession<sup>5</sup> of all scheduled substances, and creating a state-licensed psilocybin-assisted therapy program.<sup>6</sup> In the state of California, two municipalities (Oakland and Santa Cruz) have introduced decriminalization ordinances.

In recent years, the FDA has issued "Breakthrough Therapy" distinctions to MDMA-assisted therapy for PTSD and psilocybin-assisted therapy for treatment-resistant depression, respectively, which expedites the process for approval as treatment for serious or life-threatening conditions.<sup>7</sup>

Mental health treatment and ending the War on Drugs are both racial equity issues. According to the U.S. Department of Health and Human Services, Black adults are

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<sup>1</sup> Costandi, M. (2014). A brief history of psychedelic psychiatry. *The Guardian*. Retrieved from <https://www.theguardian.com/science/neurophilosophy/2014/sep/02/psychedelic-psychiatry>

<sup>2</sup> Baum, D. (2014). Legalize it all: How to win the war on drugs. *Harper's Magazine*. Retrieved from <https://harpers.org/archive/2016/04/legalize-it-all/>

<sup>3</sup> Carhart-Harris, R. L., & Goodwin, G. M. (2017). The Therapeutic Potential of Psychedelic Drugs: Past, Present, and Future. *Neuropsychopharmacology : official publication of the American College of Neuropsychopharmacology*, 42(11), 2105–2113. <https://doi.org/10.1038/npp.2017.84>

<sup>4</sup> [https://decrimnaturedc.org/wp-content/uploads/2020/02/Entheogenic\\_Plant\\_and\\_Fungus\\_Policy\\_Act\\_of\\_2020\\_published\\_2\\_18\\_2020.pdf](https://decrimnaturedc.org/wp-content/uploads/2020/02/Entheogenic_Plant_and_Fungus_Policy_Act_of_2020_published_2_18_2020.pdf)

<sup>5</sup> <http://oregonvotes.org/irr/2020/044text.pdf>

<sup>6</sup> <http://oregonvotes.org/irr/2020/034cbt.pdf>

<sup>7</sup> Serkis, S. (2020). Psychology Trends For 2021: Psilocybin, MDMA, and Covid-19 Aftereffects. *Forbes*. Retrieved from <https://www.forbes.com/sites/stephaniesarkis/2020/12/09/psychology-trends-for-2021-psilocybin-mdma-and-covid-19-aftereffects/?sh=a7ab8a95ce03>

more likely to report persistent symptoms of emotional distress, but are least likely to receive adequate care for mental health.<sup>8</sup>

ENVIRONMENTAL IMPACTS

None.

FISCAL IMPACTS

None.

CONTACT

Councilmember Terry Taplin, District 2, 510-981-7120

ATTACHMENTS/SUPPORTING MATERIALS

1. Letter of Support

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<sup>8</sup> <https://www.minorityhealth.hhs.gov/omh/browse.aspx?lvl=4&lvlid=24>

The Honorable Sen. Scott Wiener  
State Capitol, Room 5100  
1021 O St., Suite 8620  
Sacramento, CA 95814

**RE: Support for SB 58: controlled substances**

Dear Senator Wiener:

The City Council of the City of Berkeley hereby registers its support of Senate Bill 58, to decriminalize the possession and personal use of the following substances: psilocybin, psilocyn, MDMA, LSD, ketamine, DMT, mescaline (from non-peyote sources) and ibogaine, as an incremental step to dismantle the white supremacist War on Drugs policies that have harmed Black and brown communities for decades. This legislation will also expunge any criminal records for people convicted of possession and personal use of these substances, and establish a working group to provide recommendations to the Legislature on therapeutic use.

In the 1960s, researchers were conducting promising studies on the effectiveness of psychedelic substances to treat ailments such as depression and PTSD, until the War on Drugs halted this work. Today, we know this racist policy framework does not improve public safety, deter personal use, or help people who may be experiencing substance use disorder. Modern research on psychedelics shows promising signs for mental health treatment.

California must stop criminalizing substances that have potentially major medical potential. Thank you for your leadership with this important legislation.

Respectfully,

City Council  
City of Berkeley  
2180 Milvia St  
Berkeley, CA 94704

cc: Senator Nancy Skinner  
Assemblymember Buffy Wicks



CONSENT CALENDAR  
March 14, 2023

To: Members of the City Council

From: Councilmember Rigel Robinson (Author), Mayor Jesse Arreguin (Co-Sponsor), Councilmember Sophie Hahn (Co-Sponsor), Councilmember Kate Harrison (Co-Sponsor)

Subject: Letter in Support of SB 466

### RECOMMENDATION

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

### BACKGROUND

Currently, the Costa-Hawkins Rental Housing Act restricts local rent stabilization ordinances to only apply to buildings built after February 1, 1995, or to buildings built after a given municipality implemented rent stabilization — whichever is earlier. Since Berkeley implemented rent stabilization in 1980, newer buildings are exempt from rent stabilization.

The justification for restricting rent stabilization to older buildings is that applying it to newer buildings would decrease potential rents and profits for developers, disincentivizing development. However, freezing eligibility for rent stabilization at one point in time is not useful or necessary to prevent disincentives to development.

It is not unprecedented in California to establish a rolling limit on when restrictions on rent increases may apply. AB 1482 (2019) prevents rent from being increased by more than 5% plus inflation or 10% — whichever is lower — on multifamily buildings older than 15 years and single-family homes owned by real estate corporations.<sup>1</sup> AB 1482 has been an essential measure to prevent severe rent-gouging statewide, but it is important that municipalities such as Berkeley that are facing the most extreme rent levels statewide have the tools they need to prevent displacement. SB 466 would, like AB 1482, only apply to buildings older than 15 years — preventing any potential adverse impacts on incentives for new development.

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<sup>1</sup> [Bill Text - AB-1482 Tenant Protection Act of 2019: tenancy: rent caps.](#)

The City of Berkeley has consistently advocated for reform or repeal of Costa-Hawkins. In 2009, Council adopted Resolution No. 64,687-N.S. calling on the State Legislature to amend Costa-Hawkins to not preempt inclusionary zoning requirements. In 2015, Council adopted Resolution No. 67,245-N.S. calling for the repeal of Costa-Hawkins. In 2017, Council adopted Resolution No. 67,894-N.S., in support of AB 1506 which would have repealed Costa-Hawkins. In 2018, Council placed Measure Q on the ballot, which was approved by Berkeley voters. One part of Measure Q amended the Rent Stabilization Ordinance to extend rent stabilization to newly constructed units 20 years after completion, in the event that Costa-Hawkins is repealed.

#### Rationale for Recommendation

Rent stabilization has been an essential tool for the Berkeley Rent Stabilization Board to prevent displacement — especially in Berkeley’s most diverse and low-income communities. Costa-Hawkins restricts the ability of the City to protect its residents from extreme rent increases that force them to leave the City and their communities.

SB 466 does not implement a mandate on cities; rather, it gives cities like Berkeley that have a significant need for anti-displacement measures more tools to address their local impacts of the statewide housing crisis. Implementing rent stabilization allows cities to prevent rising average rent levels from rapidly displacing longtime residents; without rent stabilization in Berkeley, gentrification would have a more significant impact on many individuals and communities and impede the ability of Berkeleyans to grow and sustain a strong sense of community and belonging. SB 466 would expand the amount of units eligible for rent stabilization without adversely impacting development incentives, and would allow Berkeley to strengthen housing security and stability for both present and future renters in the City.

#### FINANCIAL IMPLICATIONS

None

#### ENVIRONMENTAL SUSTAINABILITY

None

#### CONTACT PERSON

Councilmember Rigel Robinson, (510) 981-7170

Sam Greenberg, Legislative Assistant, [samgreenberg@cityofberkeley.info](mailto:samgreenberg@cityofberkeley.info)

#### Attachments:

1: Letter





March 14, 2023

Senator Aisha Wahab  
1021 O Street, Suite 6530  
Sacramento, CA 95814

Dear Senator Wahab,

The City of Berkeley writes to express its strong support for SB 466, and more broadly for reforming the outdated and harmful Costa-Hawkins Rental Housing Act. Costa-Hawkins severely limits the ability of municipalities to protect tenants from eviction through rent stabilization, and the original legislation did not foresee the monumental housing crisis now facing California and the displacement that results from it.

The City of Berkeley's Rent Stabilization Board provides resources and education for tenants, in addition to administering the City's Rent Stabilization and Eviction for Good Cause Ordinance. Berkeley and cities across the Bay Area and California are facing a historic housing affordability crisis, and the Costa-Hawkins Rental Housing Act drastically restricts the ability of the Rent Board to address the housing crisis in Berkeley and protect existing tenants—including longtime residents—from extreme and hostile rent increases.

It is important that Berkeley and other cities have access to tools of greater scope to address the housing crisis. Allowing for abundant construction of housing—especially affordable housing—is critical but will not have an impact as immediately as is necessary. In addition to construction, it is essential that municipalities are able to use rent stabilization to protect their most vulnerable residents from displacement as housing costs rise rapidly.

Rent stabilization is an essential tool cities and counties should have access to in order to prevent displacement. By preventing displacement of longtime and vulnerable residents, rent stabilization allows cities like Berkeley to build a sense of community and neighborliness among residents. The City of Berkeley strongly supports SB 466, and strongly supports expanding the ability of municipalities to broaden access to rent stabilization to make our communities more resilient, stable, and vibrant.

Sincerely,  
The Berkeley City Council

cc: Governor Gavin Newsom  
Senator Nancy Skinner  
Assemblymember Buffy Wicks





CITY COUNCILMEMBER  
**RIGEL ROBINSON**  
 DISTRICT 7

CONSENT CALENDAR  
 March 14, 2023

To: Honorable Mayor and Members of the City Council

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

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

RECOMMENDATION

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

BACKGROUND

The Investing in Safer Traffic Stops Act of 2023 was introduced on February 6, 2023 by U.S. Representative Ritchie Torres. H.R. 852 would direct the U.S. Attorney General to create a grant program to provide funding to state, local, and tribal governments to hire civilian employees or purchase traffic monitoring technology for the purpose of enforcing traffic violations without the direct involvement of law enforcement officers. For fiscal years 2024 through 2029, \$100,000,000 would be allocated to the program each year.

Traffic enforcement is one way that municipalities can address dangerous driving behavior such as speeding and red light violations. However, it is well-documented that traditional enforcement conducted by police officers results in disproportionate enforcement actions against people of color, particularly Black people. According to the Stanford Policing Project, police pull over more than 20 million motorists per year, making traffic stops the most common interaction Americans have with police.<sup>1</sup> The City of Berkeley has committed to exploring civilian traffic enforcement through the BerkDOT process. The grant funding provided by H.R. 852 would support these ongoing planning efforts.

Black and brown people are disproportionately affected by traffic injuries and fatalities, whether while walking, biking, or driving.<sup>2</sup> If thoughtfully implemented, traffic monitoring technologies have the potential to address disparities in traffic violence while also reducing racial bias in police interactions. While automated speed enforcement is currently illegal in California, the City of Berkeley has supported state legislation to change this.

<sup>1</sup> <https://openpolicing.stanford.edu/findings/>

<sup>2</sup> <https://www.hsph.harvard.edu/news/press-releases/racial-disparities-traffic-fatalities/>

However, it is critical to carefully consider camera placement and other program aspects in order to avoid disparate impacts. Black and brown neighborhoods that have been historically under-invested in tend to have less pedestrian infrastructure, wider streets, and fewer traffic calming measures to slow drivers down. An analysis of Chicago's speed camera program found that the cameras that issued the most tickets were placed on four-lane roads, primarily in majority Black census tracts. On the other hand, the speed cameras that issued the fewest tickets were on two-lane streets, primarily in majority non-Black census tracts.<sup>3</sup> Cameras that were placed near freeways and in less dense neighborhoods also issued a higher share of tickets. Any traffic camera technology deployed through this grant program must avoid unnecessarily punitive fines and take steps to ensure that people of color are not overburdened by tickets.

#### FINANCIAL IMPLICATIONS

None.

#### ENVIRONMENTAL SUSTAINABILITY

None.

#### CONTACT PERSON

Councilmember Rigel Robinson, (510) 981-7170  
Angie Chen, Legislative Assistant

#### Attachments:

- 1: Letter of support
- 2: Resolution
- 3: Bill text: <https://www.congress.gov/bill/118th-congress/house-bill/852/text?s=1&r=1>

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<sup>3</sup> <https://www.propublica.org/article/chicagos-race-neutral-traffic-cameras-ticket-black-and-latino-drivers-the-most>



March 14, 2023

United States Representative Ritchie Torres  
1414 Longworth House Office Building  
Washington, DC 20515

**RE: City of Berkeley, California's Support for H.R. 852, the Investing in Safer Traffic Stops Act of 2023**

Dear Representative Torres,

The Berkeley City Council would like to convey our strong support for the Investing in Safer Traffic Stops Act of 2023. The grant program created by this bill would provide critical funding to state, local, and tribal governments to explore alternatives to traditional traffic enforcement.

Time and time again, we have seen traffic stops turn deadly. Civilianization and automation of traffic enforcement have the potential to save lives by not only reducing dangerous driving, but also by reducing racially-biased police interactions that can escalate into violence. At the same time, automated enforcement can reproduce existing disparities caused by infrastructure under-investment in Black and brown neighborhoods. We urge you to take steps to ensure that the traffic monitoring technologies funded by this grant program do not overburden low-income people of color with punitive fines and fees.

We thank you for introducing this bill to support municipalities across America in our efforts to reimagine traffic enforcement.

Respectfully,

The Berkeley City Council

CC: Representative Barbara Lee  
Senator Alex Padilla  
Senator Dianne Feinstein

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

SUPPORT OF H.R. 852, THE INVESTING IN SAFER TRAFFIC  
STOPS ACT OF 2023

WHEREAS, H.R. 852 would create a grant program to provide funding to state, local, and tribal governments to hire civilian employees or purchase traffic monitoring technology for the purpose of enforcing traffic violations without law enforcement officers; and

WHEREAS, for fiscal years 2024 through 2029, \$100,000,000 would be allocated to the program each year; and

WHEREAS, traffic stops are the most common interaction Americans have with police, and too often open the door for racial bias and police brutality; and

WHEREAS, the City of Berkeley has committed to exploring civilian traffic enforcement as a strategy to reduce unnecessary police interactions, focus traffic stops on street safety, and promote a racial justice lens in transportation; and

WHEREAS, the City of Berkeley has also supported reforms that would enable cities in California to deploy automated speed enforcement technologies, which if done in an equitable manner, would reduce both dangerous driving behavior and racial bias in traffic enforcement; and

WHEREAS, the funding provided by this grant program could support ongoing traffic enforcement civilianization efforts in the City of Berkeley and similar planning processes in cities across the country.

NOW THEREFORE, BE IT RESOLVED, that the Berkeley City Council hereby endorses H.R. 852, the Investing in Safer Traffic Stops Act of 2023.



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# SUPPLEMENTAL AGENDA MATERIAL for Supplemental Packet 1

**Meeting Date:** February 28, 2022

**Item Number:** 19

**Item Description:** Reforms to Public Comment Procedures at meetings of the Berkeley City Council

**Submitted by:** Councilmember Robinson (Author), Councilmember Susan Wengraf (Co-sponsor)

**RECOMMENDATION:**

Adopt a Resolution revising the City Council Rules of Procedure and Order: Section IV. Conduct of the Meeting and Appendix C Temporary Rules for The Conduct of City Council Meetings Through Video Conference During The Covid-19 Emergency to:

1. Consolidate ~~non-agenda public comment, public comment on the Consent Calendar, and public comment on Action Items, excluding public hearings, appeals, and/or other quasi-judicial matters,~~ into a single public comment period ~~toward at~~ the start of the ~~Council meeting Action Calendar, (consistent with the Berkeley Unified School District's public comment procedure),~~ and continue to provide for additional time for public comment at the end of meetings ~~and separate public comment periods toward the beginning of the Council meeting for the Consent Calendar and information items, and for non-agenda matters.;~~
2. ~~Adopt reasonable limits on the overall number of public speakers (consistent with rulings from the Second District Court of Appeal) with a mechanism for the City Council to extend public comment; and~~
- 3-2.          Rescind Resolution No. 70,091– N.S

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**Rationale for Recommendation**

Public comment plays a critical role in the policy-making process. However, the current system for scheduling public comment leaves significant room for improvement. Residents should be able to opine and advocate to the City Council without having to wait for many hours before the item is taken up, and ~~even~~ sometimes learning that the item will not be heard at all. In order to improve the predictability of the flow of Council meetings, members of the public should have some certainty that they will have the opportunity to advocate to their elected representatives at a reasonable hour in the evening. That can be achieved by holding public comment on Action Calendar items at a single time, immediately after the adoption of the Consent Calendar.

~~The original~~ Former Councilmember Droste’s version of this item sought to consolidate all public comment into a single comment period, as well as creating protocols for council to limit the total number of speakers. ~~This supplemental item does not recommend those proposals.~~ This supplemental does not seek to limit the ability, in any way, of the public to give public comment.

The purpose of this supplemental item is to create ~~a better~~ a more equitable system for public comment, one where residents can show up to a council meeting and reasonably expect that they will be able to address the council by 9 PM. Those who wish to continue to listen to the council’s business until the council adjourns are welcome and encouraged to do so.

Additionally, by taking public comment on action items at the start of the Action Calendar, the presiding officer may ~~be better equipped to~~ identify ~~which~~ items the council will have time to address during a given meeting. This has benefits for the public, as well as for city staff, who have at times been in the position of being on hand all evening to present on an item that is not ultimately heard.

By scheduling comments on action calendar items at the start of the Action Calendar, we can prioritize the perspectives of the public and respect both staff’s and the public’s time.

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**Current Situation and Its Effects**

City Council has occasionally tried to rebalance the City’s approach to public comment at Council meetings to create a more welcoming atmosphere, conduct the people’s business efficiently, and ensure elected officials have time to give items due consideration. Unfortunately, members of the public, applicants/appellants, and staff frequently have to wait for hours before an item is heard or unexpectedly moved to another meeting. ~~This is due to the way public comment was established prior to the tenure of any of the current Councilmembers or the Mayor.~~ This prevents many ordinary people, particularly those who have small children or work long hours, from having a reasonable opportunity to provide public comment and hear the Council deliberate. ~~It also deprives the Council of the time needed for adequate consideration of items, especially major policy efforts, and frequently pushes important items to future meetings.~~

**Background and Rationale**

Pursuant to the Brown Act, Section 54954.3, members of the public shall be afforded the opportunity to speak on any agenda item of a substantive nature providing they are first recognized by the presiding officer. City Council greatly values input and comment from a broad cross-section of the public on legislative matters. The City of Berkeley and Councilmembers appreciate and admire the dedication of the many ~~mainstays who voice their~~ opinions at public comment. Nevertheless, other community members often feel overwhelmed and intimidated by the prospect of enduring hours-long City Council meetings, not just to provide public comment but to even hear the Council’s discussions. Having to wait through ~~hours of~~

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~~public comment hours of discussion on many different action items (much of which is often duplicative) before one gets to participate at an unspecified, unpredictable time and/or hear the position of one's elected representatives is neither fair, equitable, nor good for democracy. Especially for those with young children or who work in the evenings, the unpredictable and onerous way that Action Calendar public comment currently operates is inequitable and prevents valuable community members from participating in the public process.~~

Public comment and Council procedures have undergone iterations before. Most recently, Mayor Arreguin offered an amendment to require three councilmembers to agree to pull an item from the Consent Calendar to the Action Calendar, instead of one councilmember or four public speakers. This change dramatically helped meetings run smoother and ensured that uncontroversial and broad-consensus ~~consent calendar~~ items were not subject to attempts at obstructionism or unduly long debates which extended meeting times.

Even with that positive change, the current approach to public comment ironically does not likely widen opportunities for civic engagement; but instead serves to preclude a more representative sample of participants—as political scientists from Boston University have found. Currently, many residents must wait for extended periods of time in order to provide public comment on specific ~~legislation action items on Action~~, since no specific times are ~~available for when a piece of legislation will be heard assigned~~. This means that people who may care deeply about a particular issue are discouraged from participating in favor or those who have a general interest in speaking and the time to sit through the entirety of a meeting. Although their commitment and interest are commendable, such individuals are not necessarily representative of the broader public.

The Brown Act actually provides leeway for the City to consider other approaches to public comment. Under the Brown Act, the City must allow the public to comment on any agenda item; and there are certain items that require ensuring public comment from all interested parties (e.g., quasi-judicial proceedings and public hearings where due process demands allowing comment from all participants). But for most items, the Brown Act permits agencies to ~~limit the amount of time for public comment on any given item, provided that such limits are content-neutral~~ consolidate public comment. While this could entail moving all public comment into a single comment period, this ~~supplemental~~ item merely combines public comment on Action Calendar items—excluding public hearings, appeals, and/or other quasi-judicial matters—into one comment period at the beginning of the Action Calendar.

The current approach to public comment on the Action Calendar is inequitable and discourages participation from many community members. Consolidating Action Calendar public comment into one comment period would make the time that public comment occurs on action items far more predictable and boost the ability of community members to participate in public comment. Especially for working families and those with evening obligations, waiting potentially five hours to speak on an action item that will be taken up at an unspecified time—or may be continued to another meeting instead—is not feasible. While the time the Action Calendar is taken up would remain unspecified, the window in which it is likely to be would be far narrower and earlier in the meeting than the window during which individual items may currently be discussed or removed from the agenda. For example, for most Council items, the City Council would be permitted under the Brown Act to impose a 10-minute limit on public comment, comprising ten speakers with one minute each, with the speakers determined on a lottery or first come, first served basis. Alternatively, the City Council could also adopt a content-neutral limitation on the number of

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~~speakers for a general public comment period at the start of each meeting which covers all agenda and non-agenda comments—as proposed in this item.~~

In its decision in the 2018 Ribakoff v. City of Long Beach, et al. decision, the Second District Court of Appeal ruled in part:

~~*“On the other hand, having no limit on either the length of any particular presentation by a member of the public or on the number of public speakers (or on the total time for public comment) has the potential for endless discussion—given the potential that there will be a far greater number of members of the public who may wish to speak to an issue than there are staff and guests who make presentations concerning it. The number of staff and invited guests speaking on a topic will clearly be limited; the potential for public speakers is potentially extensive and needs some reasonable limitation.*”~~

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~~*We do not suggest that members of the public may not have expertise, or that their presentations would be of lesser value than those of the invited, expert staff and guest speakers, only that their number must be considered in weighing the time allotted to public participation. Indeed, this concern was a factor in shaping the text of Government Code section 54954.3 as it moved through the Legislature with amendments to the Brown Act adopted in 1986. On the one hand, the Legislature declared the importance of open governance and the public’s right to participate. On the other, it validated enactment of limits on public speakers so that the business of government could function. (Gov. Code, § 54954.3.)<sup>23</sup>[emphasis added].”*~~

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~~Members of the public would still have ample additional means of addressing their concerns to councilmembers, including in-person meetings and office hours, written correspondence, emails, telephone calls, and social media/online platforms. Although it is beyond the scope of this item, the City may also wish to explore expanding and enhancing Berkeley Considers to provide a new platform for community members to provide comments on upcoming Council items. Berkeley could potentially pioneer having a “one-stop-shop” for members of the public to provide feedback on upcoming Council items and have that feedback delivered to Council in a formalized and easily visualized format.~~

**Best Practices**

*Berkeley Unified School District*

The Berkeley Unified School District has adopted [a practice](#) that is likely more conducive to allowing a broader participation of residents in the civic process. There are two opportunities for public comment, one at the beginning and one at the end of the meeting. By allowing public comment at the beginning of the meeting, individuals do not have to wait for hours for an item with an unknown start time. And In other cities, the presiding officer can limit individual presentations, the amount of time allotted for public input, and/or limit the number of speakers with similar positions.

This ~~item supplemental~~ item simply proposes to combine public comment on the Action Calendar into one comment period, leaving public comment on the Consent Calendar and other items unchanged. This would significantly increase the predictability of when public comment on many important action items will occur while still providing a separate opportunity to comment on other items. ~~proposes to use the approach used by BUSD.~~

**Fiscal Impacts**

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De minimis costs for staff to revise local and public-facing digital copies of the City Council's Rules of Procedure and time and materials costs for any printing of physical copies.

Long-term fiscal impacts are speculative, but reduced Council and staff time for the receipt and management of in-person and virtual public comment have a strong potential to reduce City costs. The cost reductions would be highly variable depending on the number and nature of staff present at any given City Council meeting.

**Alternative Actions Considered**

Alternative Actions include but are not limited to:

- Leaving existing public comment policies and procedures unchanged.
- Adopting a limit on the number of combined public speakers, or on the number of public speakers for each item.
- Combining all public comment into a single public comment period toward the beginning of each meeting.

These options were rejected in favor of ~~the more "tried and true" approach currently used by the Berkeley Unified School District, as well as other jurisdictions and agencies across California.~~ an approach that solves the most fundamental issue with public comment procedure—the unpredictability of when individual action items will be taken up—while maximizing public participation by leaving other public comment periods unchanged.

**Contact Person**

Councilmember ~~Lori Droste (legislative aide Eric Panzer)~~ Rigel Robinson (510-981-7170)  
Sam Greenberg, Legislative Aide  
(samgreenberg@cityofberkeley.info) ~~erpanzer@cityofberkeley.info~~  
~~Phone: 510-981-7180~~

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

RE-ADOPTING THE CITY COUNCIL RULES OF PROCEDURE AND ORDER AND  
RESCINDING RESOLUTION NO. 70,091-N.S.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the revised sections of the City Council Rules of Procedure and Order attached hereto as Exhibit A shall replace wholesale the corresponding sections of the existing City Council Rules of Procedure and Order attached hereto as Exhibit B and incorporated by reference.

BE IT FURTHER RESOLVED that the revised City Council Rules of Procedure and Order (Exhibit B as amended by Exhibit A) shall govern all proceedings of the City Council therein described, subject to the exceptions and deviations provided for in such rules.

BE IT FURTHER RESOLVED that violation of these rules shall not be construed as a penal offense, except as provided for by the adopted Rules of Procedure and Order.

BE IT FURTHER RESOLVED that the Council shall review its Rules of Procedure and Order in March of each odd-numbered year per [April 26, 2016 City Council action](#).

BE IT FURTHER RESOLVED that Resolution No 70,091-N.S. is hereby rescinded.

Exhibits

Exhibit A: Sections of the City Council Rules of Procedure and Order to be revised

Exhibit B: Existing City Council Rules of Procedure and Order



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**Exhibit A: Sections of the City Council Rules of Procedure and Order to be Revised**

**IV. CONDUCT OF MEETING**

**A. Comments from the Public**

Public comment will be taken in the following order:

- An initial ten-minute-period of public comment on non-agenda items, ~~the consent calendar, action items (excluding public hearings, appeals, and/or other quasi-judicial matters), and information items~~, after the commencement of the meeting and immediately after Ceremonial Matters and City Manager Comments.
- Public comment on the Consent and Information Calendars.
- Public comment on the Action Calendar.
- Public comment on ~~action items, any appeals, and/or~~ public hearings, ~~and/or other quasi-judicial matters requiring extended public comment for due process purposes~~, as they are taken up under procedures set forth in the sections governing each below.
- Public comment on non-agenda items from any speakers who did not speak during the first round of non-agenda public comment at the beginning of the meeting.

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Speakers are permitted to yield their time to one other speaker, however no one speaker shall have more than four minutes. A speaker wishing to yield their time shall identify themselves, shall be recognized by the chair, and announce publicly their intention to yield their time. Disabled persons shall have priority seating in the front row of the public seating area.

A member of the public may only speak once during any single at public comment period on any single item, unless called upon by the Mayor or a Councilmember to answer a specific inquiry, or unless the individual is speaking with respect to a public hearing, a quasi-judicial matter, and/or any other item requiring unrestricted public comment as a matter of due process.

~~Prior to the general public comment period, the Presiding Officer shall announce any planned changes to the order of the agenda, including any items which are being moved to the Consent Calendar and/or any items that are being removed from the agenda at the prerogative of the Presiding Officer and/or the item's sponsor(s).~~

The Presiding Officer will request that persons wishing to speak, line up at the podium, raise their hands on Zoom, or otherwise indicate their intent to speak in order to be recognized and to determine the number of persons interested in speaking at that time.

If ten or fewer persons are interested in speaking virtually or in person, each speaker may speak for two minutes at the discretion of the Presiding Officer. If there are more than ten persons interested in speaking, the Presiding Officer shall limit the public comment for all speakers to one minute per speaker. Speakers are permitted to yield their time to one another, however no one speaker shall have more than four minutes.

~~A maximum of 50 individuals shall be permitted to speak or yield time during the general public comment period. This maximum shall apply whether speakers are virtual, in person, or a combination of the two. In the event that more than 50 individuals wish to speak at a fully virtual or fully in person Council meeting, speaking opportunities shall be given on a "first come, first served" basis.~~

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~~In the event that more than 50 individuals wish to speak at a "hybrid" Council meeting (with both a virtual and in-person component), 25 in-person speakers shall be allowed to speak first, followed by 25 virtual speakers. For both the virtual and in-person queues, speakers shall be recognized in the order they lined up or provided virtual notification of their intent to speak. If the queue for either type of speaker is exhausted while speakers of the other type remain, the remaining individuals in either queue will be allowed to speak, up to the overall 50-speaker maximum.~~

~~The maximum number of speakers/yielders may be increased up to 100 total individuals by a two-thirds (2/3) vote of the City Council. Increases above 100 total individuals speaking or yielding shall require a unanimous vote of the City Council. In no case shall these limits be applied to items which require unconstrained public comment to ensure due process.~~

These procedures/limits also apply to public hearings except for those which would be precluded by the types of due process public hearings specifically provided for in Section 2, below.

**1. Public Comment on Consent Calendar and Information Items.**

~~As described above, public comment on the "Consent Calendar" will be taken as part of the general public comment period at the start of the Council meeting following Ceremonial Matters and any comments from the City Manager.~~

~~Prior to this initial general public comment period,~~ the Council will first determine whether to move items on the agenda for "Action" or "Information" to the "Consent Calendar," and/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."

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The Council will then take public comment on any items that are either on the amended Consent Calendar or the Information Calendar. A speaker may only speak once during the period for public comment on Consent Calendar and Information items. ~~Following the initial period of general public comment, the three or more members of City Council may still move items from the "Consent Calendar" to "Action," but~~ no additional items can be moved onto the Consent Calendar once public comment has commenced.

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At any time during, or immediately after, ~~the initial period of general~~ public comment on Information and Consent items, the Mayor or any Councilmember may move any Information or Consent item to "Action." Three or more members of the City Council, including the Mayor, ~~may move any Consent Item to "Action."~~ Following this, the Council will vote on the items remaining on the Consent Calendar in one motion.

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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.

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**2. Public Comment on Action Items.**

After the initial ten minutes of public comment on non-agenda items, public comment on consent and information items, and adoption of the Consent Calendar, the public may comment on each remaining item listed on the agenda for action ~~as the item is taken up in a single public comment period at the beginning of the Action Calendar.~~

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The Presiding Officer will request that persons wishing to speak, line up at the podium to be recognized and to determine the number of persons interested in speaking at that time.

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If ten or fewer persons are interested in speaking, each speaker may speak for two minutes. If there are more than ten persons interested in speaking, the Presiding Officer may limit the public comment for all speakers to one minute per speaker. Speakers are permitted to yield their time to one other speaker, however no one speaker shall have more than four minutes.

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This procedure also applies to public hearings except those types of public hearings specifically provided for in this section, below.

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**32. Appeals Appearing on Action Calendar.**

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With the exception of appeals from decisions of the Zoning Adjustments Board and Landmarks Preservation Commission, appeals from decisions of City commissions appear on the "Action" section of the Council Agenda. Council determines whether to affirm the action of the commission, set a public hearing, or remand the matter to the commission. Appeals of proposed special assessment liens shall also appear on the "Action" section of the Council Agenda. Appeals from decisions of the Zoning Adjustments Board and Landmarks Preservation Commission are automatically set for public hearing and appear on the "Public Hearings" section of the Council Agenda. The procedures for public comment on appeals from these two bodies and attendant public hearings shall be the same as described below for all other commission appeals.

Time shall be provided for public comment for persons representing both sides of the action/appeal and each side will be allocated seven minutes to present their comments on the appeal. Where the appellant is not the applicant, the appellants of a single appeal collectively shall have seven minutes to comment and the applicant shall have seven minutes to comment. If there are multiple appeals filed, each appellant or group of appellants shall have seven minutes to comment. Where the appellant is the applicant, the applicant/appellant shall have seven minutes to comment and the persons supporting the action of the board or commission on appeal shall have seven minutes to comment. In the case of an appeal of a proposed special assessment lien, the appellant shall have seven minutes to comment.

After the conclusion of the seven-minute comment periods, members of the public may comment on the appeal. Comments from members of the public regarding appeals shall be limited to one minute per speaker. Any person that addressed the Council during one of the seven-minute periods may not speak again during the public comment period on the appeal. Speakers may yield their time to one other speaker, however, no speaker shall have more than two minutes. Each side shall be informed of this public comment procedure at the time the Clerk notifies the parties of the date the appeal will appear on the Council agenda.

**43. Public Comment on Non-Agenda Matters.**

Immediately following Ceremonial Matters and the City Manager Comments and prior to the Consent Calendar, persons will be selected by lottery to address matters not on the Council agenda. If five or fewer persons submit speaker cards for the lottery, each person selected will be allotted two minutes each. If more than five persons submit speaker cards for the lottery, up to ten persons will be selected to address matters not on the Council agenda and each person selected will be allotted one minute each. Persons wishing to address the

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Council on matters not on the Council agenda during the initial ten-minute period for such comment, must submit a speaker card to the City Clerk in person at the meeting location and prior to commencement of that meeting.

~~Individuals wishing to address the Council about non-agenda matters may do so during the initial period of general public comment, and will count toward the overall limit on the number of individuals making public comment.~~

The remainder of the speakers wishing to address the Council on non-agenda items will be heard at the end of the agenda. Speaker cards are not required for this second round of public comment on non-agenda matters.

Persons submitting speaker cards are not required to list their actual name, however they must list some identifying information or alternate name in order to be called to speak. For the second round of public comment on non-agenda matters, the Presiding Officer retains the authority to limit the number of speakers by subject. The Presiding Officer will generally request that persons wishing to speak, line up at the podium, raise their hand on zoom, or otherwise ~~to~~ be recognized to determine the number of persons interested in speaking at that time. Each speaker will be entitled to speak for two minutes each unless the Presiding Officer determines that one-minute is appropriate given the number of speakers.

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Pursuant to this document, no Council meeting shall continue past 11:00 p.m. unless a two-thirds majority of the Council votes to extend the meeting to discuss specified items. If any agenda item remains unfinished at 11:00 p.m. or the expiration of any extension after 11:00 p.m., it will be referred to the Agenda & Rules Committee for scheduling pursuant to Chapter II, Section F. In that event, the meeting shall be automatically extended for up to fifteen (15) minutes for public comment on non-agenda items.

54. Ralph M. Brown Act Pertaining to Public Comments.

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The Brown Act prohibits the Council from discussing or taking action on an issue raised during Public Comment, unless it is specifically listed on the agenda. However, the Council may refer a matter to the City Manager.

**APPENDIX C. TEMPORARY RULES FOR THE CONDUCT OF CITY COUNCIL MEETINGS THROUGH VIDEO CONFERENCE DURING THE COVID-19 EMERGENCY**

**Public Comment Speaking Time**

With the exception of prescribed times in the Rules of Procedure for public hearings, the amount of time for each speaker during public comment is limited to ~~two~~~~one~~ minutes maximum and that speakers can only address an agenda item once, however the Presiding Officer has the discretion to reduce speaker time if needed in order to allow the orderly conduct of the meeting, subject to the consent of a majority of the City Council. Speakers may yield their time for a maximum of four minutes per individual. If a speaker wishes to yield their time, they must indicate so when called on by the Presiding Officer and state who they are yielding their speaker time to. The Presiding Officer will keep a list with the names and amount of time yielded to individuals.

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In order to inform members of the public of their place in the speaker's queue, the Presiding Officer will call the names of 5 speakers at a time.

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Public Comment on Non-Agenda Matters ~~will~~ may be conducted in the order of hands raised on the Zoom platform or based upon a lottery or similar system, and will be limited to either the first 10 speakers during the initial round of Non-Agenda public comment, as well as all hands raised during the closing round of Non-Agenda public comment at the conclusion to the meeting, until such time that the meeting adjourns. If there are five or fewer speakers with hands raised for Public Comment on Non-Agenda Matters, each speaker will have two minutes to address the City Council. If there are more than five speakers with their hands raised then speaker time will be limited to one minute per person. The procedure for selection of Non-Agenda speakers prescribed in the Rules of Procedure by random draw is suspended for videoconference meetings where there is no physical meeting location.

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**Exhibit B:  
City Council Rules of Procedure and Order**





Lori Droste  
Councilmember, District 8

ACTION CALENDAR

March 14, 2023

*(Continued from February 28, 2023)*

**To:** Honorable Mayor Jesse Arreguin and Members of the City Council

**From:** Councilmember Lori Droste

**Subject:** Reforms to Public Comment Procedures at meetings of the Berkeley City Council

**Recommendation**

Adopt a Resolution revising the City Council Rules of Procedure and Order: Section IV. Conduct of the Meeting and Appendix C Temporary Rules for The Conduct of City Council Meetings Through Video Conference During The Covid-19 Emergency to:

1. Consolidate non-agenda public comment, public comment on the Consent Calendar, and public comment on Action Items into a single public comment period toward the start of the Council meeting (consistent with the Berkeley Unified School District's public comment procedure), and continue to provide for additional time for public comment at the end of meetings;
2. Adopt reasonable limits on the overall number of public speakers (consistent with rulings from the Second District Court of Appeal) with a mechanism for the City Council to extend public comment; and
3. Rescind Resolution No. 70,091– N.S

**POLICY COMMITTEE RECOMMENDATION**

On January 30, 2023, the Agenda and Rules Committee adopted the following action: M/S/C (Arreguin/Bartlett) to send the item to the City Council with a negative recommendation that no action be taken on the item. Vote: Ayes – Bartlett, Arreguin; Noes – None; Absent - Hahn.

**Current Situation and Its Effects**

City Council has occasionally tried to rebalance the City's approach to public comment at Council meetings to create a more welcoming atmosphere, conduct the people's business efficiently, and ensure elected officials have time to give items due consideration. Unfortunately, members of the public, applicants/appellants, and staff frequently have to wait for hours before an item is heard or unexpectedly moved to another meeting. This is due to the way public comment was established prior to the tenure of any of the current Councilmembers or the Mayor. This prevents many ordinary people, particularly those who have small children or work long hours, from having a reasonable opportunity to provide public comment and hear the Council deliberate. It also deprives the Council of the time needed for adequate consideration of items, especially major policy efforts, and frequently pushes important items to future meetings.

**Background and Rationale**

Pursuant to the Brown Act, Section 54954.3, members of the public shall be afforded the opportunity to speak on any agenda item of a substantive nature providing they are first

recognized by the presiding officer. City Council greatly values input and comment from a broad cross-section of the public on legislative matters. The City of Berkeley and Councilmembers appreciate and admire the dedication of the many mainstays at public comment. Nevertheless, other community members often feel overwhelmed and intimidated by the prospect of enduring hours-long City Council meetings, not just to provide public comment but to even hear the Council's discussions. Having to wait through hours of public comment (much of which is often duplicative) before one gets to participate and/or hear the position of one's elected representatives is neither fair, equitable, nor good for democracy.

Public comment and Council procedures have undergone iterations before. Most recently, Mayor Arreguín offered a very successful and equitable amendment to require three councilmembers to agree to pull an item from the consent calendar to the action calendar, instead of one councilmember or four public speakers. This change dramatically helped meetings run smoother and ensured that uncontroversial and broad-consensus consent calendar items were not subject to attempts at obstructionism or unduly long debates which extended meeting times.

Even with that positive change, the current approach to public comment ironically does not likely widen opportunities for civic engagement; but instead serves to preclude a more representative sample of participants—as political scientists from Boston University have [found](#). Currently, many residents must wait for extended periods of time in order to provide public comment on specific legislation, since no specific times are available for when a piece of legislation will be heard. This means that people who may care deeply about a particular issue are discouraged from participating in favor of those who have a general interest in speaking and the time to sit through the entirety of a meeting. Although their commitment and interest are commendable, such individuals are not necessarily representative of the broader public.

[The Brown Act](#) actually provides leeway for the City to consider other approaches to public comment. Under the Brown Act, the City must allow the public to comment on any agenda item; and there are certain items that require ensuring public comment from all interested parties (e.g., quasi-judicial proceedings and public hearings where due process demands allowing comment from all participants). But for most items, the Brown Act permits agencies to limit the amount of time for public comment on any given item, provided that such limits are content-neutral. For example, for most Council items, the City Council would be permitted under the Brown Act to impose a 10-minute limit on public comment, comprising ten speakers with one minute each, with the speakers determined on a lottery or first-come, first-served basis. Alternatively, the City Council could also adopt a content-neutral limitation on the number of speakers for a general public comment period at the start of each meeting which covers all agenda and non-agenda comments—as proposed in this item.

In its decision in the 2018 *Ribakoff v. City of Long Beach, et al.* decision, the Second District Court of Appeal ruled in part:

*“On the other hand, having no limit on either the length of any particular presentation by a member of the public **or on the number of public speakers (or on the total time for public comment)** has the potential for endless discussion—given the potential that there will be a far greater number of members of the public who may wish to speak to an issue than there are staff and guests who make presentations concerning it. The number of staff and invited guests speaking on a topic will clearly be limited; **the potential for public speakers is potentially extensive and needs some reasonable limitation.**”*

*We do not suggest that members of the public may not have expertise, or that their presentations would be of lesser value than those of the invited, expert staff and guest speakers, **only that their number must be considered in weighing the time allotted to public participation.** Indeed, this concern was a factor in shaping the text of Government Code section 54954.3 as it moved through the Legislature with amendments to the Brown Act adopted in 1986. On the one hand, the Legislature declared the importance of open governance and the public's right to participate. On the other, it **validated enactment of limits on public speakers so that the business of government could function.** (Gov. Code, § 54954.3.)<sup>23</sup>[emphasis added]"*

Members of the public would still have ample additional means of addressing their concerns to councilmembers, including in-person meetings and office hours, written correspondence, emails, telephone calls, and social media/online platforms. Although it is beyond the scope of this item, the City may also wish to explore expanding and enhancing Berkeley Considers to provide a new platform for community members to provide comments on upcoming Council items. Berkeley could potentially pioneer having a "one-stop shop" for members of the public to provide feedback on upcoming Council items and have that feedback delivered to Council in a formalized and easily visualized format.

### **Best Practices**

#### *Berkeley Unified School District*

The Berkeley Unified School District has adopted [a practice](#) that is likely more conducive to allowing a broader participation of residents in the civic process. There are two opportunities for public comment, one at the beginning and one at the end of the meeting. By allowing public comment at the beginning of the meeting, individuals do not have to wait for hours for an item with an unknown start time. And In other cities, the presiding officer can limit individual presentations, the amount of time allotted for public input, and/or limit the number of speakers with similar positions. This item proposes to use the approach used by BUSD.

### **Fiscal Impacts**

De minimis costs for staff to revise local and public-facing digital copies of the City Council's Rules of Procedure and time and materials costs for any printing of physical copies.

Long-term fiscal impacts are speculative, but reduced Council and staff time for the receipt and management of in-person and virtual public comment have a strong potential to reduce City costs. The cost reductions would be highly variable depending on the number and nature of staff present at any given City Council meeting.

### **Alternative Actions Considered**

Alternative Actions include but are not limited to:

- Leaving existing public comment policies and procedures unchanged.
- Adopting a limit on the number of public speakers for each item.

These options were rejected in favor of the more "tried and true" approach currently used by the Berkeley Unified School District, as well as other jurisdictions and agencies across California.

### **Contact Person**

Councilmember Lori Droste (legislative aide Eric Panzer)

[erpanzer@cityofberkeley.info](mailto:erpanzer@cityofberkeley.info)

Phone: 510-981-7180

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

RE-ADOPTING THE CITY COUNCIL RULES OF PROCEDURE AND ORDER AND  
RESCINDING RESOLUTION NO. 70,091–N.S.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the revised sections of the City Council Rules of Procedure and Order attached hereto as Exhibit A shall replace wholesale the corresponding sections of the existing City Council Rules of Procedure and Order attached hereto as Exhibit B and incorporated by reference.

BE IT FURTHER RESOLVED that the revised City Council Rules of Procedure and Order (Exhibit B as amended by Exhibit A) shall govern all proceedings of the City Council therein described, subject to the exceptions and deviations provided for in such rules.

BE IT FURTHER RESOLVED that violation of these rules shall not be construed as a penal offense, except as provided for by the adopted Rules of Procedure and Order.

BE IT FURTHER RESOLVED that the Council shall review its Rules of Procedure and Order in March of each odd-numbered year per [April 26, 2016 City Council action](#).

BE IT FURTHER RESOLVED that Resolution No 70,091–N.S. is hereby rescinded.

Exhibits

Exhibit A: Sections of the City Council Rules of Procedure and Order to be revised

Exhibit B: Existing City Council Rules of Procedure and Order

## Exhibit A: Sections of the City Council Rules of Procedure and Order to be Revised

### IV. CONDUCT OF MEETING

#### A. Comments from the Public

Public comment will be taken in the following order:

- An initial ~~ten-minute~~ period of public comment on non-agenda items, the consent calendar, action items (excluding public hearings, appeals, and/or other quasi-judicial matters), and information items, after the commencement of the meeting and immediately after Ceremonial Matters and City Manager Comments.
- ~~Public comment on the Consent and Information Calendars.~~
- Public comment on action items, any appeals, and/or public hearings, and/or other quasi-judicial matters requiring extended public comment for due process purposes, as they are taken up under procedures set forth in the sections governing each below.
- Public comment on non-agenda items from any speakers who did not speak during the first round of ~~non-agenda~~ public comment at the beginning of the meeting.

Speakers are permitted to yield their time to one other speaker, however no one speaker shall have more than four minutes. A speaker wishing to yield their time shall identify themselves, shall be recognized by the chair, and announce publicly their intention to yield their time. Disabled persons shall have priority seating in the front row of the public seating area.

A member of the public may only speak once at public comment ~~on any single item~~, unless called upon by the Mayor or a Councilmember to answer a specific inquiry, or unless the individual is speaking with respect to a public hearing, a quasi-judicial matter, and/or any other item requiring unrestricted public comment as a matter of due process.

Prior to the general public comment period, the Presiding Officer shall announce any planned changes to the order of the agenda, including any items which are being moved to the Consent Calendar and/or any items that are being removed from the agenda at the prerogative of the Presiding Officer and/or the item's sponsor(s).

The Presiding Officer will request that persons wishing to speak, line up at the podium, raise their hands on Zoom, or otherwise indicate their intent to speak in order to be recognized and to determine the number of persons interested in speaking at that time.

If ten or fewer persons are interested in speaking virtually or in person, each speaker may speak for two minutes at the discretion of the Presiding Officer. If there are more than ten persons interested in speaking, the Presiding Officer shall limit the public comment for all speakers to one minute per speaker. Speakers are permitted to yield their time to one another, however no one speaker shall have more than four minutes.

A maximum of 50 individuals shall be permitted to speak or yield time during the general public comment period. This maximum shall apply whether speakers are virtual, in person, or a combination of the two. In the event that more than 50 individuals wish to speak at a fully virtual or fully in-person Council meeting, speaking opportunities shall be given on a "first come, first served" basis.

In the event that more than 50 individuals wish to speak at a "hybrid" Council meeting (with both a virtual and in-person component), 25 in-person speakers shall be allowed to speak first.

followed by 25 virtual speakers. For both the virtual and in-person queues, speakers shall be recognized in the order they lined up or provided virtual notification of their intent to speak. If the queue for either type of speaker is exhausted while speakers of the other type remain, the remaining individuals in either queue will be allowed to speak, up to the overall 50-speaker maximum.

The maximum number of speakers/yielders may be increased up to 100 total individuals by a two-thirds (2/3) vote of the City Council. Increases above 100 total individuals speaking or yielding shall require a unanimous vote of the City Council. In no case shall these limits be applied to items which require unconstrained public comment to ensure due process.

These procedures/limits also apply to public hearings except for those which would be precluded by the types of due process public hearings specifically provided for in Section 2, below.

### **1. Public Comment on Consent Calendar and Information Items.**

As described above, public comment on the "Consent Calendar" will be taken as part of the general public comment period at the start of the Council meeting following Ceremonial Matters and any comments from the City Manager.

Prior to this initial general public comment period, the Council will first determine whether to move items on the agenda for "Action" or "Information" to the "Consent Calendar," and/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."

The Council will then take public comment on any items that are either on the amended Consent Calendar or the Information Calendar. A speaker may only speak once during the period for public comment on Consent Calendar and Information items. Following the initial period of general public comment, the three or more members of City Council may still move items from the "Consent Calendar" to "Action," but no additional items can be moved onto the Consent Calendar once public comment has commenced.

At any time during, or immediately after, the initial period of general public comment on Information and Consent items, the Mayor or any Councilmember may move any Information or Consent item to "Action." Three or more members of the City Council, including the Mayor, may move any 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.

### **2. Public Comment on Action Items.**

After the initial ten minutes of public comment on non-agenda items, public comment on consent and information items, and adoption of the Consent Calendar, the public may comment on each remaining item listed on the agenda for action as the item is taken up.

The Presiding Officer will request that persons wishing to speak, line up at the podium to be recognized and to determine the number of persons interested in speaking at that time.



~~If ten or fewer persons are interested in speaking, each speaker may speak for two minutes. If there are more than ten persons interested in speaking, the Presiding Officer may limit the public comment for all speakers to one minute per speaker. Speakers are permitted to yield their time to one other speaker, however no one speaker shall have more than four minutes.~~

~~This procedure also applies to public hearings except those types of public hearings specifically provided for in this section, below.~~

**32. Appeals Appearing on Action Calendar.**

With the exception of appeals from decisions of the Zoning Adjustments Board and Landmarks Preservation Commission, appeals from decisions of City commissions appear on the "Action" section of the Council Agenda. Council determines whether to affirm the action of the commission, set a public hearing, or remand the matter to the commission. Appeals of proposed special assessment liens shall also appear on the "Action" section of the Council Agenda. Appeals from decisions of the Zoning Adjustments Board and Landmarks Preservation Commission are automatically set for public hearing and appear on the "Public Hearings" section of the Council Agenda. The procedures for public comment on appeals from these two bodies and attendant public hearings shall be the same as described below for all other commission appeals.

Time shall be provided for public comment for persons representing both sides of the action/appeal and each side will be allocated seven minutes to present their comments on the appeal. Where the appellant is not the applicant, the appellants of a single appeal collectively shall have seven minutes to comment and the applicant shall have seven minutes to comment. If there are multiple appeals filed, each appellant or group of appellants shall have seven minutes to comment. Where the appellant is the applicant, the applicant/appellant shall have seven minutes to comment and the persons supporting the action of the board or commission on appeal shall have seven minutes to comment. In the case of an appeal of a proposed special assessment lien, the appellant shall have seven minutes to comment.

After the conclusion of the seven-minute comment periods, members of the public may comment on the appeal. Comments from members of the public regarding appeals shall be limited to one minute per speaker. Any person that addressed the Council during one of the seven-minute periods may not speak again during the public comment period on the appeal. Speakers may yield their time to one other speaker, however, no speaker shall have more than two minutes. Each side shall be informed of this public comment procedure at the time the Clerk notifies the parties of the date the appeal will appear on the Council agenda.

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~~Immediately following Ceremonial Matters and the City Manager Comments and prior to the Consent Calendar, persons will be selected by lottery to address matters not on the Council agenda. If five or fewer persons submit speaker cards for the lottery, each person selected will be allotted two minutes each. If more than five persons submit speaker cards for the lottery, up to ten persons will be selected to address matters not on the Council agenda and each person selected will be allotted one minute each. Persons wishing to address the Council on matters not on the Council agenda during the initial ten-minute period for such comment, must submit a speaker card to the City Clerk in person at the meeting location and prior to commencement of that meeting.~~

Individuals wishing to address the Council about non-agenda matters may do so during the initial period of general public comment, and will count toward the overall limit on the number of individuals making public comment.

The remainder of the speakers wishing to address the Council on non-agenda items will be heard at the end of the agenda. Speaker cards are not required for this second round of public comment on non-agenda matters.

~~Persons submitting speaker cards are not required to list their actual name, however they must list some identifying information or alternate name in order to be called to speak.~~ For the second round of public comment on non-agenda matters, the Presiding Officer retains the authority to limit the number of speakers by subject. The Presiding Officer will generally request that persons wishing to speak, line up at the podium, raise their hand on zoom, or otherwise to be recognized to determine the number of persons interested in speaking at that time. Each speaker will be entitled to speak for two minutes each unless the Presiding Officer determines that one-minute is appropriate given the number of speakers.

Pursuant to this document, no Council meeting shall continue past 11:00 p.m. unless a two-thirds majority of the Council votes to extend the meeting to discuss specified items. If any agenda item remains unfinished at 11:00 p.m. or the expiration of any extension after 11:00 p.m., it will be referred to the Agenda & Rules Committee for scheduling pursuant to Chapter II, Section F. In that event, the meeting shall be automatically extended for up to fifteen (15) minutes for public comment on non-agenda items.

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### **APPENDIX C. TEMPORARY RULES FOR THE CONDUCT OF CITY COUNCIL MEETINGS THROUGH VIDEO CONFERENCE DURING THE COVID-19 EMERGENCY**

#### **Public Comment Speaking Time**

With the exception of prescribed times in the Rules of Procedure for public hearings, the amount of time for each speaker during public comment is limited to two one minutes maximum and ~~that speakers can only address an agenda item once, however the Presiding Officer has the discretion to reduce speaker time if needed in order to allow the orderly conduct of the meeting, subject to the consent of a majority of the City Council.~~ Speakers may yield their time for a maximum of four minutes per individual. If a speaker wishes to yield their time, they must indicate so when called on by the Presiding Officer and state who they are yielding their speaker time to. The Presiding Officer will keep a list with the names and amount of time yielded to individuals.

In order to inform members of the public of their place in the speaker's queue, the Presiding Officer will call the names of 5 speakers at a time.

Public Comment on Non-Agenda Matters ~~will~~ may be conducted in the order of hands raised on the Zoom platform or based upon a lottery or similar system, ~~and will be limited to either the first~~

~~10 speakers during the initial round of Non-Agenda public comment, as well as all hands raised during the closing round of Non-Agenda public comment at the conclusion to the meeting, until such time that the meeting adjourns. If there are five or fewer speakers with hands raised for Public Comment on Non-Agenda Matters, each speaker will have two minutes to address the City Council. If there are more than five speakers with their hands raised then speaker time will be limited to one minute per person. The procedure for selection of Non-Agenda speakers prescribed in the Rules of Procedure by random draw is suspended for videoconference meetings where there is no physical meeting location.~~

**Exhibit B:  
City Council Rules of Procedure and Order**

# The Berkeley City Council Rules of Procedure and Order

Adopted by Resolution No. 70,091–N.S.

Effective October 26, 2021

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## I. DUTIES

### A. Duties of Mayor

The Mayor shall preside at the meetings of the Council and shall preserve strict order and decorum at all regular and special meetings of the Council. The Mayor shall state every question coming before the Council, announce the decision of the Council on all subjects, and decide all questions of order, subject, however, to an appeal to the Council, in which event a majority vote of the Council shall govern and conclusively determine such question of order. In the Mayor's absence, the Vice President of the Council (hereafter referred to as the Vice-Mayor) shall preside.

### B. Duties of Councilmembers

Promptly at the hour set by law on the date of each regular meeting, the members of the Council shall take their regular stations in the Council Chambers and the business of the Council shall be taken up for consideration and disposition.

### C. Motions to be Stated by Chair

When a motion is made, it may be stated by the Chair or the City Clerk before debate.

### D. Decorum by Councilmembers

While the Council is in session, the City Council will practice civility and decorum in their discussions and debate. Councilmembers will value each other's time and will preserve order and decorum. A member shall neither, by conversation or otherwise, delay or interrupt the proceedings of the Council, use personal, impertinent or slanderous remarks, nor disturb any other member while that member is speaking or refuse to obey the orders of the presiding officer or the Council, except as otherwise provided herein.

All Councilmembers have the opportunity to speak and agree to disagree but no Councilmember shall speak twice on any given subject unless all other Councilmembers have been given the opportunity to speak. The Presiding Officer may set a limit on the speaking time allotted to Councilmembers during Council discussion.

The presiding officer has the affirmative duty to maintain order. The City Council will honor the role of the presiding officer in maintaining order. If a Councilmember believes the presiding officer is not maintaining order, the Councilmember may move that the Vice-Mayor, or another Councilmember if the Vice-Mayor is acting as the presiding officer at the time, enforce the rules of decorum and otherwise maintain order. If that motion receives a second and is approved by a majority of the Council, the Vice-Mayor, or other designated Councilmember, shall enforce the rules of decorum and maintain order.

### E. Voting Disqualification

No member of the Council who is disqualified shall vote upon the matter on which the member is disqualified. Any member shall openly state or have the presiding officer announce the fact and nature of such disqualification in open meeting, and shall not be subject to further inquiry. Where no clearly disqualifying conflict of interest appears, the matter of disqualification may, at the request of the member affected, be

decided by the other members of the Council, by motion, and such decision shall determine such member's right and obligation to vote. A member who is disqualified by conflict of interest in any matter shall not remain in the Chamber during the debate and vote on such matter, but shall request and be given the presiding officer's permission to recuse themselves. Any member having a "remote interest" in any matter as provided in Government Code shall divulge the same before voting.

**F. Requests for Technical Assistance and/or Reports**

A majority vote of the Council shall be required to direct staff to provide technical assistance, develop a report, initiate staff research, or respond to requests for information or service generated by an individual council member.

## II. MEETINGS

### A. Call to Order - Presiding Officer

The Mayor, or in the Mayor's absence, the Vice Mayor, shall take the chair precisely at the hour appointed by the meeting and shall immediately call the Council to order. Upon the arrival of the Mayor, the Vice Mayor shall immediately relinquish the chair. In the absence of the two officers specified in this section, the Councilmember present with the longest period of Council service shall preside.

### B. Roll Call

Before the Council shall proceed with the business of the Council, the City Clerk shall call the roll of the members and the names of those present shall be entered in the minutes. The later arrival of any absentee shall also be entered in the minutes.

### C. Quorum Call

During the course of the meeting, should the Chair note a Council quorum is lacking, the Chair shall call this fact to the attention of the City Clerk. The City Clerk shall issue a quorum call. If a quorum has not been restored within two minutes of a quorum call, the meeting shall be deemed automatically adjourned.

### D. Council Meeting Conduct of Business

The agenda for the regular business meetings shall include the following: Ceremonial Items (including comments from the City Auditor if requested); Comments from the City Manager; Comments from the Public; Consent Calendar; Action Calendar (Appeals, Public Hearings, Continued Business, Old Business, New Business); Information Reports; and Communication from the Public. Presentations and workshops may be included as part of the Action Calendar. The Chair will determine the order in which the item(s) will be heard with the consent of Council.

Upon request by the Mayor or any Councilmember, any item may be moved from the Consent Calendar or Information Calendar to the Action Calendar. Unless there is an objection by the Mayor or any Councilmember, the Council may also move an item from the Action Calendar to the Consent Calendar.

A public hearing that is not expected to be lengthy may be placed on the agenda for a regular business meeting. When a public hearing is expected to be contentious and lengthy and/or the Council's regular meeting schedule is heavily booked, the Agenda & Rules Committee, in conjunction with the staff, will schedule a special meeting exclusively for the public hearing. No other matters shall be placed on the agenda for the special meeting. All public comment will be considered as part of the public hearing and no separate time will be set aside for public comment not related to the public hearing at this meeting.

Except at meetings at which the budget is to be adopted, no public hearing may commence later than 10:00 p.m. unless there is a legal necessity to hold the hearing or make a decision at that meeting or the City Council determines by a two-thirds vote that there is a fiscal necessity to hold the hearing.

**E. Adjournment**

1. No Council meeting shall continue past 11:00 p.m. unless a two-thirds majority of the Council votes to extend the meeting to discuss specified items; and any motion to extend the meeting beyond 11:00 p.m. shall include a list of specific agenda items to be covered and shall specify in which order these items shall be handled.
2. Any items not completed at a regularly scheduled Council meeting may be continued to an Adjourned Regular Meeting by a two-thirds majority vote of the Council.

**F. Unfinished Business**

Any items not completed by formal action of the Council, and any items not postponed to a date certain, shall be considered Unfinished Business. All Unfinished Business shall be referred to the Agenda & Rules Committee for scheduling for a Council meeting that occurs within 60 days from the date the item last appeared on a Council agenda. The 60 day period is tolled during a Council recess.

**G. City Council Schedule and Recess Periods**

Pursuant to the Open Government Ordinance, the City Council shall hold a minimum of twenty-four (24) meetings, or the amount needed to conduct City business in a timely manner, whichever is greater, each calendar year.

Regular meetings of the City Council shall be held generally two to three Tuesdays of each month except during recess periods; the schedule to be established annually by Council resolution taking into consideration holidays and election dates.

Regular City Council meetings shall begin no later than 6:00 p.m.

A recess period is defined as a period of time longer than 21 days without a regular meeting of the Council.

When a recess period occurs, the City Manager is authorized to take such ministerial actions for matters of operational urgency as would normally be taken by the City Council during the period of recess except for those duties specifically reserved to the Council by the Charter, and including such emergency actions as are necessary for the immediate preservation of the public peace, health or safety; the authority to extend throughout the period of time established by the City Council for the period of recess.

The City Manager shall have the aforementioned authority beginning the day after the Agenda & Rules Committee meeting for the last regular meeting before a Council recess and this authority shall extend up to the date of the Agenda & Rules Committee meeting for the first regular meeting after the Council recess.

The City Manager shall make a full and complete report to the City Council at its first regularly scheduled meeting following the period of recess of actions taken by the City Manager pursuant to this section, at which time the City Council may make such findings as may be required and confirm said actions of the City Manager.

**H. Pledge of Allegiance to the Flag**

At the first meeting of each year following the August recess and at any subsequent meeting if specifically requested before the meeting by any member of the Council in order to commemorate an occasion of national significance, the first item on the Ceremonial Calendar will be the Pledge of Allegiance.

**I. Ad Hoc Subcommittees**

From time to time the Council or the Mayor may appoint several of its members but fewer than the existing quorum of the present body to serve as an ad hoc subcommittee. Only Councilmembers may be members of the ad hoc subcommittee; however, the subcommittee shall seek input and advice from residents, related commissions, and other groups, as appropriate to the charge or responsibilities of such subcommittee. Ad hoc subcommittees must be reviewed annually by the Council to determine if the subcommittee is to continue.

Upon creation of an ad hoc subcommittee, the Council shall allow it to operate with the following parameters:

1. A specific charge or outline of responsibilities shall be established by the Council.
2. A target date must be established for a report back to the Council.
3. Maximum life of the subcommittee shall be one year, with annual review and possible extension by the Council.

Subcommittees shall conduct their meetings in locations that are open to the public and meet accessibility requirements under the Americans with Disabilities Act. Meetings may be held at privately owned facilities provided that the location is open to all that wish to attend and that there is no requirement for purchase to attend. Agendas for subcommittee meetings must be posted in the same manner as the agendas for regular Council meetings except that subcommittee agendas may be posted with 24-hour notice. The public will be permitted to comment on agenda items but public comments may be limited to one minute if deemed necessary by the Committee Chair. Agendas and minutes of the meetings must be maintained and made available upon request.

Ad hoc subcommittees will be staffed by City Council legislative staff. As part of the ad hoc subcommittee process, City staff will undertake a high-level, preliminary analysis of potential legal issues, costs, timelines, and staffing demands associated with the item(s) under consideration. Staff analysis at ad hoc subcommittees is limited to the points above as the recommendation, program, or project has not yet been approved to proceed by the full Council.

Subcommittees must be comprised of at least two members. If only two members are appointed, then both must be present in order for the subcommittee meeting to be held. In other words, the quorum for a two-member subcommittee is always two.

Ad hoc subcommittees may convene a closed session meeting pursuant to the conditions and regulations imposed by the Brown Act.



### III. AGENDA

#### A. Declaration of Policy

No ordinance, resolution, or item of business shall be introduced, discussed or acted upon before the Council at its meeting without prior thereto its having been published on the agenda of the meeting and posted in accordance with Section III.D.2. Exceptions to this rule are limited to circumstances listed in Section III.D.4.b and items continued from a previous meeting and published on a revised agenda.

#### B. Definitions

For purposes of this section, the terms listed herein shall be defined as follows:

1. "Agenda Item" means an item placed on the agenda (on either the Consent Calendar or as a Report For Action) for a vote of the Council by the Mayor or any Councilmember, the City Manager, the Auditor, or any board/commission/committee created by the City Council, or any Report For Information which may be acted upon if the Mayor or a Councilmember so requests. For purposes of this section, appeals shall be considered action items. All information from the City Manager concerning any item to be acted upon by the Council shall be submitted as a report on the agenda and not as an off-agenda memorandum and shall be available for public review, except to the extent such report is privileged and thus confidential such as an attorney client communication concerning a litigation matter. Council agenda items are limited to a maximum of four Authors and Co-Sponsors, in any combination that includes at least one Author.

Authors must be listed in the original item as submitted by the Primary Author. Co-Sponsors may only be added in the following manner:

- In the original item as submitted by the Primary Author
  - In a revised item submitted by the Primary Author at the Agenda & Rules Committee
  - By verbal request of the Primary Author at the Agenda & Rules Committee
  - In a revised item submitted by the Primary Author in Supplemental Reports and Communications Packet #1 or #2
  - By verbal or written request of the Mayor or any Councilmember at the Policy Committee meeting or meeting of the full Council at which the item is considered
2. Agenda items shall contain all relevant documentation, including the information listed below:
    - a) A descriptive title that adequately informs the public of the subject matter and general nature of the item or report;
    - b) Whether the matter is to be presented on the Consent Calendar or the Action Calendar or as a Report for Information;

- c) Recommendation of the report's Primary Author that describes the action to be taken on the item, if applicable;
  - d) Fiscal impacts of the recommendation;
  - e) A description of the current situation and its effects;
  - f) Background information as needed;
  - g) Rationale for recommendation;
  - h) Alternative actions considered;
  - i) For awards of contracts; the abstract of bids and the Affirmative Action Program of the low bidder in those cases where such is required (these provisions shall not apply to Mayor and Council items);
  - j) Person or persons to contact for further information, with telephone number;
  - k) Additional information and analysis as required. It is recommended that reports include the points of analysis in Appendix B - Guidelines for Developing and Writing Council Agenda Items.
3. "Author" means the Mayor or other Councilmembers who actually authored an item by contributing to the ideas, research, writing or other material elements.
4. "Primary Author" means the Mayor or Councilmember listed first on the item. The Primary Author is the sole contact for the City Manager with respect to the item. Communication with other Authors and Co-Sponsors, if any, is the responsibility of the Primary Author.
5. "Co-Sponsor" means the Mayor or other Councilmembers who wish to indicate their strong support for the item, but are not Authors, and are designated by the Primary Author to be co-sponsors of the council agenda item.
6. "Agenda" means the compilation of the descriptive titles of agenda items submitted to the City Clerk, arranged in the sequence established in Section III.E hereof.
7. "Packet" means the agenda plus all its corresponding agenda items.
8. "Emergency Matter" arises when prompt action is necessary due to the disruption or threatened disruption of public facilities and a majority of the Council determines that:
- a) A work stoppage or other activity which severely impairs public health, safety, or both;
  - b) A crippling disaster, which severely impairs public health, safety or both. Notice of the Council's proposed consideration of any such emergency

matter shall be given in the manner required by law for such an emergency pursuant to Government Code Section 54956.5.

9. "Continued Business" Items carried over from a prior agenda of a meeting occurring less than 11 days earlier.
10. "Old Business" Items carried over from a prior agenda of a meeting occurring more than 11 days earlier.

**C. Procedure for Bringing Matters Before City Council**

**1. Persons Who Can Place Matters on the Agenda.**

Matters may be placed on the agenda by the Mayor or any Councilmember, the City Manager, the Auditor, or any board/commission/committee created by the City Council. All items are subject to review, referral, and scheduling by the Agenda & Rules Committee pursuant to the rules and limitations contained herein. The Agenda & Rules Committee shall be a standing committee of the City Council.

The Agenda & Rules Committee shall meet 15 days prior to each City Council meeting and shall approve the agenda of that City Council meeting. Pursuant to BMC Section 1.04.080, if the 15<sup>th</sup> day prior to the Council meeting falls on a holiday, the Committee will meet the next business day. The Agenda & Rules Committee packet, including a draft agenda and Councilmember, Auditor, and Commission reports shall be distributed by 5:00 p.m. four days before the Agenda & Rules Committee meeting.

The Agenda & Rules Committee shall have the powers set forth below.

**a) Items Authored by the Mayor, a Councilmember, or the Auditor.**

As to items authored by the Mayor, a Councilmember, or the Auditor, the Agenda & Rules Committee shall review the item and may take the following actions:

- i. Refer the item to a commission for further analysis (Primary Author may decline and request Policy Committee assignment).
- ii. Refer the item to the City Manager for further analysis (Primary Author may decline and request Policy Committee assignment).
- iii. Refer the item back to the Primary Author for adherence to required form or for additional analysis as required in Section III.B.2 (Primary Author may decline and request Policy Committee assignment).
- iv. Refer the item to a Policy Committee.
- v. Schedule the item for the agenda under consideration or one of the next three full Council agendas.

For referrals under Chapter III.C.1.a.i, ii, or iii, the Primary Author must inform the City Clerk within 24 hours of the adjournment of the Agenda & Rules Committee meeting whether they prefer to:

- 1) re-submit the item for a future meeting with modifications as suggested by the Agenda & Rules Committee; or
- 2) pull the item completely; or
- 3) re-submit the item with revisions as requested by the Agenda & Rules Committee within 24 hours of the adjournment of the Agenda & Rules Committee meeting for the Council agenda under consideration; or
- 4) accept the referral of the Agenda & Rules Committee in sub paragraphs III.C.1.a. i, ii, or iii, or request Policy Committee assignment.

If the Primary Author requests a Policy Committee assignment, the item will appear on the next draft agenda presented to the Agenda & Rules Committee for assignment.

In the event that the City Clerk does not receive guidance from the Primary Author of the referred item within 24 hours of the Agenda & Rules Committee's adjournment, the item will appear on the next draft agenda for consideration by the Agenda & Rules Committee.

Items held for a future meeting to allow for modifications will be placed on the next available Council meeting agenda at the time that the revised version is submitted to the City Clerk.

- b) **Items Authored by the City Manager.** The Agenda & Rules Committee shall review agenda descriptions of items authored by the City Manager. The Committee can recommend that the matter be referred to a commission or back to the City Manager for adherence to required form, additional analysis as required in Section III.B.2, or suggest other appropriate action including scheduling the matter for a later meeting to allow for appropriate revisions.

If the City Manager determines that the matter should proceed notwithstanding the Agenda & Rules Committee's action, it will be placed on the agenda as directed by the Manager. All City Manager items placed on the Council agenda against the recommendation of the Agenda & Rules Committee will automatically be placed on the Action Calendar.

- c) **Items Authored by Boards and Commissions.** Council items submitted by boards and commissions are subject to City Manager review and must follow procedures and timelines for submittal of reports as described in the Commissioners' Manual. The content of commission items is not subject to review by the Agenda & Rules Committee unless referred for policy review to the Agenda & Rules Committee.
  - i) For a commission item that does not require a companion report from the City Manager, the Agenda & Rules Committee may act on an agendaized commission report in the following manner:
    1. Move a commission report from the Consent Calendar to the Action Calendar or from the Action Calendar to the Consent Calendar.
    2. Re-schedule the commission report to appear on one of the next three regular Council meeting agendas that occur after the regular meeting under consideration. Commission reports submitted in response to a Council referral shall receive higher priority for scheduling.
    3. Refer the item to a Policy Committee for review.
    4. Allow the item to proceed as submitted.
  - ii) For any commission report that requires a companion report, the Agenda & Rules Committee may schedule the item on a Council agenda. The Committee must schedule the commission item for a meeting occurring not sooner than 60 days and not later than 120 days from the date of the meeting under consideration by the Agenda & Rules Committee. A commission report submitted with a complete companion report may be scheduled pursuant to subparagraph c.i. above.
- d) The Agenda & Rules Committee shall have the authority to re-order the items on the Action Calendar regardless of the default sequence prescribed in Chapter III, Section E.

**2. Scheduling Public Hearings Mandated by State, Federal, or Local Statute.**

The City Clerk may schedule a public hearing at an available time and date in those cases where State, Federal or local statute mandates the City Council hold a public hearing.

**3. Submission of Agenda Items.**

- a) **City Manager Items.** Except for Continued Business and Old Business, as a condition to placing an item on the agenda, agenda items from departments, including agenda items from commissions, shall be furnished to the City Clerk at a time established by the City Manager.

- b) **Council and Auditor Items.** The deadline for reports submitted by the Auditor, Mayor and City Council is 5:00 p.m. on Monday, 22 days before each Council meeting.
- c) **Time Critical Items.** A Time Critical item is defined as a matter that is considered urgent by the sponsor and that has a deadline for action that is prior to the next meeting of the Council and for which a report prepared by the City Manager, Auditor, Mayor or Councilmember is received by the City Clerk after established deadlines and is not included on the Agenda & Rules Committee's published agenda.

The Primary Author of the report shall bring any reports submitted as Time Critical to the meeting of the Agenda & Rules Committee. Time Critical items must be accompanied by complete reports and statements of financial implications. If the Agenda & Rules Committee finds the matter to meet the definition of Time Critical, the Agenda & Rules Committee may place the matter on the Agenda on either the Consent or Action Calendar.

- d) The City Clerk may not accept any agenda item after the adjournment of the Agenda & Rules Committee meeting, except for items carried over by the City Council from a prior City Council meeting occurring less than 11 days earlier, which may include supplemental or revised reports, and reports concerning actions taken by boards and commissions that are required by law or ordinance to be presented to the Council within a deadline that does not permit compliance with the agenda timelines in BMC Chapter 2.06 or these rules.

#### **4. Submission of Supplemental and Revised Agenda Material.**

Berkeley Municipal Code Section 2.06.070 allows for the submission of supplemental and revised agenda material. Supplemental and revised material cannot be substantially new or only tangentially related to an agenda item. Supplemental material must be specifically related to the item in the Agenda Packet. Revised material should be presented as revised versions of the report or item printed in the Agenda Packet. Supplemental and revised material may be submitted for consideration as follows:

- a) Supplemental and revised agenda material shall be submitted to the City Clerk no later than 5:00 p.m. seven calendar days prior to the City Council meeting at which it is to be considered. Supplemental and revised items that are received by the deadline shall be distributed to Council in a supplemental reports packet and posted to the City's website no later than 5:00 p.m. five calendar days prior to the meeting. Copies of the supplemental packet shall also be made available in the office of the City Clerk and in the main branch of the Berkeley Public Library. Such material may be considered by the Council without the need for a determination that the good of the City clearly outweighs the lack of time for citizen review or City Councilmember evaluation.



- b) Supplemental and revised agenda material submitted to the City Clerk after 5:00 p.m. seven days before the meeting and no later than 12:00 p.m. one day prior to the City Council meeting at which it is to be considered shall be distributed to Council in a supplemental reports packet and posted to the City's website no later than 5:00 p.m. one day prior to the meeting. Copies of the supplemental packet shall also be made available in the office of the City Clerk and in the main branch of the Berkeley Public Library. Such material may be considered by the Council without the need for a determination that the good of the City clearly outweighs the lack of time for citizen review or City Council evaluation.
- c) After 12:00 p.m. one calendar day prior to the meeting, supplemental or revised reports may be submitted for consideration by delivering a minimum of 42 copies of the supplemental/revised material to the City Clerk for distribution at the meeting. Each copy must be accompanied by a completed supplemental/revised material cover page, using the form provided by the City Clerk. Revised reports must reflect a comparison with the original item using track changes formatting. The material may be considered only if the City Council, by a two-thirds roll call vote, makes a factual determination that the good of the City clearly outweighs the lack of time for citizen review or City Councilmember evaluation of the material. Supplemental and revised material must be distributed and a factual determination made prior to the commencement of public comment on the agenda item in order for the material to be considered.

**5. Submission of Late Urgency Items Pursuant to Government Code Section 54954.2(b)**

Late Urgency Items are items proposed for submission to the Council Agenda pursuant to Government Code Section 54954.2(b)

All items to be submitted for consideration for addition to an agenda as Late Urgency Items shall be accompanied by a cover sheet that includes 1) boxes to check for the Author to affirm whether the item is submitted under the Emergency or Immediate Action Rule (and a short explanation of what is required to meet each rule, as well as the vote threshold required for the item to be placed onto the agenda by the City Council); 2) a disclaimer in BOLD 14pt. CAPS stating that the item is not yet agendized and may or may not be accepted for the agenda as a Late Urgency Item, at the City Council's discretion according to Brown Act rules; 3) a prompt requiring the author to list the facts which support consideration of the item for addition to the agenda as either an Emergency or Immediate Action item; and 4) a copy of the City Attorney memo on Late Urgency Items.

Late Items must be submitted to the City Clerk no later than 12:00 p.m. (noon) the day prior to the meeting.

All complete Late Items submitted by the deadline will be distributed with Supplemental Communication Packet #2 by 5:00 p.m. the day before the Council meeting. A Late Item is not considered "complete" and will not be distributed unless submitted with the required cover sheet, filled out in a complete manner.

Very Late Urgency Items of an extremely urgent nature (e.g., earthquake, severe wildfire, pandemic) may be submitted for addition to the agenda after the deadline of 12:00 p.m. the day before the meeting to accommodate unforeseeable, extreme and unusual circumstances. A Very Late Urgency Item will be distributed at the Council meeting prior to any vote to add it to the agenda and the Presiding Officer may provide an appropriate break to allow Councilmembers and the public to review the item before voting on whether to add it to the agenda and possibly again, at the Presiding Officer's discretion, before the item is voted on.

The required cover sheet should be included with the Very Late Urgency Item unless extremely exigent circumstances underlie the Very Late Urgency Item submission and a written cover sheet could not be prepared (for example, power is out and printing or emailing is not possible), in which case the individual "walking in" the item should be ready to provide all required information verbally at the meeting before a vote is taken to add or not add the item to the Agenda.

**6. Scheduling a Presentation.**

Presentations from staff are either submitted as an Agenda Item or are requested by the City Manager. Presentations from outside agencies and the public are coordinated with the Mayor's Office. The Agenda & Rules Committee may adjust the schedule of presentations as needed to best manage the Council Agenda. The Agenda & Rules Committee may request a presentation by staff in consultation with the City Manager.

**D. Packet Preparation and Posting**

**1. Preparation of the Packet.**

Not later than the thirteenth day prior to said meeting, the City Clerk shall prepare the packet, which shall include the agenda plus all its corresponding agenda items. No item shall be considered if not included in the packet, except as provided for in Section III.C.4 and Section III.D.4.

**2. Distribution and Posting of Agenda.**

- a) The City Clerk shall post each agenda of the City Council regular meeting no later than 11 days prior to the meeting and shall post each agenda of a special meeting at least 24 hours in advance of the meeting in the official bulletin board. The City Clerk shall maintain an affidavit indicating the location, date and time of posting each agenda.
- b) The City Clerk shall also post agendas and annotated agendas of all City Council meetings and notices of public hearings on the City's website.
- c) No later than 11 days prior to a regular meeting, copies of the agenda shall be mailed by the City Clerk to any resident of the City of Berkeley who so requests in writing. Copies shall also be available free of charge in the City Clerk Department.

**3. Distribution of the Agenda Packet.**

The Agenda Packet shall consist of the Agenda and all supporting documents for agenda items. No later than 11 days prior to a regular meeting, the City Clerk shall:

- a) distribute the Agenda Packet to each member of the City Council;
- b) post the Agenda Packet to the City's website;
- c) place copies of the Agenda Packet in viewing binders in the office of the City Clerk and in the main branch of the Berkeley Public Library; and
- d) make the Agenda Packet available to members of the press.

**4. Failure to Meet Deadlines.**

- a) The City Clerk shall not accept any agenda item or revised agenda item after the deadlines established.
- b) Matters not included on the published agenda may be discussed and acted upon as otherwise authorized by State law or providing the Council finds one of the following conditions is met:
  - A majority of the Council determines that the subject meets the criteria of "Emergency" as defined in Section III.B.8.
  - Two thirds of the Council determines that there is a need to take immediate action and that the need for action came to the attention of the City subsequent to the posting of the agenda as required by law.
- c) Matters listed on the printed agenda but for which supporting materials are not received by the City Council on the eleventh day prior to said meeting as part of the agenda packet, shall not be discussed or acted upon.

**E. Agenda Sequence and Order of Business**

The Council agenda for a regular business meeting is to be arranged in the following order:

1. Preliminary Matters: (Ceremonial, Comments from the City Manager, Comments from the City Auditor, Non-Agenda Public Comment)
2. Consent Calendar
3. Action Calendar
  - a) Appeals
  - b) Public Hearings
  - c) Continued Business
  - d) Old Business
  - e) New Business

4. Information Reports
5. Non-Agenda Public Comment
6. Adjournment
7. Communications

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

The Agenda & Rules Committee shall have the authority to re-order the items on the Action Calendar regardless of the default sequence prescribed in this section.

**F. Closed Session Documents**

This section establishes a policy for the distribution of, and access to, confidential closed session documents by the Mayor and members of the City Council.

1. Confidential closed session materials shall be kept in binders numbered from one to nine and assigned to the Mayor (#9) and each Councilmember (#1 to #8 by district). The binders will contain confidential closed session materials related to Labor Negotiations, Litigation, and Real Estate matters.
2. The binders will be maintained by City staff and retained in the Office of the City Attorney in a secure manner. City staff will bring the binders to each closed session for their use by the Mayor and Councilmembers. At other times, the binders will be available to the Mayor and Councilmembers during regular business hours for review in the City Attorney's Office. The binders may not be removed from the City Attorney's Office or the location of any closed session meeting by the Mayor or Councilmembers. City staff will collect the binders at the end of each closed session meeting and return them to the City Attorney's Office.
3. Removal of confidential materials from a binder is prohibited.
4. Duplication of the contents of a binder by any means is prohibited.
5. Confidential materials shall be retained in the binders for at least two years.
6. This policy does not prohibit the distribution of materials by staff to the Mayor and Councilmembers in advance of a closed session or otherwise as needed, but such materials shall also be included in the binders unless it is impracticable to do so.

## **G. Regulations Governing City Council Policy Committees**

### **1. Legislative Item Process**

All agenda items begin with submission to the Agenda & Rules Committee.

#### Full Council Track

Items under this category are exempt from Agenda & Rules Committee discretion to refer them to a Policy Committee. Items in this category may be submitted for the agenda of any scheduled regular meeting pursuant to established deadlines (same as existing deadlines). Types of Full Council Track items are listed below.

- a. Items submitted by the City Manager and City Auditor
- b. Items submitted by Boards and Commissions
- c. Resolutions on Legislation and Electoral Issues relating to Outside Agencies/Jurisdictions
- d. Position Letters and/or Resolutions of Support/Opposition
- e. Donations from the Mayor and Councilmember District Office Budgets
- f. Referrals to the Budget Process
- g. Proclamations
- h. Sponsorship of Events
- i. Information Reports
- j. Presentations from Outside Agencies and Organizations
- k. Ceremonial Items
- l. Committee and Regional Body Appointments

The Agenda & Rules Committee has discretion to determine if an item submitted by the Mayor or a Councilmember falls under a Full Council Track exception or if it will be processed as a Policy Committee Track item.

#### Policy Committee Track

Items submitted by the Mayor or Councilmembers with moderate to significant administrative, operational, budgetary, resource, or programmatic impacts will go first to the Agenda & Rules Committee on a draft City Council agenda.

The Agenda & Rules Committee must refer an item to a Policy Committee at the first meeting that the item appears before the Agenda & Rules Committee. The Agenda & Rules Committee may only assign the item to a single Policy Committee.

For a Policy Committee Track item, the Agenda & Rules Committee, at its discretion, may either route item directly to 1) the agenda currently under consideration, 2) one of the next three full Council Agendas (based on completeness of the item, lack of potential controversy, minimal impacts, etc.), or 3) to a Policy Committee.

### Time Critical Track

A Time Critical item is defined as a matter that is considered urgent by the sponsor and that has a deadline for action that is prior to the next meeting of the Council and for which a report prepared by the Mayor or Councilmember is received by the City Clerk after established deadlines and is not included on the Agenda & Rules Committee's published agenda.

The Agenda & Rules Committee retains final discretion to determine the time critical nature of an item.

- a) Time Critical items submitted on the Full Council Track deadlines, that would otherwise be assigned to the Policy Committee Track, may bypass Policy Committee review if determined to be time critical. If such an item is deemed not to be time critical, it may be referred to a Policy Committee.
- b) Time Critical items on the Full Council Track or Policy Committee Track that are submitted at a meeting of the Agenda & Rules Committee may go directly on a council agenda if determined to be time critical.

## **2. Council Referrals to Committees**

The full Council may refer any agenda item to a Policy Committee by majority vote.

## **3. Participation Rules for Policy Committees Pursuant to the Brown Act**

- a. The quorum of a three-member Policy Committee is always two members. A majority vote of the committee (two 'yes' votes) is required to pass a motion.
- b. Two Policy Committee members may not discuss any item that has been referred to the Policy Committee outside of an open and noticed meeting.
- c. Notwithstanding paragraph (b) above, two members of a Policy Committee may be listed as Authors or Co-Sponsors on an item provided that one of the Authors or Co-Sponsors will not serve as a committee member for consideration of the item, and shall not participate in the committee's discussion of, or action on the item. For purposes of the item, the appointed alternate, who also cannot be an Author or Co-Sponsor, will serve as a committee member in place of the non-participating Author or Co-Sponsor.
- d. All three members of a Policy Committee may not be Authors or Co-Sponsors of an item that will be heard by the committee.
- e. Only one Author or Co-Sponsor who is not a member of the Policy Committee may attend the committee meeting to participate in discussion of the item.

- f. If two or more non-committee members are present for any item or meeting, then all non-committee members may act only as observers and may not participate in discussion. If an Author who is not a member of the committee is present to participate in the discussion of their item, no other non-committee member Councilmembers, nor the Mayor, may attend as observers.
- g. An item may be considered by only one Policy Committee before it goes to the full Council.

#### **4. Functions of the Committees**

Committees shall have the following qualities/components:

- a. All committees are Brown Act bodies with noticed public meetings and public comment. Regular meeting agendas will be posted at least 72 hours in advance of the meeting.
- b. Minutes shall be available online.
- c. Committees shall adopt regular meeting schedules, generally meeting once or twice per month; special meetings may be called when necessary, in accordance with the Brown Act.
- d. Generally, meetings will be held at 2180 Milvia Street in publicly accessible meeting rooms that can accommodate the committee members, public attendees, and staff.
- e. Members are recommended by the Mayor and approved by the full Council no later than January 31 of each year. Members continue to serve until successors are appointed and approved.
- f. Chairs are elected by the Committee at the first regular meeting of the Committee after the annual approval of Committee members by the City Council. In the absence of the Chair, the committee member with the longest tenure on the Council will preside.
- g. The Chair, or a quorum of the Committee may call a meeting or cancel a meeting of the Policy Committee.
- h. Committees will review items for completeness in accordance with Section III.B.2 of the City Council Rules of Procedure and Order and alignment with Strategic Plan goals.
- i. Reports leaving a Policy Committee must adequately include budget implications, administrative feasibility, basic legal concerns, and staff resource demands in order to allow for informed consideration by the full Council.
- j. Per Brown Act regulations, any revised or supplemental materials must be direct revisions or supplements to the item that was published in the agenda packet.

Items referred to a Policy Committee from the Agenda & Rules Committee or from the City Council must be agendized for a committee meeting within 60 days of the referral date.



Within 120 days of the referral date, either (1) the committee Chair may accept the Primary Author's request, either in writing, or in person at a meeting of the committee, that the item remain in committee until a date certain (more than one extension may be requested by the Primary Author); or (2) the committee may vote to send the item to the Agenda & Rules Committee to be placed on a Council Agenda with a Committee recommendation consisting of one of the four options listed below. The Committee Chair shall report any extension granted outside of a meeting to the Committee by email or verbally at the next Committee meeting.

1. Positive Recommendation (recommending Council pass the item as proposed),
2. Qualified Positive Recommendation (recommending Council pass the item with some changes),
3. Qualified Negative Recommendation (recommending Council reject the item unless certain changes are made) or
4. Negative Recommendation (recommending the item not be approved).

The Policy Committee's recommendation will be included in a separate section of the report template for that purpose.

A Policy Committee may not refer an item under its consideration to a city board or commission.

The Primary Author of an item referred to a Policy Committee is responsible for revisions and resubmission of the item back to the full Council. Items originating from the City Manager are revised and submitted by the appropriate city staff. Items from Commissions are revised and resubmitted by the members of the Policy Committee. Items and recommendations originating from the Policy Committee are submitted to the City Clerk by the members of the committee.

If a Policy Committee does not take final action by the 120-day deadline, the item is returned to the Agenda & Rules Committee and appears on the next available Council agenda. The Agenda & Rules Committee may leave the item on the agenda under consideration or place it on the next Council agenda. Items appearing on a City Council agenda due to lack of action by a Policy Committee may not be referred to a Policy Committee and must remain on the full Council agenda for consideration.

Policy Committees may add discussion topics that are within their purview to their agenda with the concurrence of a majority of the Committee. These items are not subject to the 120-day deadline for action.

Once the item is voted out of a Policy Committee, the final item will be resubmitted to the agenda process by the Primary Author, and it will return to the Agenda & Rules Committee

on the next available agenda. The Agenda & Rules Committee may leave the item on the agenda under consideration or place it on the following Council agenda. Only items that receive a Positive Recommendation can be placed on the Consent Calendar.

The Primary Author may request expedited committee review for items referred to a committee. Criteria for expedited review is generally to meet a deadline for action (e.g. grant deadline, specific event date, etc.). If the committee agrees to the request, the deadline for final committee action is 45 days from the date the committee approves expedited review.

### **5. Number and Make-up of Committees**

Six committees are authorized, each comprised of three Councilmembers, with a fourth Councilmember appointed as an alternate. Each Councilmember and the Mayor will serve on two committees. The Mayor shall be a member of the Agenda and Rules Committee. The committees are as follows:

1. Agenda and Rules Committee
2. Budget and Finance Committee
3. Facilities, Infrastructure, Transportation, Environment, and Sustainability
4. Health, Life Enrichment, Equity, and Community
5. Land Use, Housing, and Economic Development
6. Public Safety

The Agenda & Rules Committee shall establish the Policy Committee topic groupings, and may adjust said groupings periodically thereafter in order to evenly distribute expected workloads of various committees.

All standing Policy Committees of the City Council are considered “legislative bodies” under the Brown Act and must conduct all business in accordance with the Brown Act.

### **6. Role of City Staff at Committee Meetings**

Committees will be staffed by appropriate City Departments and personnel. As part of the committee process, staff will undertake a high-level, preliminary analysis of potential legal issues, costs, timelines, and staffing demands associated with the item. Staff analysis at the Policy Committee level is limited to the points above as the recommendation, program, or project has not yet been approved to proceed by the full Council.

## IV. CONDUCT OF MEETING

### A. Comments from the Public

Public comment will be taken in the following order:

- An initial ten-minute period of public comment on non-agenda items, after the commencement of the meeting and immediately after Ceremonial Matters and City Manager Comments.
- Public comment on the Consent and Information Calendars.
- Public comment on action items, appeals and/or public hearings as they are taken up under procedures set forth in the sections governing each below.
- Public comment on non-agenda items from any speakers who did not speak during the first round of non-agenda public comment at the beginning of the meeting.

Speakers are permitted to yield their time to one other speaker, however no one speaker shall have more than four minutes. A speaker wishing to yield their time shall identify themselves, shall be recognized by the chair, and announce publicly their intention to yield their time. Disabled persons shall have priority seating in the front row of the public seating area.

A member of the public may only speak once at public comment on any single item, unless called upon by the Mayor or a Councilmember to answer a specific inquiry.

#### 1. Public Comment on Consent Calendar and Information Items.

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.”

The Council will then take public comment on any items that are either on the amended Consent Calendar or the Information Calendar. A speaker may only speak once during the period for public comment on Consent Calendar and Information items. 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, the Mayor or 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.

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**2. Public Comment on Action Items.**

After the initial ten minutes of public comment on non-agenda items, public comment on consent and information items, and adoption of the Consent Calendar, the public may comment on each remaining item listed on the agenda for action as the item is taken up.

The Presiding Officer will request that persons wishing to speak, line up at the podium to be recognized and to determine the number of persons interested in speaking at that time.

If ten or fewer persons are interested in speaking, each speaker may speak for two minutes. If there are more than ten persons interested in speaking, the Presiding Officer may limit the public comment for all speakers to one minute per speaker. Speakers are permitted to yield their time to one other speaker, however no one speaker shall have more than four minutes.

This procedure also applies to public hearings except those types of public hearings specifically provided for in this section, below.

**3. Appeals Appearing on Action Calendar.**

With the exception of appeals from decisions of the Zoning Adjustments Board and Landmarks Preservation Commission, appeals from decisions of City commissions appear on the "Action" section of the Council Agenda. Council determines whether to affirm the action of the commission, set a public hearing, or remand the matter to the commission. Appeals of proposed special assessment liens shall also appear on the "Action" section of the Council Agenda. Appeals from decisions of the Zoning Adjustments Board and Landmarks Preservation Commission are automatically set for public hearing and appear on the "Public Hearings" section of the Council Agenda.

Time shall be provided for public comment for persons representing both sides of the action/appeal and each side will be allocated seven minutes to present their comments on the appeal. Where the appellant is not the applicant, the appellants of a single appeal collectively shall have seven minutes to comment and the applicant shall have seven minutes to comment. If there are multiple appeals filed, each appellant or group of appellants shall have seven minutes to comment. Where the appellant is the applicant, the applicant/appellant shall have seven minutes to comment and the persons supporting the action of the board or commission on appeal shall have seven minutes to comment. In the case of an appeal of proposed special assessment lien, the appellant shall have seven minutes to comment.

After the conclusion of the seven-minute comment periods, members of the public may comment on the appeal. Comments from members of the public regarding appeals shall be limited to one minute per speaker. Any person that addressed the Council during one of the seven-minute periods may not speak again during the public comment period on the appeal. Speakers may yield their time to one other speaker, however, no speaker shall have more than two minutes. Each side

shall be informed of this public comment procedure at the time the Clerk notifies the parties of the date the appeal will appear on the Council agenda.

#### **4. Public Comment on Non-Agenda Matters.**

Immediately following Ceremonial Matters and the City Manager Comments and prior to the Consent Calendar, persons will be selected by lottery to address matters not on the Council agenda. If five or fewer persons submit speaker cards for the lottery, each person selected will be allotted two minutes each. If more than five persons submit speaker cards for the lottery, up to ten persons will be selected to address matters not on the Council agenda and each person selected will be allotted one minute each. Persons wishing to address the Council on matters not on the Council agenda during the initial ten-minute period for such comment, must submit a speaker card to the City Clerk in person at the meeting location and prior to commencement of that meeting.

The remainder of the speakers wishing to address the Council on non-agenda items will be heard at the end of the agenda. Speaker cards are not required for this second round of public comment on non-agenda matters.

Persons submitting speaker cards are not required to list their actual name, however they must list some identifying information or alternate name in order to be called to speak.

For the second round of public comment on non-agenda matters, the Presiding Officer retains the authority to limit the number of speakers by subject. The Presiding Officer will generally request that persons wishing to speak, line up at the podium to be recognized to determine the number of persons interested in speaking at that time. Each speaker will be entitled to speak for two minutes each unless the Presiding Officer determines that one-minute is appropriate given the number of speakers.

Pursuant to this document, no Council meeting shall continue past 11:00 p.m. unless a two-thirds majority of the Council votes to extend the meeting to discuss specified items. If any agenda item remains unfinished at 11:00 p.m. or the expiration of any extension after 11:00 p.m., it will be referred to the Agenda & Rules Committee for scheduling pursuant to Chapter II, Section F. In that event, the meeting shall be automatically extended for up to fifteen (15) minutes for public comment on non-agenda items.

#### **5. Ralph M. Brown Act Pertaining to Public Comments.**

The Brown Act prohibits the Council from discussing or taking action on an issue raised during Public Comment, unless it is specifically listed on the agenda. However, the Council may refer a matter to the City Manager.

#### **B. Consent Calendar**

There shall be a Consent Calendar on all regular meeting agendas on which shall be included those matters which the Mayor, Councilmembers, boards, commissions, City Auditor and City Manager deem to be of such nature that no debate or inquiry

will be necessary at the Council meetings. Ordinances for second reading may be included in the Consent Calendar.

It is the policy of the Council that the Mayor or Councilmembers wishing to ask questions concerning Consent Calendar items should ask questions of the contact person identified prior to the Council meeting so that the need for discussion of consent calendar items can be minimized.

Consent Calendar items may be moved to the Action Calendar by the Council. Action items may be reordered at the discretion of the Chair with the consent of Council.

**C. Information Reports Called Up for Discussion**

Reports for Information designated for discussion at the request of the Mayor or any Councilmember shall be added to the appropriate section of the Action Calendar and may be acted upon at that meeting or carried over as pending business until discussed or withdrawn. The agenda will indicate that at the request of Mayor or any Councilmember a Report for Information may be acted upon by the Council.

**D. Written Communications**

Written communications from the public will not appear on the Council agenda as individual matters for discussion but will be distributed as part of the Council agenda packet with a cover sheet identifying the author and subject matter and will be listed under "Communications." All such communications must have been received by the City Clerk no later than 5:00 p.m. fifteen days prior to the meeting in order to be included on the agenda.

In instances where an individual forwards more than three pages of email messages not related to actionable items on the Council agenda to the Council to be reproduced in the "Communications" section of the Council packet, the City Clerk will not reproduce the entire email(s) but instead refer the public to the City's website or a hard copy of the email(s) on file in the City Clerk Department.

All communications shall be simply deemed received without any formal action by the Council. The Mayor or a Councilmember may refer a communication to the City Manager for action, if appropriate, or prepare a consent or action item for placement on a future agenda.

Communications related to an item on the agenda that are received after 5:00 p.m. fifteen days before the meeting are published as provided for in Chapter III.C.4.

**E. Public Hearings for Land Use, Zoning, Landmarks, and Public Nuisance Matters**

The City Council, in setting the time and place for a public hearing, may limit the amount of time to be devoted to public presentations. Staff shall introduce the public hearing item and present their comments.

Following any staff presentation, each member of the City Council shall verbally disclose all ex parte contacts concerning the subject of the hearing. Members shall also submit a report of such contacts in writing prior to the commencement of the hearing. Such reports shall include a brief statement describing the name, date,

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place, and content of the contact. Written reports shall be available for public review in the office of the City Clerk prior to the meeting and placed in a file available for public viewing at the meeting.

This is followed by five-minute presentations each by the appellant and applicant. Where the appellant is not the applicant, the appellants of a single appeal collectively shall have five minutes to comment and the applicant shall have five minutes to comment. If there are multiple appeals filed, each appellant or group of appellants shall have five minutes to comment. Where the appellant is the applicant, the applicant/appellant shall have five minutes to comment and the persons supporting the action of the board or commission on appeal shall have five minutes to comment. In the case of a public nuisance determination, the representative(s) of the subject property shall have five minutes to present.

The Presiding Officer will request that persons wishing to speak, line up at the podium to be recognized and to determine the number of persons interested in speaking at that time.

If ten or fewer persons are interested in speaking, each speaker 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. Any person that addressed the Council during one of the five-minute periods may not speak again during the public comment period on the appeal. Speakers are permitted to yield their time to one other speaker, however no one speaker shall have more than four minutes. The Presiding Officer may with the consent of persons representing both sides of an issue allocate a block of time to each side to present their issue.

#### **F. Work Sessions**

The City Council may schedule a matter for general Council discussion and direction to staff. Official/formal action on a work session item will be scheduled on a subsequent agenda under the Action portion of the Council agenda.

In general, public comment at Council work sessions will be heard after the staff presentation, for a limited amount of time to be determined by the Presiding Officer.

The Presiding Officer will request that persons wishing to speak, line up at the podium to be recognized and to determine the number of persons interested in speaking at that time. If ten or fewer persons are interested in speaking, each speaker may speak for two minutes. If there are more than ten persons interested in speaking, the Presiding Officer may limit the public comment for all speakers to one minute per speaker. Speakers are permitted to yield their time to one other speaker, however no one speaker shall have more than four minutes.

After Council discussion, if time permits, the Presiding Officer may allow additional public comment. During this time, each speaker will receive one minute. Persons who spoke during the prior public comment time may be permitted to speak again.



**G. Protocol**

People addressing the Council may first give their name in an audible tone of voice for the record. All remarks shall be addressed to the Council as a body and not to any member thereof. No one other than the Council and the person having the floor shall be permitted to enter into any discussion, either directly or through a member of the Council, without the permission of the Presiding Officer. No question shall be asked of a Councilmember except through the Presiding Officer.

## V. PROCEDURAL MATTERS

### A. Persons Authorized to Sit at Tables

No person, except City officials, their representatives and representatives of boards and commissions shall be permitted to sit at the tables in the front of the Council Chambers without the express consent of the Council.

### B. Decorum

No person shall disrupt the orderly conduct of the Council meeting. Prohibited disruptive behavior includes but is not limited to shouting, making disruptive noises, such as boos or hisses, creating or participating in a physical disturbance, speaking out of turn or in violation of applicable rules, preventing or attempting to prevent others who have the floor from speaking, preventing others from observing the meeting, entering into or remaining in an area of the meeting room that is not open to the public, or approaching the Council Dais without consent. Any written communications addressed to the Council shall be delivered to the City Clerk for distribution to the Council.

### C. Enforcement of Decorum

When the public demonstrates a lack of order and decorum, the presiding officer shall call for order and inform the person(s) that the conduct is violating the Rules of Order and Procedure and provide a warning to the person(s) to cease the disruptive behavior. Should the person(s) fail to cease and desist the disruptive conduct, the presiding officer may call a five (5) minute recess to allow the disruptions to cease.

If the meeting cannot be continued due to continued disruptive conduct, the presiding officer may have any law enforcement officer on duty remove or place any person who violates the order and decorum of the meeting under arrest and cause that person to be prosecuted under the provisions of applicable law.

### D. Precedence of Motions

When a question or motion is before the Council, no motion shall be entertained except:

1. To adjourn;
2. To fix the hour of adjournment;
3. To lay on the table;
4. For the previous question;
5. To postpone to a certain day;
6. To refer;
7. To amend;
8. To substitute; and
9. To postpone indefinitely.

These motions shall have precedence in order indicated. Any such motion, except a motion to amend or substitute, shall be put to a vote without debate.

**E. Robert's Rules of Order**

Robert's Rules of Order have been adopted by the City Council and apply in all cases except the precedence of motions in Section V.D shall supersede.

**F. Rules of Debate****1. Presiding Officer May Debate.**

The presiding officer may debate from the chair; subject only to such limitations of debate as are by these rules imposed on all members, and shall not be deprived of any of the rights and privileges as a member of the Council by reason of that person acting as the presiding officer.

**2. Getting the Floor - Improper References to be avoided.**

Members desiring to speak shall address the Chair, and upon recognition by the presiding officer, shall confine themselves to the question under debate.

**3. Interruptions.**

A member, once recognized, shall not be interrupted when speaking unless it is to call a member to order, or as herein otherwise provided. If a member, while speaking, were called to order, that member shall cease speaking until the question of order is determined, and, if in order, the member shall be permitted to proceed.

**4. Privilege of Closing Debate.**

The Mayor or Councilmember moving the adoption of an ordinance or resolution shall have the privilege of closing the debate. When a motion to call a question is passed, the Mayor or Councilmember moving adoption of an ordinance, resolution or other action shall have three minutes to conclude the debate.

**5. Motion to Reconsider.**

A motion to reconsider any action taken by the Council may be made only during the same session such action is taken. It may be made either immediately during the same session, or at a recessed or adjourned session thereof. Such motion must be made by a member on the prevailing side, and may be made at any time and have precedence over all other motions or while a member has the floor; it shall be debatable. Nothing herein shall be construed to prevent any member of the Council from making or remaking the same or other motion at a subsequent meeting of the Council.

**6. Repeal or Amendment of Action Requiring a Vote of Two-Thirds of Council, or Greater.**

Any ordinance or resolution which is passed and which, as part of its terms, requires a vote of two-thirds of the Council or more in order to pass a motion pursuant to such an ordinance or resolution, shall require the vote of the same percent of the Council to repeal or amend the ordinance or resolution.

**G. Debate Limited**

1. Consideration of each matter coming before the Council shall be limited to 20 minutes from the time the matter is first taken up, at the end of which period consideration of such matter shall terminate and the matter shall be dropped to the foot of the agenda, immediately ahead of Information Reports; provided that either of the following two not debatable motions shall be in order:
  - a) A motion to extend consideration which, if passed, shall commence a new twenty-minute period for consideration; or
  - b) If there are one or more motions on the floor, a motion for the previous question, which, if passed by a 2/3 vote, shall require an immediate vote on pending motions.
2. The time limit set forth in subparagraph 1 hereof shall not be applicable to any public hearing, public discussion, Council discussion or other especially set matter for which a period of time has been specified (in which case such specially set time shall be the limit for consideration) or which by applicable law (e.g. hearings of appeals, etc.), the matter must proceed to its conclusion.
3. In the interest of expediting the business of the City, failure by the Chair or any Councilmember to call attention to the expiration of the time allowed for consideration of a matter, by point of order or otherwise, shall constitute unanimous consent to the continuation of consideration of the matter beyond the allowed time; provided, however, that the Chair or any Councilmember may at any time thereafter call attention to the expiration of the time allowed, in which case the Council shall proceed to the next item of business, unless one of the motions referred to in Section D hereof is made and is passed.

**H. Motion to Lay on Table**

A motion to lay on the table shall preclude all amendments or debate of the subject under consideration. If the motion shall prevail, the consideration of the subject may be resumed only upon a motion of a member voting with the majority and with consent of two-thirds of the members present.

**I. Division of Question**

If the question contains two or more propositions, which can be divided, the presiding officer may, and upon request of a member shall, divide the same.

**J. Addressing the Council**

Under the following headings of business, unless the presiding officer rules otherwise, any interested person shall have the right to address the Council in accordance with the following conditions and upon obtaining recognition by the presiding officer:

**1. Written Communications.**

Interested parties or their authorized representatives may address the Council in the form of written communications in regard to matters of concern to them by

submitting their written communications at the meeting, or prior to the meeting pursuant to the deadlines in Chapter III.C.4.

**2. Public Hearings.**

Interested persons or their authorized representatives may address the Council by reading protests, petitions, or communications relating to matters then under consideration.

**3. Public Comment.**

Interested persons may address the Council on any issue concerning City business during the period assigned to Public Comment.

**K. Addressing the Council After Motion Made**

When a motion is pending before the Council, no person other than the Mayor or a Councilmember shall address the Council without first securing the permission of the presiding officer or Council to do so.

**L. Use of Cellular Phones and Electronic Devices**

The use of cell phones during City Council meetings is discouraged for the Mayor and Councilmembers. While communications regarding Council items should be minimized, personal communications between family members and/or caregivers can be taken outside in the case of emergencies. In order to acknowledge differences in learning styles and support tactile learners, note-taking can continue to be facilitated both with a pen and paper and/or on electronic devices such as laptop computers and tablets.

The use cell phones during Closed Session Meetings is explicitly prohibited for the Mayor and Councilmembers.

## VI. FACILITIES

### A. Meeting Location Capacity

Attendance at council meetings shall be limited to the posted seating capacity of the meeting location. Entrance to the meeting location will be appropriately regulated by the City Manager on occasions when capacity is likely to be exceeded. While the Council is in session, members of the public shall not remain standing in the meeting room except to address the Council, and sitting on the floor shall not be permitted.

### B. Alternate Facilities for Council Meetings

The City Council shall approve in advance a proposal that a Council meeting be held at a facility other than the School District Board Room.

If the City Manager has reason to anticipate that the attendance for a meeting will be substantially greater than the capacity of the Board Room and insufficient time exists to secure the approval of the City Council to hold the meeting at an alternate facility, the City Manager shall make arrangements for the use of a suitable alternate facility to which such meeting may be recessed and moved, if the City Council authorizes the action.

If a suitable alternate facility is not available, the City Council may reschedule the matter to a date when a suitable alternate facility will be available.

Alternate facilities are to be selected from those facilities previously approved by the City Council as suitable for meetings away from the Board Room.

### C. Signs, Objects, and Symbolic Materials

Objects and symbolic materials such as signs which do not have sticks or poles attached or otherwise create any fire or safety hazards will be allowed within the meeting location during Council meetings.

### D. Fire Safety

Exits shall not be obstructed in any manner. Obstructions, including storage, shall not be placed in aisles or other exit ways. Hand carried items must be stored so that such items do not inhibit passage in aisles or other exit ways. Attendees are strictly prohibited from sitting in aisles and/or exit ways. Exit ways shall not be used in any way that will present a hazardous condition.

### E. Overcrowding

Admittance of persons beyond the approved capacity of a place of assembly is prohibited. When the meeting location has reached the posted maximum capacity, additional attendees shall be directed to the designated overflow area.

## APPENDIX A. POLICY FOR NAMING AND RENAMING PUBLIC FACILITIES

### Purpose

To establish a uniform policy regarding the naming and renaming of existing and future parks, streets, pathways and other public facilities.

### Objective

- A. To ensure that naming public facilities (such as parks, streets, recreation facilities, pathways, open spaces, public building, bridges or other structures) will enhance the values and heritage of the City of Berkeley and will be compatible with community interest.

### Section 1 – Lead Commission

The City Council designates the following commissions as the ‘Lead Commissions’ in overseeing, evaluating, and ultimately advising the Council in any naming or renaming of a public facility. The lead commission shall receive and coordinate comment and input from other Commissions and the public as appropriate.

#### Board of Library Trustees

Parks and Recreation Commission –Parks, recreation centers, camps, plazas and public open spaces

Public Works Commission –Public buildings (other than recreation centers), streets and bridges or other structures in the public thoroughfare.

Waterfront Commission –Public facilities within the area of the City known as the Waterfront, as described in BMC 3.36.060.B.

### Section 2 – General Policy

- A. Newly acquired or developed public facilities shall be named immediately after acquisition or development to ensure appropriate public identity.
- B. No public facility may be named for a living person, but this policy can be overridden with a 2/3 vote of the City Council.
- C. Public facilities that are renamed must follow the same criteria for naming new facilities. In addition, the historical significance and geographical reference of the established name should be considered when weighing and evaluating any name change.
- D. The City encourages the recognition of individuals for their service to the community in ways that include the naming of activities such as athletic events, cultural presentations, or annual festivals, which do not involve the naming or renaming of public facilities.
- E. Unless restricted by covenant, facilities named after an individual should not necessarily be considered a perpetual name.

### Section 3 – Criteria for Naming of Public Facilities

When considering the naming of a new public facility or an unnamed portion or feature within an already named public facility (such as a room within the facility or a feature within an established park), or, the renaming of an existing public facility the following criteria shall be applied:



- A. Public Facilities are generally easier to identify by reference to adjacent street names, distinct geographic or environmental features, or primary use activity. Therefore, the preferred practice is to give City-owned property a name of historical or geographical significance and to retain these names.
- B. No public facility may be named for a living person, but this policy can be overridden with a 2/3 vote of the City Council.
- C. The naming of a public facility or any parts thereof in recognition of an individual posthumously may only be considered if the individual had a positive effect on the community and has been deceased for more than 1 year.
- D. When a public facility provides a specific programmatic activity, it is preferred that the activity (e.g. skateboard park, baseball diamond) be included in the name of the park or facility.
- E. When public parks are located adjacent to elementary schools, a name that is the same as the adjacent school shall be considered.
- F. When considering the renaming of an existing public facility, in addition to applying criteria A-E above, proper weight should be given to the fact that: a name lends a site or property authenticity and heritage; existing names are presumed to have historic significance; and historic names give a community a sense of place and identity, continuing through time, and increases the sense of neighborhood and belonging.

#### Section 4 –Naming Standards Involving a Major Contribution

When a person, group or organization requests the naming or renaming of a public facility, all of the following conditions shall be met:

- A. An honoree will have made a major contribution towards the acquisition and/or development costs of a public facility or a major contribution to the City.
- B. The honoree has a record of outstanding service to their community
- C. Conditions of any donation that specifies that name of a public facility, as part of an agreement or deed, must be approved by the City Council, after review by and upon recommendation of the City Manager.

#### Section 5 –Procedures for Naming or Renaming of Public Facilities

- A. Any person or organization may make a written application to the City Manager requesting that a public facility or portion thereof, be named or renamed.
  - 1. Recommendations may also come directly of the City Boards or Commissions, the City Council, or City Staff.
- B. The City Manager shall refer the application to the appropriate lead commission as defined in Section 1 of the City's policy on naming of public facilities, for that commission's review, facilitation, and recommendation of disposition.
  - 1. The application shall contain the name or names of the persons or organization making the application and the reason for the requested naming or renaming.
- C. The lead commission shall review and consider the application, using the policies and criteria articulated to the City Policy on Naming and Renaming to make a recommendation to Council.
  - 1. All recommendations or suggestion will be given the same consideration without regard to the source of the nomination
- D. The lead commission shall hold a public hearing and notify the general public of any discussions regarding naming or renaming of a public facility.

1. Commission action will be taking at the meeting following any public hearing on the naming or renaming.
- E. The commission's recommendation shall be forwarded to Council for final consideration.

The City of Berkeley Policy for Naming and Renaming Public Facilities was adopted by the Berkeley City Council at the regular meeting of January 31, 2012.

## APPENDIX B. GUIDELINES FOR DEVELOPING AND WRITING COUNCIL AGENDA ITEMS

These guidelines are derived from the requirements for Agenda items listed in the Berkeley City Council Rules of Procedure and Order, Chapter III, Sections B(1) and (2), reproduced below. In addition, Chapter III Section C(1)(a) of the Rules of Procedure and Order allows the Agenda & Rules Committee to request that the Primary Author of an item provide “additional analysis” if the item as submitted evidences a “significant lack of background or supporting information” or “significant grammatical or readability issues.”

These guidelines provide a more detailed and comprehensive overview of elements of a complete Council item. While not all elements would be applicable to every type of Agenda item, they are intended to prompt Authors to consider presenting items with as much relevant information and analysis as possible.

Chapter III, Sections (B)(1) and (2) of Council Rules of Procedure and Order:

2. Agenda items shall contain all relevant documentation, including the following as Applicable:
  - a. A descriptive title that adequately informs the public of the subject matter and general nature of the item or report and action requested;
  - b. Whether the matter is to be presented on the Consent Calendar or the Action Calendar or as a Report for Information;
  - c. Recommendation of the City Manager, if applicable (these provisions shall not apply to Mayor and Council items.);
  - d. Fiscal impacts of the recommendation;
  - e. A description of the current situation and its effects;
  - f. Background information as needed;
  - g. Rationale for recommendation;
  - h. Alternative actions considered;
  - i. For awards of contracts; the abstract of bids and the Affirmative Action Program of the low bidder in those cases where such is required (these provisions shall not apply to Mayor and Council items.);
  - j. Person or persons to contact for further information, with telephone number. If the Primary Author of any report believes additional background information, beyond the basic report, is necessary to Council understanding of the subject, a separate compilation of such background information may be developed and copies will be available for Council and for public review in the City Clerk Department, and the City Clerk shall provide limited distribution of such background information depending upon quantity of pages to be duplicated. In such case the agenda item distributed with the packet shall so indicate.

## Guidelines for City Council Items:

1. Title
  2. Consent/Action/Information Calendar
  3. Recommendation
  4. Summary Statement/Current situation and its effects
  5. Background
  6. Review of Existing Plans, Programs, Policies and Laws
  7. Actions/Alternatives Considered
  8. Consultation/Outreach Overview and Results
  9. Rationale for Recommendation
  10. Implementation, Administration and Enforcement
  11. Environmental Sustainability
  12. Fiscal Impacts
  13. Outcomes and Evaluation
  14. Contact Information
  15. Attachments/Supporting Materials
- 

**1. Title**

A descriptive title that adequately informs the public of the subject matter and general nature of the item or report and action requested.

**2. Consent/Action/Information Calendar**

Whether the matter is to be presented on the Consent Calendar or the Action Calendar or as a Report for Information.

**3. Recommendation**

Clear, succinct statement of action(s) to be taken. Recommendations can be further detailed within the item, by specific reference.

Common action options include:

- Adopt first reading of ordinance
  - Adopt a resolution
  - Referral to the City Manager (City Manager decides if it is a short term referral or is placed on the RRV ranking list)
  - Direction to the City Manager (City Manager is directed to execute the recommendation right away, it is not placed on any referral list)
  - Referral to a Commission or to a Standing or Ad Hoc Council Committee
  - Referral to the budget process
  - Send letter of support
  - Accept, Approve, Modify or Reject a recommendation from a Commission or Committee
  - Designate members of the Council to perform some action
-

**4. Summary Statement/ “Current situation and its effects”**

A short resume of the circumstances that give rise to the need for the recommended action(s).

- Briefly state the opportunity/problem/concern that has been identified, and the proposed solution.
- Example (fictional):  
*Winter rains are lasting longer than expected. Berkeley’s winter shelters are poised to close in three weeks, but forecasts suggest rain for another two months. If they do not remain open until the end of the rainy season, hundreds of people will be left in the rain 24/7. Therefore, this item seeks authorization to keep Berkeley’s winter shelters open until the end of April, and refers to the Budget Process \$40,000 to cover costs of an additional two months of shelter operations.*

**5. Background**

A full discussion of the history, circumstances and concerns to be addressed by the item.

- For the above fictional example, Background would include *information and data about the number and needs of homeless individuals in Berkeley, the number and availability of permanent shelter beds that meet their needs, the number of winter shelter beds that would be lost with closure, the impacts of such closure on this population, the weather forecasts, etc.*

**6. Review of Existing Plans, Programs, Policies and Laws**

Review, identify and discuss relevant/applicable Plans, Programs, Policies and Laws, and how the proposed actions conform with, compliment, are supported by, differ from or run contrary to them. What gaps were found that need to be filled? What existing policies, programs, plans and laws need to be changed/supplemented/improved/repealed? What is missing altogether that needs to be addressed?

Review of all pertinent/applicable sections of:

- The City Charter
- Berkeley Municipal Code
- Administrative Regulations
- Council Resolutions
- Staff training manuals

Review of all applicable City Plans:

- The General Plan
- Area Plans
- The Climate Action Plan
- Resilience Plan
- Equity Plan

- Capital Improvements Plan
- Zero Waste Plan
- Bike Plan
- Pedestrian Plan
- Other relevant precedents and plans

Review of the City's Strategic Plan

Review of similar legislation previously introduced/passed by Council

Review of County, State and Federal laws/policies/programs/plans, if applicable

## 7. Actions/Alternatives Considered

- What solutions/measures have **other jurisdictions** adopted that serve as models/cautionary tales?
- What solutions/measures are recommended by **advocates, experts, organizations**?
- What is the range of actions considered, and what are some of their major pros and cons?
- Why were other solutions not as feasible/advisable?

## 8. Consultation/Outreach Overview and Results

- Review/list external and internal stakeholders that were consulted
  - **External:** constituents, communities, neighborhood organizations, businesses and not for profits, advocates, people with lived experience, faith organizations, industry groups, people/groups that might have concerns about the item, etc.
  - **Internal:** staff who would implement policies, the City Manager and/or deputy CM, Department Heads, City Attorney, Clerk, etc.
- What reports, articles, books, websites and other materials were consulted?
- What was learned from these sources?
- What changes or approaches did they advocate for that were accepted or rejected?

## 9. Rationale for Recommendation

A clear and concise statement as to whether the item proposes actions that:

- Conform to, clarify or extend existing Plans, Programs, Policies and Laws
- Change/Amend existing Plans, Programs, Policies and Laws in **minor** ways
- Change/Amend existing Plans, Programs, Policies and Laws in **major** ways
- Create an exception to existing Plans, Programs, Policies and Laws
- Reverse/go contrary to or against existing Plans, Programs, Policies and Laws

Argument/summary of argument in support of recommended actions. The argument likely has already been made via the information and analysis already presented,

but should be presented/restated/summarized. Plus, further elaboration of terms for recommendations, if any.

**10. Implementation, Administration and Enforcement**

Discuss how the recommended action(s) would be implemented, administered and enforced. What staffing (internal or via contractors/consultants) and materials/facilities are likely required for implementation?

**11. Environmental Sustainability**

Discuss the impacts of the recommended action(s), if any, on the environment and the recommendation's positive and/or negative implications with respect to the City's Climate Action, Resilience, and other sustainability goals.

**12. Fiscal Impacts**

Review the recommended action's potential to generate funds or savings for the City in the short and long-term, as well as the potential direct and indirect costs.

**13. Outcomes and Evaluation**

State the specific outcomes expected, if any (i.e., *"it is expected that 100 homeless people will be referred to housing every year"*) and what reporting or evaluation is recommended.

**14. Contact Information**

**15. Attachments/Supporting Materials**



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## **APPENDIX C. TEMPORARY RULES FOR THE CONDUCT OF CITY COUNCIL MEETINGS THROUGH VIDEO CONFERENCE DURING THE COVID-19 EMERGENCY**

### **Mayor and Councilmember Speaking Time on Agenda Items**

For the Consent Calendar, the Mayor and Councilmembers will initially have up to five minutes each to make comments. After all members of the Council have spoken (or passed) and after public comment, members will each have two additional minutes to discuss the Consent Calendar.

For non-Consent items, the Mayor and Councilmembers will have two minutes each to make initial comments on an agenda item, except for the author of an agenda item who will have five minutes to initially present the item. After every Councilmember has spoken or declined and after public comment, Councilmembers will each have another five minutes per person to address an item. Debate may be extended beyond a second round of Council comments by a majority vote (5 votes).

Time will toll during staff answers to questions; Councilmembers are urged to ask their questions of city staff before the meeting or in writing.

### **Procedure for Pulling Items from Consent or Information Calendar**

Three (3) members of the City Council must agree to pull an item from the Consent or Information Calendar for it to move to Action. Absent three members concurring, the item will stay on Consent or Information Calendar and, with respect to Consent items, the Mayor or Councilmembers will be allowed to record their aye, nay or abstain votes on individual items or the entire Consent Calendar.

Moving an item from the Action Calendar to the Consent Calendar requires the unanimous consent of the entire City Council.

### **Public Comment Speaking Time**

With the exception of prescribed times in the Rules of Procedure for public hearings, the amount of time for each speaker during public comment is limited to two minutes maximum and that speakers can only address an agenda item once, however the Presiding Officer has the discretion to reduce speaker time if needed in order to allow the orderly conduct of the meeting, subject to the consent of a majority of the City Council. Speakers may yield their time for a maximum of four minutes per individual. If a speaker wishes to yield their time, they must indicate so when called on by the Presiding Officer and state who they are yielding their speaker time to. The Presiding Officer will keep a list with the names and amount of time yielded to individuals.

In order to inform members of the public of their place in the speaker's queue, the Presiding Officer will call the names of 5 speakers at a time.

Public Comment on Non-Agenda Matters will be conducted in the order of hands raised on the Zoom platform, and will be limited to either the first 10 speakers during the initial round of Non-Agenda public comment, as well as all hands raised during the closing round of Non-Agenda public comment at the conclusion to the meeting, until such time that the

meeting adjourns. If there are five or fewer speakers with hands raised for Public Comment on Non-Agenda Matters, each speaker will have two minutes to address the City Council. If there are more than five speakers with their hands raised then speaker time will be limited to one minute per person. The procedure for selection of Non-Agenda speakers prescribed in the Rules of Procedure by random draw is suspended for videoconference meetings where there is no physical meeting location.



Office of the City Manager

PUBLIC HEARING  
March 14, 2023

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: David Sprague, Interim Fire Chief  
 Subject: Ambulance User Fee Increase

RECOMMENDATION

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

FISCAL IMPACTS OF RECOMMENDATION

The Alameda County Health Care Services Agency notified the City on July 21, 2022 that they had approved an increase in the Bundled Base Rate User Fee that may be charged by the County’s 911 Ambulance Transport Service Provider. Under the terms of Berkeley’s Emergency Medical Services Ambulance Transport Services Agreement with Alameda County, the City may increase its Bundled Base Rate to \$3,331.40, Mileage to \$75.17, Oxygen to \$248.88, and Treatment/Non-Transport to \$668.13 beginning July 1, 2022. The City will increase its rate effective April 1, 2023 and will not apply the increase retroactively. These adjustments account for the increased cost of ambulance transport, paramedic services, and medical equipment/supplies. Collected ambulance fees are deposited into a General Fund revenue account.

|                             | Existing   | Proposed   |
|-----------------------------|------------|------------|
| Base Rate                   | \$2,181.38 | \$3,331.40 |
| Mileage                     | \$50.71    | \$75.17    |
| Oxygen                      | \$167.91   | \$248.88   |
| Treatment / Non-Transport * | \$450.77   | \$668.13   |

*\*For patients who receive a medical intervention, such as intravenous medication administration, and subsequently refuse transport.*

CURRENT SITUATION AND ITS EFFECTS

Under the terms of the Emergency Medical Services Ambulance Transport Services Agreement, Alameda County Board of Supervisors is responsible for setting and approving any fees that are applicable to all providers. The increases are either cost-of-living adjustments (COLA) or base rate adjustments. For the City of Berkeley, the last rate increase was approved by the City Council on May 14, 2019 (Resolution No. 68,897–N.S.); and the rate increase was made effective July 1, 2019.

BACKGROUND

The Alameda County Emergency Medical Services (EMS) is responsible for the procurement of emergency ambulance services for the local EMS system. The Berkeley Fire Department has an agreement with Alameda County to be the emergency transport provider for Berkeley since 1977. Albany, Piedmont, Alameda City, and Falck serve as the ambulance transport providers for other parts of Alameda County. Under the current agreement, all transport providers, including Berkeley, are in the Alameda County Emergency Medical Services District. Since 1986, the Berkeley Fire Department has provided ambulance transport service at the Advanced Life Support (ALS) or paramedic level.

Under the terms of the Emergency Medical Services Ambulance Transport Services Agreement, the Alameda County Board of Supervisors is responsible for setting and approving any fees that are applicable to all agencies. The increases are either COLA or base rate adjustments.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

There are no identifiable environmental effects, climate impacts, or sustainability opportunities associated with the action requested in this report.

RATIONALE FOR RECOMMENDATION

The Berkeley Fire Department is seeking Council approval to increase the base rate for ambulance user fees to match those approved by Alameda County and made effective on July 1, 2022. Periodic rate increases help to recoup increasing costs incurred for providing ambulance services.

Government Code Section 6062(a) dictates the manner of publication for fee increase public hearings.

ALTERNATIVE ACTIONS CONSIDERED

Continue with the existing Ambulance User Fee Schedule which was approved by the Alameda County Board of Supervisors and made effective September 1, 2019.

Ambulance User Fee Increase

PUBLIC HEARING  
March 14, 2023

CONTACT PERSON

Dave McPartland, EMS Assistant Fire Chief, (510) 981-3473

Attachments:

- 1: Resolution
- 2: Public Hearing Notice

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

AMBULANCE USER FEE ADJUSTMENT

WHEREAS, the County of Alameda and the City of Berkeley are in an Emergency Medical Services Ambulance Transport Services Agreement dated July 1, 2019; and

WHEREAS, the County of Alameda Board of Supervisors sets the rates for emergency ambulance transport; and

WHEREAS, the revenue collected will be deposited into General Fund revenue account 010-6405-341-7900; and

WHEREAS, the County of Alameda Board of Supervisors established and approved a new Contractor’s User Fee schedule for ambulance transport providers. The rates were made effective July 1, 2022.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the new Ambulance User Fee Schedule is adopted in accordance with the rates established by the County of Alameda, effective July 1, 2022, as follows:

|                           | User Fee Schedule |
|---------------------------|-------------------|
| Base Rate                 | \$3,331.40        |
| Mileage                   | \$75.17           |
| Oxygen                    | \$248.88          |
| Treatment / Non-Transport | \$668.13          |

BE IT FURTHER RESOLVED that the new Ambulance User Fee Schedule shall be effective April 1, 2023.

BE IT FURTHER RESOLVED that the City Manager is authorized to execute an amendment to Contract No. 31900182 with Alameda County for ambulance transport services to incorporate the fee increase.

BE IT FURTHER RESOLVED that Resolution No. 68,897-N.S. is rescinded, effective April 1, 2023.

**NOTICE OF PUBLIC HEARING  
BERKELEY CITY COUNCIL  
AMBULANCE USER FEE ADJUSTMENT**

**The public may participate in this hearing by remote video or in-person.**

Notice is hereby given by the City Council of the City of Berkeley that a public hearing will be conducted by said city council of the City of Berkeley at which time and place all persons may attend and be heard upon the following:

The Fire Department is proposing to increase the Ambulance User Fee rates to match the ambulance transport provider fees set forth and approved by the County of Alameda. Collected ambulance fees are deposited into a General Fund revenue account.

The County of Alameda has established and approved a new base rate Contractor’s User Fee schedule for ambulance transport providers effective July 1, 2022. The City of Berkeley fee increase would be effective April 1, 2023. For the City of Berkeley, the last rate increase was approved by the City Council on May 14, 2019 (Resolution No. 68,897–N.S.); and the rate increase was made effective July 1, 2019.

|                             | <b>Existing</b> | <b>Proposed</b> |
|-----------------------------|-----------------|-----------------|
| Base Rate                   | \$2,181.38      | \$3,331.40      |
| Mileage                     | \$50.71         | \$75.17         |
| Oxygen                      | \$167.91        | \$248.88        |
| Treatment / Non-Transport * | \$450.77        | \$668.13        |

*\*For patients who receive a medical intervention, such as intravenous medication administration, and subsequently refuse transport.*

The hearing will be held on March 14, 2023 at 6:00 p.m. in the School District Board Room, 1231 Addison Street, Berkeley CA 94702.

For further information, please contact David McPartland, EMS Assistant Chief, at (510) 981-3473.

A copy of the staff report for this hearing will be available on the City’s website at [www.berkeleyca.gov](http://www.berkeleyca.gov) as of **March 2, 2023**. Once posted, the agenda for this meeting will include a link for public participation using Zoom video technology, as well as any health and safety requirements for in-person attendance.



Written comments should be mailed or delivered directly to the City Clerk, 2180 Milvia Street, Berkeley, CA 94704, or e-mailed 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 or in person to the City Clerk. If you do not want your contact information included in the public record, please do not include that information in your communication. Please contact the City Clerk at 981-6900 or [clerk@cityofberkeley.info](mailto:clerk@cityofberkeley.info) for further information.

*If you challenge the above in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the City of Berkeley at, or prior to, the public hearing. Background information concerning this proposal will be available at the City Clerk Department and posted on the City of Berkeley webpage at least 10 days prior to the public hearing.*

Published: March 3 and March 10, 2023 – The Berkeley Voice Per Government Code 6062A

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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 March 2, 2023.

Mark Numainville, City Clerk



Fair Campaign Practices Commission

PUBLIC HEARING

March 14, 2023

To: Honorable Mayor and Members of the City Council

From: Jim Hynes, Chair, Fair Campaign Practices Commission

Submitted by: Samuel Harvey, Secretary, Fair Campaign Practices Commission

Subject: Amendments to Berkeley Election Reform Act cost of living adjustment provisions

RECOMMENDATION

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

FISCAL IMPACTS OF RECOMMENDATION

None.

CURRENT SITUATION AND ITS EFFECTS

These recommended amendments to the Berkeley Election Reform Act (“BERA”) were approved by the Fair Campaign Practices Commission (“FCPC”) at its regular meeting of January 19, 2023.

Action: M/S/C (Ching/Tsang) Motion to approve staff’s recommended BERA amendments for submission to the City Council.

Vote: Blome, Ching, Hernandez, O’Donnell, Tsang, Hynes; Noes: none; Abstain: none; Absent: Bernstein.)

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 Berkeley Election Reform Act (BMC Ch. 2.12.) (“BERA”), the FCPC is required to adjust various dollar amounts in accordance with changes in cost of living every odd-numbered year.

These dollar amounts include the following amounts under the City’s Fair Elections (public financing) program:

1. Qualified contributions (BMC § 2.12.167)
2. Minimum qualified contributions required for public financing qualification (BMC § 2.12.500.A.3)
3. Aggregate per-candidate matching funds payments (BMC § 2.12.505.B.)
4. Maximum value of capital assets purchased with public financing funds (2.12.530.B.3.b.)

In 2021, the FCPC and City Council approved an amendment to BERA which provides that the \$250 contribution limit for candidates not participating in public financing shall be adjusted for cost of living in every odd-numbered year. (See BMC § 2.12.415.)

This proposed amendment would make the following changes:

- a. Clarify that the \$250 contribution limit shall be adjusted in \$10 increments

Pursuant to section 2.12.545, the above adjustments for the public financing program are to be rounded to the nearest \$10 (or \$1,000 for aggregate candidate payments under 2.12.505.B). This ensures that dollar amounts are adjusted to simple numbers that do not include fractions of a dollar. It also ensures that amounts will not be changed if the cost of living results in an adjustment of less than \$5.

During the FCPC’s 2021 discussion of adjusting the \$250 contribution limit for candidates not participating in public financing, it was understood that the same \$10 adjustment rounding would apply to adjustments to the \$250 limit. However, this change was not enshrined in the resulting amendment. As a result, the required adjustment to \$250 could result in an adjustment of only a few dollars, including fractions of a dollar. This proposed amendment to BERA section 2.12.415 would clarify that the \$10 rounding applied to other adjusted BERA amounts will also apply to adjustments to the \$250 contribution limit

- b. Change timing of cost of living adjustments to coincide with availability of data

BERA provides that the FCPC shall approve the cost of living adjustments in January of each odd-numbered year. The City Clerk Department prepares the proposed adjustments based on data made available by the U.S. Bureau of Labor Statistics (“BLS”). This year, BLS did not make the necessary data available until the end of January 2023. This was also the case during the previous round of adjustments in 2021. The proposed amendment would change the timing of the adjustment from January to March in order to allow sufficient time for City staff to acquire the needed data, calculate the necessary

adjustments, and prepare a proposal for the FCPC. This change may be accomplished by amending BERA sections 2.12.415 and 2.12.545 as proposed.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

None.

RATIONALE FOR RECOMMENDATION

The proposed BERA amendments will add clarity to the BERA cost of living adjustment process and ensure that City deadlines for making those adjustments coincide with the availability of necessary data.

ALTERNATIVE ACTIONS CONSIDERED

None.

CITY MANAGER

Staff concurs with the content and recommendations of the Commission's report.

CONTACT PERSON

Jim Hynes, Chair, Fair Campaign Practices Commission, (510) 981-6998
Samuel Harvey, Commission Secretary, Fair Campaign Practices Commission (510) 981-6998

Attachments:

1. Proposed ordinance amending BERA

ORDINANCE NO. _____

AMENDING BERKELEY MUNICIPAL CODE CHAPTER 2.12

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

Section 1. That Berkeley Municipal Code Section 2.12.415 is amended to read as follows:

2.12.415 Persons other than candidate – Maximum permitted amount.

No person other than a candidate shall make and no campaign treasurer shall solicit or accept any contribution which will cause the total amount contributed by such person with respect to a single election in support of or in opposition to such candidate to exceed two hundred fifty dollars (\$250). The Commission shall adjust the dollar amount in this Section for cost of living changes pursuant to 2.12.075 in JanuaryMarch of every odd-numbered year, or as soon thereafter as practicable. Such adjustments shall be rounded to the nearest ten dollars (\$10). For purposes of this section single election is a primary, general, special, runoff or recall election

Section 2. The Berkeley Municipal Code Section 2.12.545 is amended to read as follows:

2.12.545 Cost of living adjustments

The Commission shall adjust the dollar amounts specified in Sections 2.12.167, 2.12.500.A.3, 2.12.505.B and 2.12.530B.3.b for cost of living changes pursuant to Section 2.12.075 in JanuaryMarch of every odd-numbered year, or as soon thereafter as practicable, following Council implementation. Such adjustments shall be rounded to the nearest ten dollars (\$10) with respect to Sections 2.12.167, 2.12.500.A.3 and 2.12.530.B.3.b and one thousand dollars (\$1,000) with respect to Section 2.12.505.B.

**NOTICE OF PUBLIC HEARING
BERKELEY CITY COUNCIL**

AMENDMENTS TO THE BERKELEY ELECTION REFORM ACT

The public may participate in this hearing by remote video or in-person.

Notice is hereby given by the City Council of the City of Berkeley that a public hearing will be conducted by said city council of the City of Berkeley at which time and place all persons may attend and be heard upon the following:

The Fair Campaign Practices Commission of the City of Berkeley is proposing amendments to the Berkeley Election Reform Act related the cost-of-living adjustment provisions.

The hearing will be held on, March 14, 2023 at 6:00 p.m. in the School District Board Room, 1231 Addison Street, Berkeley, CA 94702.

For further information, please contact Samuel Harvey, Commission Secretary at (510) 981- 6998.

A copy of the staff report for this hearing will be available on the City’s website at www.berkeleyca.gov as of **March 2, 2023**. Once posted, the agenda for this meeting will include a link for public participation using Zoom video technology, as well as any health and safety requirements for in-person attendance.

Written comments should be mailed or delivered directly to the City Clerk, 2180 Milvia Street, Berkeley, CA 94704, or e-mailed to 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 or in person to the City Clerk. If you do not want your contact information included in the public record, please do not include that information in your communication. Please contact the City Clerk at 981-6900 or clerk@cityofberkeley.info for further information.

Published: March 3, 2023 pursuant to Berkeley Municipal Code Section 2.12.051

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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 March 2, 2023.



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







Office of the City Manager

ACTION CALENDAR

March 14, 2023

*(Continued from November 29, 2022)*

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Jordan Klein, Director, Department of Planning and Development

Subject: Climate Action Plan and Resilience Update

SUMMARY

The City of Berkeley has long been a leader on climate action. In 2006, Berkeley residents voted to reduce the community's greenhouse gas (GHG) emissions by 80% below 2000 levels by 2050, and the resulting Climate Action Plan (CAP) was adopted by the Berkeley City Council in 2009. In 2018, then-Governor Brown committed California to carbon neutrality by 2045, the Berkeley City Council resolved to become a "Fossil Fuel-Free City," and the Council declared a Climate Emergency, all steps to signal the urgency of these ambitious goals and the need to act on climate threats in an equitable manner. Additionally, in 2020, Berkeley City Council established a 2030 GHG emission reduction target that reflects Berkeley's fair share of the 50% global reduction in carbon dioxide equivalent (CO<sub>2</sub>e), committing to reduce emissions 60.5% from 2018 levels by 2030.

The community is making notable progress reducing GHG emissions. Based on the best currently available data from 2020, the community has reduced overall GHG emissions by 31% since 2000 despite population increasing by 21%. While Berkeley has continued to see a decreasing trend in community-wide emissions since 2000, there was a significant drop in 2020 due to the impacts of the COVID-19 pandemic. The transportation sector saw the greatest reduction in emissions as travel and commuting declined sharply during much of 2020. Transportation sector emissions are expected to increase in future years as travel and commuting resume to pre-pandemic levels. Berkeley's building sector electricity emissions increased significantly in 2020 due to changes in East Bay Community Energy's (EBCE's) Bright Choice product. Further declines in citywide electricity emissions are anticipated in 2022, when most residential and commercial electricity accounts transitioned to EBCE's Renewable 100 product.

During the last two years, Berkeley City Council funded the Just Transition Pilot Program and the Climate Equity Fund, which will not only provide GHG emission savings but will also create a foundation to build on additional equity-focused programs.

Although Berkeley has made significant progress, additional work is required to achieve the City's ambitious goal of becoming a Fossil Fuel-Free City.

This report contains new performance metrics to help measure progress in meeting climate action goals in the transportation and building sectors. Alongside GHG emission reductions, staff is prioritizing community resilience, adapting to the changing climate, and advancing racial equity, and will be collaborating with disadvantaged communities to develop meaningful metrics to measure how Berkeley's climate programs advance equity and resilience.

### CURRENT SITUATION AND ITS EFFECTS

Berkeley's progress on climate action and the annual community-wide GHG emissions inventory is a Strategic Plan Priority Project, advancing our goal to be a global leader in addressing climate change, advancing environmental justice, and protecting the environment.

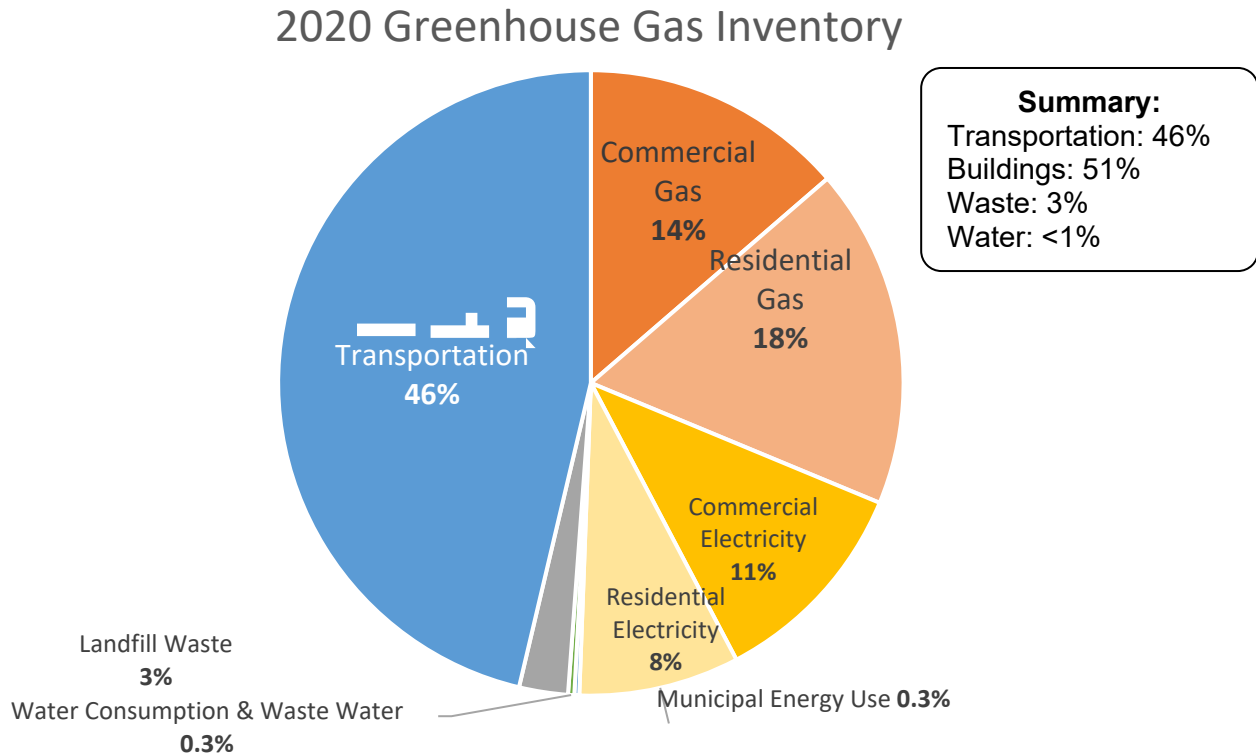
City staff annually calculates community GHG emissions to understand which sectors and fuels contribute the most emissions in Berkeley, track progress toward the community's climate goals, and provide data that can be used for prioritizing programs and policies.

Berkeley's community-wide greenhouse gas emissions in 2020 totaled 501,013 metric tons of carbon dioxide equivalent (mtCO<sub>2</sub>e). The 2020 GHG inventory was heavily impacted by the global COVID-19 pandemic. The effects of the pandemic on 2020 emissions are included within each sector's analysis.

**Figure 1** is a pie chart of 2020 community-wide GHG emissions inventory, the most recent available data, broken down by sector and fuel. The majority of our citywide emissions continue to come from Berkeley's transportation and building sectors. The building sector was the largest source of emissions in 2020 and accounted for 51% (253,465 mtCO<sub>2</sub>e) of citywide emissions. Energy usage data for Berkeley buildings, provided by EBCE and PG&E, is broken down into residential and commercial (including industrial) buildings—for both electricity use and natural gas (gas) combustion.

The transportation sector, which has historically been the largest source of GHG emissions and includes vehicles, BART, AC Transit, Amtrak and maritime vessels, accounted for 46% (232,009 mtCO<sub>2</sub>e) of the overall emissions in 2020.

**Figure 1:** Pie chart of 2020 community-wide GHG emissions inventory, broken down by sector and fuel.

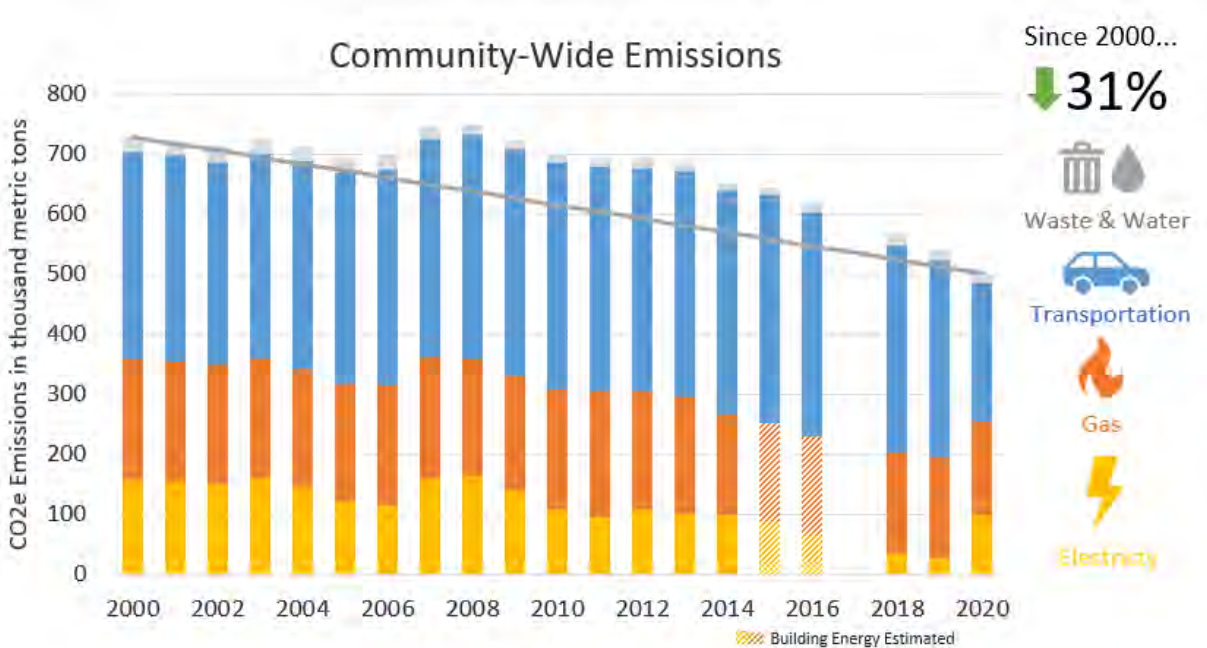


Emissions from municipal energy use accounts for 0.3% (1,272 mtCO<sub>2</sub>e) of the 2020 community-wide GHG emissions. Municipal energy consumption includes City buildings as well as other uses such as streetlights and traffic signals.

The remaining 3% (14,267 mtCO<sub>2</sub>e) of Berkeley’s community-wide GHG emissions come from landfilled solid waste, water consumption, and waste water treatment.

The most current community emissions from 2020 are compared to the Climate Action Plan (CAP) baseline year of 2000, to identify reductions achieved thus far. A historic summary of Berkeley’s annual emissions inventories from 2000 to 2020 is provided in **Figure 2**. Please note that due to data access issues, the city was not provided with citywide energy use data in 2015 and 2016 so building energy usage was estimated using assumptions and is represented with shaded coloring. No inventory was calculated for 2017, so that year of data is omitted.

**Figure 2:** *Historic Berkeley emissions inventories back to 2000, broken out into building electricity and gas combustion, transportation, and other (water, wastewater treatment and landfill solid waste).*



Community-wide emissions in 2020 decreased 31% from the 2000 baseline and decreased 7% from 2019. Berkeley’s original CAP goal of reducing GHG emissions by 80% from 2000 levels by 2050 was superseded by a commitment by the Berkeley City Council on May 11, 2021 to become zero net emissions by 2045 or sooner, requiring an additional 69% reduction of GHG emissions over the next 25 years.

Key accomplishments and examples of work underway to reduce GHG emissions and address the climate emergency are described below. Although the data for GHG emissions is for the calendar year of 2020, the progress on programs described in the following sections includes efforts since July 2020, the last time that this report was updated for City Council.

## Equity



*Equity Goal: Prioritizing the advancement of equity outcomes into policies and programs*

### **Equity Guardrails**

Berkeley’s Existing Buildings Electrification Strategy (BEBES, 2021) developed a set of

“Equity Guardrails” which serve as minimum requirements for equity that must be met in order to advance a policy, program or project. These guardrails were developed as a result of targeted community outreach with disadvantaged communities to better understand and elevate community priorities and needs. The Planning & Development Department’s Office of Energy and Sustainable Development (OESD) has adapted these guardrails beyond the electrification of existing buildings, and now applies them to all of its work. The guardrails include:

- **Maximize Access to Health, Safety & Mobility Benefits:** Proposed projects should prioritize the benefits of building and transportation electrification including health, safety, and comfort to those most impacted by climate change.
- **Maximize Access to Economic Benefits:** Proposed projects should leverage incentives and financing, reduce costs when possible, and support high-road job opportunities when possible.
- **Maximize Ease of Participation:** Proposed projects should be easy for all community members to access, and should be integrated with other programs and services when possible.
- **Promote Housing Affordability & Anti-Displacement:** Proposed programs should support housing preservation and tenant protections, and not displace renters or homeowners.

### Measuring Progress

Cities have long been using quantitative metrics like GHG inventories to measure progress on climate action, but these inventories only tell part of the story. In order to capture the full impacts of climate change and measure equitable climate action progress, it is important to track programs over time to measure outcomes and progress. Ideally these indicators are co-created with the community to identify meaningful measures of success based on the community’s priorities. By creating indicators that show meaningful and equity-focused outcomes, staff can adjust programs and policies to improve equitable outcomes over time, and increase the quality of life for members of the community – particularly those who have been historically disadvantaged and are most impacted by climate change. Both qualitative and quantitative metrics need to be created and tracked, to be able to monitor things that are difficult to quantify such as comfort, health, and other resiliency benefits. In the coming year, staff will co-create additional equity metrics and indicators with disadvantaged communities based on their priorities, criteria, and available data. These metrics will be related to the climate programs advancing equity described in the Transportation and Buildings sections below.

## Transportation



*Transportation Goal: Advancing opportunities for people to safely walk, bike, take public transit, and electrify mobility options*

### **Transportation Sector Emissions**

Total community-wide transportation GHG emissions decreased 29% from 2019 to 2020, and 32% since 2000. Total miles driven by on-road vehicles decreased by 28% from 2019 to 2020. The COVID-19 pandemic caused the significant decrease in emissions and total miles traveled. Emissions from on-road vehicles are calculated using total miles traveled provided by Google Environmental Insights Explorer<sup>1</sup>.

### **Impacts to Berkeley's Transportation sector emissions:**

- **COVID-19 Pandemic** – On March 16, 2020, the six bay area counties and the City of Berkeley issued “shelter in place” orders restricting all residents to their homes in response to the global pandemic. The region-wide shutdown of offices, schools, and other services caused a drastic decrease in driving and commuting in 2020. Additionally, the ability to contract COVID-19 by close contact caused a decrease in public transit ridership, as more people opted to travel by walking, biking, and personal automotive vehicles.

### **Electric Mobility Roadmap**

The Berkeley Electric Mobility Roadmap, adopted by Berkeley City Council in July 2020, identifies goals, strategies, and actions to create a fossil fuel-free transportation system. This integrates with and supports the City's ongoing efforts to increase walking, biking, and public transportation, and helps to ensure equitable access to the benefits of clean transportation.

This Roadmap centers equity by acknowledging and addressing the inequalities of our current transportation system. Early engagement of community-based organizations and nonprofits helped to identify important mobility gaps for low-income constituents, renters, communities of color, people with disabilities, and other priority stakeholders. Equity was used as a lens through which all proposed strategies were filtered.

The four goals of the Roadmap, along with implementation updates, are detailed below:

<sup>1</sup> <https://insights.sustainability.google/>

### 1. Ensure Equity in Access to Electric Mobility: Maximize electric mobility benefits in underserved communities

- **Pilot Climate Equity Fund:** On July 27, 2021, City Council approved a resolution establishing a Pilot Climate Equity Action Fund and allocated \$600,000 to provide climate change and resilience benefits to low-income residents. One of the three program areas is creating an electric bike (e-bike) access program for income-qualified Berkeley households, and an e-bike youth education and workforce training program to service e-bikes and provide training for high-road job opportunities. Additional information on the Pilot Climate Equity Fund is provided in the Buildings section of this report.

### 2. Improve Alternatives to Driving: Shift trips to walking, biking, and shared electric modes

- **Micromobility:** In September 2021, Berkeley City Council adopted a resolution to establish a shared electric micromobility permit program. The city issued permits to three private shared mobility operators (Link, Spin, and VeoRide) which allows these operators to provide Berkeley residents and visitors with more sustainable commute options using electric scooters and e-bikes. In May 2022, the three operators launched their programs and over 1,000 electric scooters and e-bikes were distributed around Berkeley. To ensure equitable access to these devices, at least 50% of these devices must be deployed in designated equity priority areas and operators are required to provide both low-income programs and more accessible devices, such as sit scooters, to maximize accessibility of shared electric micromobility.

### 3. Achieve Zero Net Carbon: Eliminate emissions from private vehicles

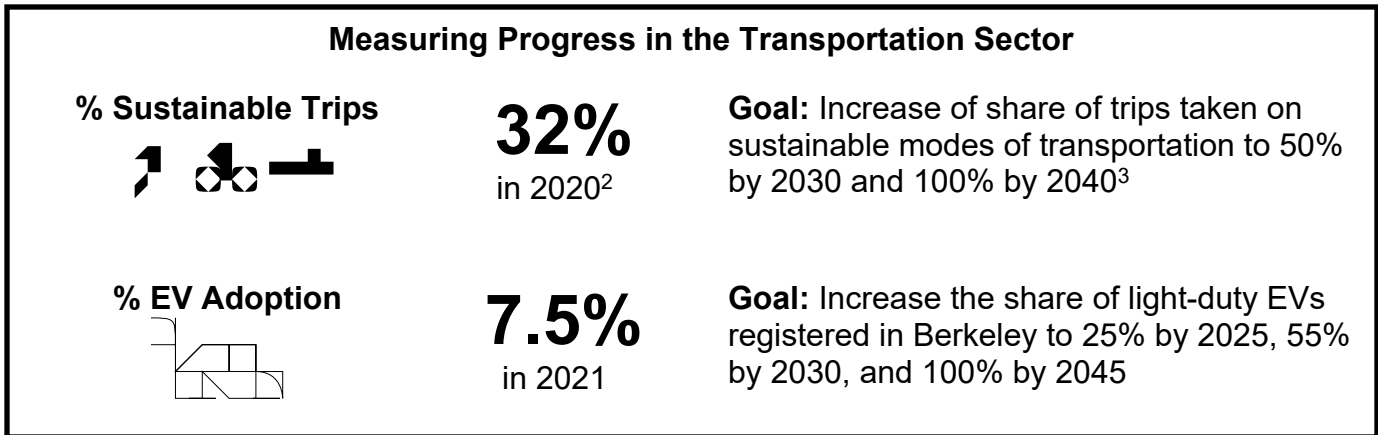
- **Electric Vehicle Charging:** The City continues to promote the use of electric vehicles (EVs) and facilitate the installation of EV charging stations through offering streamlined permitting, educating property owners about EV charging and grant opportunities, and providing EV charging on municipal property. As of August 2022, there were over 200 publicly-available EV charging ports (Level 2 and DCFC) in Berkeley and approximately 7.5% of registered cars in the community were electric. Both of these values have doubled in the last four years; in late 2018 there were 105 publicly-available EV charging ports and nearly 4% of registered personal vehicles were electric.

The City is currently partnering with East Bay Community Energy (EBCE) to site and develop future public EV DC Fast Charging Hubs in Berkeley. Proposed local amendments to the 2022 California Green Building Standards Code, to take effect in January 2023, would require levels of EV charging in new buildings which would exceed the state requirements.



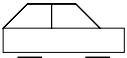


**4. Demonstrate City Leadership:** Lead by example and guide the electric mobility transition

- Electrification of City Fleet:** Staff worked with EBCE to conduct a municipal fleet electrification assessment including a plan for EV deployment and associated charging infrastructure through 2030, presented to Council in July 2020. The City is currently working to add EV charging for municipal fleet vehicles at the Corporate Yard, and has continued to increase the number of electric vehicles in the municipal fleet. In 2020 the municipal fleet included two electric scooters (for parking enforcement) and 15 plug-in hybrid sedans. In 2021, five electric sedans were added. In 2022, EV additions to the municipal fleet will include an additional two electric scooters, three electric sedans, eight electric SUVs, and 15 electric pick-up trucks.
- Electric Mobility Position:** The City of Berkeley is hiring an Electric Mobility Coordinator. This position will organize and convene the City’s Electric Mobility Implementation Working Group, manage and coordinate the development of City-owned electric vehicle charging infrastructure, track and develop programs utilizing emerging mobility options, obtain grant funding for the City’s electric mobility programs, and catalyze actions such as electric mobility equity pilot projects, new best practices for curbside vehicle charging, and shared electric mobility hubs.



<sup>2</sup> Percent of sustainable trips in 2020 only includes trips from walking, biking, and public transit as EV trip data is currently not available.

<sup>3</sup> The goal to increase sustainable trips to 100% by 2040 includes trips from walking, bicycling, public transit, and EVs.

|                                                                                   |                                                 |                                                                                                         |
|-----------------------------------------------------------------------------------|-------------------------------------------------|---------------------------------------------------------------------------------------------------------|
| <p><b># of Gas Cars Per Household</b></p>                                         | <p><b>1.3</b><br/>in 2021</p>                   | <p><b>Goal:</b> Reduce the number of gas cars per household to 0 by 2045</p>                            |
|  |                                                 |                                                                                                         |
| <p><b># of Public Level 2 Chargers</b></p>                                        | <p><b>184</b><br/>in August 2022</p>            | <p><b>Goal:</b> Install at least 420 public Level 2 chargers by 2025<sup>4</sup></p>                    |
|  |                                                 |                                                                                                         |
| <p><b># of Public DC Fast Chargers</b></p>                                        | <p><b>22</b><br/>in August 2022<sup>5</sup></p> | <p><b>Goal:</b> Install at least 100 public direct current fast chargers (DCFC) by 2025<sup>4</sup></p> |
|  |                                                 |                                                                                                         |

**Buildings**



*Buildings Goal: Reducing energy use, promoting cleaner energy, and transitioning all buildings to clean electricity*

**Building Sector Emissions**

Overall GHG emissions from Berkeley’s building sector increased by 29% from 2019 to 2020 but remain 29% below 2000 levels. While the emissions from the building sector increased, total community-wide electricity usage decreased 8% and total community-wide gas usage decreased by 7% from 2019 to 2020. Since 2000, total community-wide gas usage has decreased by 22%.

**Impacts to Berkeley’s Building sector emissions:**

- **EBCE Bright Choice Electricity Emission Factor** – The emission factor for EBCE’s default electricity product, Bright Choice, increased by 337% in 2020 compared to the 2019 value. The Bright Choice product accounts for 92% of Berkeley’s 2020 community-wide electricity consumption. The emission factor

<sup>4</sup> Berkeley’s estimates for number of chargers needed by 2025 are based on charging infrastructure projections provided by the California Energy Commission using Alameda County’s ratio of needed EV chargers to projected EVs.

<sup>5</sup> Includes Tesla fast chargers

increase is related to the changing procurement costs and loss of nuclear allocation in the electricity mix. EBCE is committed to providing 100% emission-free Bright Choice by 2030. Additionally, in 2022 all Berkeley customers were automatically opted-up into EBCE's Renewable 100.

- **COVID-19 Pandemic** – The building sector was also affected by the COVID-19 pandemic, particularly commercial buildings. Many Berkeley businesses reduced in-person operations during 2020 which contributed to the 15% reduction in electricity consumption and 13% reduction in gas consumption from commercial buildings. Even though more Berkeley residents worked from home in 2020 due to the shelter in place order, residential gas consumption still decreased by 3%.

### Municipal Buildings

Municipal buildings are assessed for efficiency and electrification opportunities on an ongoing basis. The following list highlights recently completed projects and major current efforts.

- **South Berkeley Senior Center:** In 2021, the City of Berkeley received a \$48,000 grant from East Bay Community Energy to help electrify commercial kitchens. Two commercial gas ranges in the South Berkeley Senior Center were replaced with a new commercial induction cooktop, and the current electric resistance steam table will be replaced with a new induction food warming table, saving nearly 90% of electricity use and 10,000 gallons of water per year. The Public Works Electrical Division completed the electrical upgrades needed for the induction appliances.
- **Spring Animal Shelter:** In 2021, a comprehensive lighting upgrade was completed at the Spring Animal Shelter which reduced peak demand<sup>6</sup> energy by an average of 15kW per month, with a cost savings of \$26/kW, and decreased total electricity consumption by ~10,000 kWh per month compared to its pre-COVID consumption. Even though electricity prices increased twice in 2022, energy bills decreased by ~\$1,000/month. This project utilized PG&E's On-Bill Finance program, which provides commercial customers with zero percent interest loans to complete energy efficiency upgrades. With a monthly loan payment of \$609.29 and energy cost savings of ~\$1,000, the City is saving ~\$400 a month.
- **Adult Mental Health Clinic, 2640 MLK Jr. Way:** This project was primarily a T1 Bond project with Public Works Engineering, with OESD staff providing technical assistance through a grant from the Berkeley Lab to ensure that this site was an

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<sup>6</sup> Peak demand is when energy costs more and is typically more polluting (for EBCE customers, hours vary by rate class but are generally 4-9 PM).

all-electric Zero Net Energy building. The building was completed and occupied in 2021.

- **Streetlighting Analysis:** A second streetlighting retrofit was completed in 2018-2019 which resulted in an 18% energy reduction. Additionally, analyzing utility bills from disputed streetlights (i.e., streetlights missing in the field, belonging to another entity, or added and not being billed by PG&E) resulted in \$269,000 of bill credits for the City in 2021.
- **Switching to East Bay Community Energy's Renewable 100:** In 2019, Berkeley City Council voted to switch municipal facilities to 100% renewable electricity and allotted \$94,000 to cover the incremental costs for the first year. By March 2022, nearly all electric accounts were converted to EBCE's Renewable 100 electricity product. While electricity costs have increased, GHG emissions from electricity consumption by municipal facilities have been reduced to near zero.
- **Solar + Storage:** The City is partnering with EBCE to procure and implement solar + storage systems at critical municipal facilities to provide increased resilience and clean back-up power in the case of a power outage. Alongside Fremont, Hayward, and San Leandro, the City of Berkeley submitted a list of potential critical facilities to the EBCE project portfolio to be included in a joint Request for Offers (RFO) for Power Purchase Agreement vendors. In August 2022, EBCE released the RFO and hopes to select a vendor by the end of 2022, and start installation of the solar + storage projects in 2023.

### **Berkeley Existing Buildings Electrification Strategy (BEBES)**

The Berkeley Existing Buildings Electrification Strategy, approved by Council in November 2021, provides a framework for transitioning to all-electric buildings in a way that includes and benefits all residents, especially members of historically marginalized communities. The Strategy's phased approach includes specific actions, policies, funding mechanisms, and a tentative timeline to transition Berkeley's existing building stock off gas as soon as possible and no later than 2045. The strategy includes detailed actions which fall under four primary policies, with the equity guardrails influencing the timing of their implementation. The actions are broken into three phases based on available data, technology, and anticipated equity impacts. Phase 1 focuses on expanding and verifying the identified cost effectiveness and equity impacts of implementing foundational programs, and building community capacity. Phase 2 increases the stringency of the policies and begins to introduce mandatory measures, once sufficient supports are in place. Finally, Phase 3 policies finalize the move toward all-electric buildings through mandatory measures.

The four proposed strategies, and a fifth category of actions that are cross-cutting across many or all strategies along with implementation updates, are detailed below:

**1. Time of Replacement (TR):** Replace gas equipment at the end of its useful life, either when the gas equipment fails or when a major building renovation is taking place. Phase 1 action taken to date include:

- **ACEEE Energy Equity for Renters Toolkit:** In 2021, the American Council for an Energy-Efficient Economy (ACEEE) launched the Energy Equity for Renters (EEfR) initiative. The City of Berkeley, partnered with StopWaste and several Berkeley community-based organizations, were selected to participate. ACEEE is producing a toolkit for the EEfR initiative, to be released by early 2023, that include policies and programs that reduce GHG emissions and energy costs while preserving housing affordability, with a focus on naturally occurring affordable housing (i.e., properties where the units are not deed restricted to low-income tenants), as well as measures that local governments can use to better incorporate equity in the design and implementation of municipal energy efficiency, housing, and other policies.

**2. Time of Sale (TS):** Implement requirements that are triggered when a building changes ownership. This policy generally applies to single-family homes since they are sold more frequently than other types of buildings. Time of sale requirements are currently required through Berkeley's Building Emissions Saving Ordinance (BESO) and could be expanded to include a range of required measures such as an electrification-ready panel upgrade, appliance replacement, or whole building electrification and incentives. Some Phase 1 actions taken to date include:

- **Building Emissions Saving Ordinance (BESO)**  
BESO requires building owners to complete and publicly report building-specific energy efficiency assessments and energy scores. The goal of BESO is to reduce both energy costs and GHG emissions in Berkeley's existing buildings. To date, BESO has achieved many successes, including:
  - Provided data on the energy use and energy efficiency opportunities of Berkeley's existing building stock.
  - 3,198 Energy assessments completed.
  - 2,498 Home Energy Scores<sup>7</sup> completed, with an average of 4.4 out of 10.
  - Developed an online application and payment system to improve customer service

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<sup>7</sup> Developed by the US Department of Energy and its national laboratories, the Home Energy Score provides home owners, buyers, and renters directly comparable and credible information about a home's energy use. Each Home Energy Score is shown on a simple one-to-ten scale, where a ten represents the most efficient homes. More information can be found at: <https://www.energy.gov/eere/buildings/downloads/home-energy-score#:~:text=Developed%20by%20DOE%20and%20its,about%20a%20home's%20energy%20use.&text=Each%20Home%20Energy%20Score%20is,represents%20the%20most%20efficient%20homes.>

In December 2020, Berkeley City Council amended BESO to further align the program with the City's electrification and community resilience goals. The amendment:

- Required small/medium buildings to complete an electrification assessment prior to listing a building for sale. - *Implemented Summer 2021*
- Added a Fuel Source Disclosure at time of listing. - *Implemented Summer 2021*
- Lowered the building size threshold for the energy benchmarking requirement. – *Implemented Summer 2022*
- Requires staff to develop energy upgrade requirements for Council consideration. – *Currently in development*

**3. Building Performance Standards (BP):** Establish building-level requirements such as minimum GHG emissions standards or elimination of gas systems or equipment by a specified date. These standards are generally applied to larger buildings, including multi-family residential and commercial buildings, in order to have the highest impact on the largest energy users. The size and type of building covered could expand over time. Some Phase 1 actions taken to date include:

- Staff is working to develop requirements for building performance standards (BPS) that lead to the elimination of gas in Berkeley's large buildings. These requirements would be administered through Berkeley's existing BESO program.

**4. Neighborhood Electrification and Gas Decommissioning (NE):** Create a plan to strategically reduce and eventually eliminate gas infrastructure in the city. Neighborhood-level electrification can be a more equitable way to electrify communities as opposed to a building-by-building approach which will leave those who cannot afford to electrify with higher gas rates. Larger scale projects also create more opportunities for high-road jobs, and could incorporate resilience measures such as on-site solar and islandable backup battery storage that could act as a neighborhood micro-grid to improve energy assurance. Some Phase 1 actions taken to date include:

- The City has been exploring opportunities for neighborhood electrification and gas decommissioning projects, including work supporting a pilot project led by Gridworks and funded by the California Energy Commission to develop criteria to identify neighborhoods for potential gas decommissioning projects.

**5. Cross-Cutting Actions:** These actions support the overall success of electrification both in the City and beyond. Many of these actions cannot be taken by the City

alone and will need wider collaboration from regional partners and the State. Some Phase 1 actions taken to date include:

- **Pilot Climate Equity Fund**

On July 27, 2021, City Council approved a resolution establishing a Pilot Climate Equity Action Fund and allocated \$600,000 to provide climate change and resilience benefits to low income residents in both buildings and transportation. The City of Berkeley released an RFP in December 2021, and on April 26, 2022 the City Council approved contracts with five vendors to implement the following three program areas:

- **Program Area #1 – Resilient Home Retrofits Pilot:** This program area will focus on building decarbonization improvements that enhance resilience, support occupants and reduce greenhouse gas emissions for low-income residents.
- **Program Area #2 – Electric Mobility Access Pilot:** This program area will create an electric bike (e-bike) access program for income-qualified Berkeley households, and an e-bike youth education and workforce training program that will service the e-bikes and provide training for high-road job opportunities.
- **Program Area #3 – Community Access to Resilience Measures and Electrification Engagement Pilot:** This program will elevate the voices of under-represented voices in climate and resilience, pilot and build capacity in local community organizations, and increase access to information and equipment for climate resilience and electrification efforts.

The implementation of these programs will take place through 2024. This advances implementation of the Berkeley Existing Buildings Electrification Strategy (2021), which identified long- and short-term strategies to make existing buildings in Berkeley free of fossil fuels in a way that includes and benefits all residents, especially members of historically marginalized communities.

- **Just Transition Pilot Program**

On June 14, 2022, City Council approved a resolution to develop an Existing Building Electrification Installation Incentives and Just Transition Pilot Program, with a budget of \$1,500,000. The program, using pre-qualified contractors who meet minimum labor standards, will target homes for households at or below 120% of the Area Median Income for replacing with gas water heating, HVAC, and cooking equipment with systems that run on clean electricity. The resolution calls for the establishment of labor standards that provide pathways to high-road careers for workers in residential electrification. This program advances implementation of the Berkeley Existing Buildings Electrification Strategy (2021). Staff is conducting research



to inform program design through interviews with key stakeholders and participation in the Bay Area regional High Road Training Partnership (H RTP)<sup>8</sup>, and getting input from the Berkeley Environment and Climate Commission (ECC), the City Council Facilities, Infrastructure, Transportation, Environment & Sustainability (FITES) Policy Committee, and others. A Request for Proposals for this Pilot Program is anticipated by early 2023.

### Measuring Progress in the Building Sector

**Citywide Building Energy Usage from Gas Combustion**



**69%**  
in 2020

**Goal:** Decrease percentage of building energy from fossil fuel consumption, in the form of gas combustion, to 0 by 2045 while switching to clean electricity

**BayREN Home+: # of Measures Completed**



**795**  
from 2019-2021

**Goal:** Increase BayREN Home+ participation

**BayREN Multifamily: # of Units Participated**



**1,052**  
from 2014-2021

**Goal:** Increase BayREN Multifamily participation and upgrade more units to decrease energy use, emissions, and increase comfort

**Total GHG emissions Saved through BayREN Upgrades**



**338**<sub>mtCO<sub>2</sub>e</sub>  
from 2014-2021

**Goal:** Increase total GHG emissions saved through participation in BayREN Home+ and BayREN Multifamily

<sup>8</sup> <https://cwdb.ca.gov/initiatives/high-road-training-partnerships/>

## Waste



*Waste Goal: Leading the way towards zero waste in policy, planning and practice*

### **Landfill Solid Waste Emissions**

Total community-wide landfill solid waste and overall emissions from the waste sector decreased by 18% in 2020 compared to 2019, placing current waste sector emissions 47% below the 2000 baseline.

### **Impacts to Berkeley's Building sector emissions:**

- **COVID-19 Pandemic** – The COVID-19 pandemic was the cause of the significant drop in our 2020 waste consumption and emissions. Many businesses reduced in-person operations in 2020 to adhere to local COVID-19 health orders. Additionally, UC Berkeley was fully remote for the start of the Fall 2020 semester and many students did not return to the City for in-person classes until 2021.

### **SB 1383**

In 2016, SB 1383 was signed into law. This State legislation is designed to reduce short-lived climate pollutants and requires 75% organic waste reduction by 2025 and a 20% increase in recovery of edible food that is currently disposed by 2025. California local jurisdictions have significant, new requirements to implement additional waste reduction programs and enhanced reporting and enforcement protocols to comply with the state legislation. SB 1383 implementation started January 1, 2022.

## Community Outreach & Engagement



*Community Engagement Goal: Achieving equitable climate action together*

Since 2012, the Berkeley Climate Action Coalition (BCAC), co-convened by the Ecology Center and the City, has been a vehicle for climate engagement. BCAC continues to engage Berkeley and East Bay residents on issues of climate justice. In 2020 public engagement and education activities moved online due to social distancing requirements during the COVID-19 pandemic.

### **Community Convenings with BCAC**

The City and BCAC collaborated with governmental and community organizations, houses of worship and municipalities in both Alameda and Contra Costa counties to host webinars on a variety of topics such as building electrification, waste and recycling, climate and health, electric cars, residential energy efficiency, and solar and storage.

### **East Bay Green Home Tours**

In Spring of 2021 and 2022, the City hosted multi-day *East Bay Green Home Tours*<sup>9</sup> showcasing various efforts of local residents to save water and energy, increase resilience to drought and heat, and reduce the carbon footprint of their homes. Over 700 people attended the East Bay Green Home Tour each year.

### **Ride Electric**

In October 2021, the City hosted its first in-person outdoor event since the start of the COVID-19 pandemic at the successful *4<sup>th</sup> Annual Ride Electric at the Farmers' Market*, offering test drives in City fleet plug-in cars as well as an Electric Bike Expo. This year the City hosted its *5<sup>th</sup> Annual Ride Electric* in conjunction with the City Harvest Festival on October 15, 2022, and was excited to offer electric bike and scooter test rides through the City's new shared electric mobility providers. As in years past, community and governmental agencies that offer resources to income qualified residents participated.

## **Climate Adaptation & Community Resilience**



*Adaptation and Resilience Goal: Strengthening and preparing the community for shocks and stresses, including adapting to the impacts of climate change*

The City's resilience efforts, as outlined in the 2016 Resilience Strategy, include the following goals:

1. Build a connected and prepared community
2. Accelerate access to reliable and clean energy
3. Adapt to the changing climate
4. Advance racial equity
5. Excel at working together within City government to better serve the community
6. Build regional resilience

Programs that provide multi-benefit solutions are prioritized, such as the Climate Equity Fund programs collaborating with disadvantaged communities to improve access to building electrification and electric micro-mobility to low-income people and communities of color. Many City departments are leading efforts to enhance resilience and help Berkeley adapt to a changing climate, including Public Works, Parks Recreation and

<sup>9</sup> <https://www.eastbaygreenhome.com/>

Waterfront, Health, Housing and Community Services, and Fire. A summary of programs is provided below:

### **Sea Level Rise**

In 2019, the City initiated the Waterfront Specific Plan project to develop a long-term vision for achieving a financially self-sustainable publicly-owned Waterfront. The project is currently in the public engagement phase, which involves an extensive community outreach process to brainstorm ideas for potential new revenue-generating and complementary uses at the Waterfront. A draft Sea Level Rise Study for the Berkeley Waterfront was completed as part of the project. Preliminary findings indicate that three locations at the Berkeley Waterfront may experience periodic flooding by 2050 during a 100-year storm and King tide: 1) the shoreline at the north segment of Marina Blvd between the Virginia Street Extension and the entrance to Cesar Chavez Park, 2) the shoreline to the south of University Avenue between West Frontage Road and Marina Blvd, and 3) various spots in the northeast corner of the inner harbor of the Marina. Staff will research and scope out shoreline improvement projects that will minimize these impacts. In 2020 and 2021, staff submitted two grant proposals to regional agencies for the project along Marina Blvd, but were not successful in obtaining project funding. Staff will continue to seek funding to implement these projects over the next five years.

### **Groundwater Rise Grant**

As sea levels rise and extreme storms become more frequent, communities are developing climate adaptation plans to protect housing, jobs, ecosystems, and infrastructure from flooding. However, these plans often neglect an important potential flood hazard – emergent groundwater. Shallow groundwater in coastal communities will rise as sea levels rise, increasing the risk of flooding communities from below. The threat of rising groundwater levels is a critical data gap in regional climate resilience planning. This project is exploring the links between sea level rise, precipitation, and the elevation of shallow groundwater in the San Francisco Bay Area so that adaptation plans can consider all potential flood hazards.

Through funding from the California Resilience Challenge grant, a project<sup>10</sup> will develop a series of shallow groundwater maps that consider the response to eight sea level rise scenarios for four of the nine Bay Area counties, including Alameda County. The project is led by the San Francisco Estuary Institute Aquatic Science Center, in collaboration with Pathways Climate Institute and UC Berkeley, along with Bay Area cities and counties which have identified rising groundwater as a potential problem within their jurisdictions. The City of Berkeley is a joint proposer and is participating in the Project Management Taskforce.

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<sup>10</sup> <https://www.sfei.org/projects/shallow-groundwater-response-sea-level-rise>

**Wildfire Smoke**

The Bay Area has experienced multiple days and periods of unhealthy air quality due to wildfire smoke in recent years. Often times these events can coincide with heat waves, high fire risks, and/or Public Safety Power Shutoffs. To better address the threat of wildfire smoke, in 2019 the City of Berkeley participated in a grant led by Alameda County to create a communications protocol for responding to wildfire smoke and other air quality conditions.<sup>11</sup> The City is also currently working to advance emergency and resilience planning for extreme heat and high air quality index (AQI) events, including coordination with cities around North America on extreme heat and AQI event planning, and local collaboration outreach with community partners serving disadvantaged communities.

**Tree Canopy**

The City of Berkeley currently has a vibrant urban forest made up of approximately 38,000 street, park and median trees. These trees are managed and maintained by the Urban Forestry Unit of the Parks, Recreation & Waterfront Department. However, while dense and vibrant in areas, this urban forest is not equitably distributed throughout the City. Current tree inventories and overall canopy coverage data illustrates fewer trees located in the West and South Berkeley neighborhoods, which also have a higher population of lower-income and historically disadvantaged communities. The City plans to plant 1,000 new trees in West and South Berkeley neighborhoods over the next two years. Funds have been secured to cover most costs of these tree planting efforts through an Urban Greening Grant of \$726,000 and an Environmental Enhancement and Mitigation Grant of \$576,000. Both grants are sponsored by the California Natural Resources Agency.

This project aims to eliminate the past barriers to growing new street trees by first promoting tree planting opportunities, engaging with communities and gathering specific tree planting requests in areas with low tree counts. Next, funding will cover all costs of the tree growing process, which include site planning and species selection, creating new sidewalk growing spaces, purchasing and planting trees, and providing the three years of watering investment needed to establish these drought tolerant trees.

These new trees will help to provide shade, cooling, storm water benefits, and beautification in neighborhoods that have been historically underserved. Additionally, this project offers an opportunity to grow resilient climate change ready tree species and utilize modern urban forestry methods to create sustainable sites and reduce future infrastructure conflicts.

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<sup>11</sup> <https://www.acgov.org/sustain/what/resilience/smoke.htm>

### **Pollinator Gardens**

Bees and other insects are responsible for the pollination of much of the world's crops and flowering plants. The ecological service they provide is essential for a healthy environment. While numbers of many species have declined, several Berkeley Parks have been renovated to create space for native pollinator gardens and corridors. The pollinator garden partnership and collaboration began in 2020 with the first site at George Florence Park. Since then pollinator gardens have expanded to sites at James Kenney Park, John Hinkel Park, San Pablo Park, King School Park, Strawberry Creek Park, Haskell-Mabel Park and Prince Street Park. The City of Berkeley has also planted Bay Area and California native herbaceous perennials and groundcovers on 1450 feet of roadway median. These native plants are effective at attracting pollinator species, creating habitats, and sequestering carbon from the atmosphere. The Parks Tax is the primary source of funding for the pollinator gardens, but much of the labor for installation and maintenance is completed by volunteer community members.

### **Resilience Hub Training**

In 2021, The City of Berkeley participated in a Resilience Hub Leadership Training funded through the Urban Sustainability Directors Network and facilitated by the NorCal Resilience Network.<sup>12</sup> The training brought together 150 community leaders and 16 government partners across dozens of sites for a ground-breaking 8-month training session to catalyze resilience hubs, spaces and neighborhoods, preparing participants with critical skills to be “ready for anything” and thrive. The training session was largely funded by and based on the resilience hubs guidelines developed by USDN, and in collaboration with both local governmental agencies and community-based organizations.

### **Local Hazard Mitigation Plan (LHMP)**

The LHMP is the main document that houses the City’s climate adaptation work. Last updated in 2019, the plan identifies climate change as a man-made hazard that will affect the Berkeley community through hazards such as extreme heat, sea-level rise and flooding, and water security. The LHMP is updated every five years, with the next update is expected in 2024.

### **Bay Area Climate Adaptation Network (BayCAN)**

Berkeley is a founding member and participates in the Steering Committee of the Bay Area Climate Adaptation Network (BayCAN), a network of local government staff helping coordinate an effective and equitable response to the impacts of climate change. BayCAN works to share best practices, develop opportunities for collaboration and program implementation, and secure funding and resources for equitable climate adaptation.

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<sup>12</sup> <https://norcalresilience.org/leadership-training/>

## Climate Action at UC Berkeley and The Berkeley Lab

UC Berkeley and the Berkeley Lab are not included in Berkeley's GHG emissions inventory because their campuses are outside of the City's jurisdiction. However, both institutions track their own emissions reduction goals and are engaged community partners in addressing climate change. UC Berkeley and the Berkeley Lab have completed their 2020 GHG inventories and they provide additional information on their climate action progress on their 2021 Sustainability Reports<sup>13</sup>.

The Berkeley Lab has partnered directly with the City on several innovative sustainability projects including building data management tools, zero-net energy analysis of municipal buildings, and a Building Performance Standard (BPS) policy analysis for the development of energy upgrade requirements through BESO. The City of Berkeley also participates in the Berkeley Lab Community Advisory Group (CAG).

### BACKGROUND

In recognition of the climate crisis, the City has added additional climate goals to bolster the Climate Action Plan goal of reducing greenhouse gas emissions below 2000 levels by the year 2045. Berkeley's goals include:

- **Fossil Fuel Free Berkeley:** In June 2018, the City Council referred a proposed resolution to the Energy Commission and Transportation Commission to further implement the Climate Action Plan and establish a goal of becoming a Fossil Fuel Free City.
- **Climate Emergency:** On June 12, 2018, the City Council adopted a Climate Emergency Declaration.
- **Net-Zero Carbon Emissions:** In 2018, Mayor Arreguin announced the City's intention to achieve zero net carbon emissions by 2045, in alignment with California state-wide goals.
- **Race to Zero:** In 2020, Berkeley City Council adopted a resolution for the Cities Race to Zero Campaign to establish a 2030 emission reduction target that reflects Berkeley's fair share of the 50% global reduction in CO<sub>2</sub>e, committing to reduce emissions 60.5% from 2018 levels by 2030.

The more traditional emissions inventory that Berkeley uses—known as a “production-based” or “sector-based” inventory—lays a foundation for key climate policy and program planning, while consumption-based inventories consider the entire life cycle of

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<sup>13</sup> UC Berkeley 2021 Sustainability Report: <https://sustainabilityreport.ucop.edu/2021/locations/uc-berkeley/> and the Berkeley Lab 2021 Sustainability Report: <https://sustainabilityreport.ucop.edu/2021/locations/lawrence-berkeley-national-lab/>



a specific product to calculate its GHG emissions. Consumption-based inventories include goods and services such as air travel (even if, as for Berkeley, the airport is located outside of a jurisdictional boundary), food, appliances, and construction of buildings. An inventory of all Alameda County cities was created by the CoolClimate Network in 2018<sup>14</sup> and was reported in Berkeley's Community-wide Greenhouse Gas Emissions Inventory that year.

### ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

The City's Climate Action Plan, Resilience Strategy, Local Hazard Mitigation Plan, and Strategic Plan all contribute to advancing the community towards a clean and resilient energy future that successfully meets Berkeley's climate goals.

### POSSIBLE FUTURE ACTION

This report provides the City Council with an update on GHG emission trends, an overview of associated current activities, and the planning efforts underway to develop strategies to accelerate the rate of GHG emission reductions to reach Berkeley's increasingly ambitious climate goals. The Climate Equity Fund and Just Transition Program are examples of valuable opportunities to pilot programs that can eventually scale to continue to achieve equitable GHG emissions reductions.

### FISCAL IMPACTS OF POSSIBLE FUTURE ACTION

Mitigation of GHG emissions within Berkeley and planning for the impact of climate change are interrelated. Current investment to reduce citywide emissions and enhance climate adaptation and resilience, such as the Climate Equity Fund Pilot Projects and the Just Transition Pilot Project, will help reduce the costs of addressing the impacts of climate change in the future. Staff will be closely monitoring the applicability and availability of Federal funding to support the transition away from fossil fuels and other opportunities to clean energy and climate resilience goals.

### CONTACT PERSON

Billi Romain, Manager, Office of Energy & Sustainable Development, 510-981-9732  
Ammon Reagan, Community Services Specialist II, Office of Energy & Sustainable Development, 510-981-7416

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<sup>14</sup> Bay Area Air Quality Management District, Consumption-Based GHG Emissions Inventory: <https://www.baaqmd.gov/about-air-quality/research-and-data/emission-inventory/consumption-based-ghg-emissions-inventory>



Office of the City Manager

## ACTION CALENDAR

March 14, 2023

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: Eleanor Hollander, Economic Development Manager  
 Subject: Berkeley Economic Dashboards Update

### INTRODUCTION

The Office of Economic Development (OED) is pleased to present the Citywide Economic Dashboard update for December 2022 (Attachment 1), and the updated Commercial District Dashboards (Attachment 2).

### CURRENT SITUATION AND ITS EFFECTS

Throughout 2022, the City of Berkeley continued to exhibit sustained economic recovery from the effects of the COVID-19 pandemic. Sales tax revenue across all industry sectors has increased over the last year, with the retail sector actually surpassing pre-pandemic levels. Ground floor retail vacancy rates have dropped in many commercial districts, although the citywide average remains above 8 percent. Innovation sector businesses have continued to be a driving force in the Berkeley economy, with 62 companies raising more than \$2.1 billion in private capital in 2022 alone. The attached dashboards present these trends in more detail and include the latest citywide data available through the fourth quarter of 2022, much of which has been collected through on-the-ground fieldwork.

Key findings include:

- Pandemic recovery brought thousands back to work.** Between December 2021 and December 2022, the total number of jobs located in the East Bay increased by 14,800, or 1.1%. The sectors with the highest year-over-year percent growth in employment included Arts, Entertainment & Recreation (+19%), Manufacturing (+7%), Retail (+7%), and Accommodation & Food Services (+6%). The countywide unemployment rate continued its downward trend, dropping from 3.8% in December 2021 to 2.7% in December 2022. Berkeley's unemployment rate dropped even lower, from 2.9% to 2.5% over the same period. This tracks with the year-over-year decline in the statewide unemployment rate from 4.8% to 3.7%.

- **Berkeley’s innovation sector spurred significant wealth creation while providing new solutions to global social and environmental challenges.** In 2022, the City of Berkeley was home to more than 400 “innovation sector” businesses in software, life sciences, clean technology, food tech, and other science, technology, engineering and math (STEM) industries. Roughly a third of the sector is comprised of software companies (35%) and another third is made up of life science companies, including biotechnology and healthcare (31%). Of the remaining third, 14% of innovation sector firms in Berkeley are hardware companies, 12% are in cleantech, 5% are in foodtech, 2% are in education technology, and the remaining 1% are in “other” industry categories. The vast majority (83%) of Berkeley’s innovation companies are relatively early stage and many take advantage of the city’s coworking spaces, accelerators, and incubators. Though often small, Berkeley startups have an outsized impact on wealth creation. They collectively *raised more than \$1.8 billion dollars* through venture capital, angel-backed financing, and convertible securities. Meanwhile, five Berkeley companies received *more than \$5.9 million in grants from the federal and state government* for Research & Development (R&D) to find solutions for a range of environmental and human health challenges.
- **Office vacancy rates in Berkeley increased while the market for lab space remained tight.** Overall office availability in Berkeley rose slightly from 11.1% in Q4 2021 to 11.5% in Q4 2022, though the figure is significantly lower than the 20% vacancy average for the Greater Oakland area. Asking rents for high quality office space in Berkeley have stayed relatively consistent since the start of the pandemic and are currently \$3.96 per square foot, up \$0.43 from the same period last year. Lab space remains at a premium in Berkeley. The vacancy rate for Berkeley lab space is 5.3%, which is lower than the 14.7% vacancy rate in neighboring Emeryville, 10.1% rate reported for the East Bay, and the 6.5% lab vacancy rate reported for the Bay Area overall.
- **Average citywide ground floor commercial vacancy rates remained slightly higher than what is associated with standard market churn.** Based on field data collected from September–November 2022, the citywide ground floor commercial vacancy rate did not change significantly from last year (it rose from 8.3% to 8.4%). For context, normal market churn is associated with a vacancy rate between 4-8%. San Pablo Avenue, University Avenue, South Berkeley, and West Berkeley have all experienced a rise in vacancy rates—San Pablo rose from 7.9% to 10.8%; University rose from 9.1% to 12.8%; South Berkeley rose from 8.8% to 11.8%; and West Berkeley rose from 4.7% to 5.2%. Downtown Berkeley experienced the largest drop in vacancy rate over the last year—from 15.7% to 11.9%. This may be in part due to UC Berkeley students and faculty returning fully to campus this past academic year.

- **Occupancy by retail businesses, as a share of total ground floor square footage, declined; food and beverage held steady.** Retail saw the biggest drop as a proportion of total commercial inventory, decreasing by 7% over the last year. Neighborhood commercial districts like Solano, North Shattuck, and Elmwood saw little decline in Retail square footage over the last year, whereas Downtown saw a decline of about 7 percentage points. Food & Beverage businesses also saw a slight decrease (from 12.3% to 10.6%) in occupancy as a share of total ground floor square footage in the city, potentially indicating that habits and commute patterns changed by the pandemic are impacting the local restaurant industry.
- **The City of Berkeley's sales tax revenue surpassed pre-pandemic levels.** Berkeley's annual sales tax revenues increased 22% year-over-year through the second quarter of 2022, from \$13.4 million to \$16.4 million. During the same time period, Alameda County experienced a 12.8% increase in sales tax revenue and the state of California experienced an 11.5% increase in revenue. In Q2 2022 (April-June), the Retail subsector was the largest contributor to the city's sales tax revenue (45.6%), with Food & Beverage coming in second (27.4%). This tracks with upticks in sales tax revenue for each of these sectors—the Retail sector was up 32% from a year prior and the Food & Beverage sector was up 64% over the same time period. Select sub-categories in the Business & Professional Services sector also experienced jumps in sales tax revenue.
- **Even as the housing market cooled slightly, Berkeley home prices and rental costs remained high.** Berkeley's single family home values decreased 12.2% from December 2021 – December 2022, with a 52% decrease in sales volume over the same period. 27 single family homes were sold in Berkeley in December 2022, with an average of 20 days on the market. Since the pandemic began in March 2020, the median price of single family homes in Berkeley hit an all time high (\$1,910,000) in April 2022. For rentals, between Q3 2021 and Q3 2022, Berkeley's rents for studio apartments increased by 12%, rising to an average of \$1,784 per month.
- **The City of Berkeley Office of Economic Development continues to support small businesses, artists, community organizations, and innovators.** The City's Small Business Revolving Loan Fund (RLF) and COVID-19 Resiliency Loan Program (RLP) have provided more than 60 small businesses with over \$3 million in financing to keep operations going since the start of the pandemic. The City's Civic Arts Grants program funded 11 individual arts projects (\$44,000 total awarded), 33 festivals (\$194,299 total awarded), and 70 arts organizations (\$458,697 total awarded) in 2022. The Berkeley Arts Recovery Grants for Artists & Cultural Practitioners also made \$275,000 available in the form of grants (up to \$10,000 each) to help the City's artists and cultural practitioners. Marketing campaigns including #DiscoveredinBerkeley and #BerkeleyHolidays helped to

increase visibility and sales for small businesses across Berkeley. OED also supported local businesses and organizations by conducting targeted outreach, and providing technical assistance related to sustainable economic recovery.

### BACKGROUND

Since 2015, OED has consistently released two companion publications, the *Citywide Economic Dashboard* and *Commercial District Dashboards*, which analyze a wide variety of economic trends and indicators in Berkeley. Attached to this report is the updated version of the Citywide Economic Dashboard and Commercial District Dashboard for December 2022 (Attachments 1 and 2). These dashboards are designed to make current economic and community data and information more accessible to Council, City staff, and community stakeholders. Providing this information also allows investors to evaluate potential markets and provides vital information for policymakers. Staff will continue to update these dashboards on an annual basis, as staffing allows. The most recent version and dashboards from past years are available on the City's website at: <https://berkeleyca.gov/doing-business/economic-development/economic-dashboards-and-reports>.

To produce these publications, OED staff compiled and analyzed a wide variety of data sources including the Monthly Labor Force Data (Labor Market Information, California Employment Development Department), WARN notices provided to the Alameda County Workforce Development Board, commercial real estate firm data (Newmark Cornish & Carey, JLL, Cushman & Wakefield, Norheim & Yost, Colliers), housing market data (Berkeley Rent Stabilization Board, MLS, RentCafe, Redfin) and sales tax data (MUNIServices). Staff also analyzed data from City databases including business licenses, building permits and planning permits, and City publications such as rent board reports and the housing pipeline report. Information on Berkeley startups and other innovation companies was obtained from Pitchbook, Crunchbase, LinkedIn, the U.S. Small Business Administration, tech industry news sources, and direct communications with businesses and the [Berkeley Startup Cluster](#)'s partners including UC Berkeley, the Berkeley Lab, and Berkeley's startup incubators and accelerators including SkyDeck, Bakar Labs and Activate. Finally, in the third and fourth quarters of 2022 OED staff updated its field occupancy survey of ground floor commercial spaces in Berkeley commercial districts (Attachment 2).

These publications support the City's Strategic Plan, advancing our goal *to be a customer-focused organization that provides excellent, timely, easily-accessible service and information to the community*.

### ENVIRONMENTAL SUSTAINABILITY

Many of the City's environmental sustainability goals are inextricably tied to the overall health of the City's economy. Staff believes that the continued pursuit of sustainable economic growth represents a strength and source of resilience for Berkeley.

POSSIBLE FUTURE ACTION

OED staff will, as directed by Council through previous and future referral items, partner with other City departments and community partners to implement programs and policies that foster a dynamic, sustainable, and locally-based economy, and assist in economic recovery throughout 2023 and beyond.

FISCAL IMPACTS OF POSSIBLE FUTURE ACTION

Actions that facilitate increased economic activity will increase revenues related to sales tax and property tax, and thus have a positive fiscal impact on the city.

CONTACT PERSON

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Elizabeth Redman Cleveland, Office of Economic Development, (510) 981-7532

Attachments:

- 1: Citywide Economic Dashboard
- 2: Commercial District Dashboards



City of

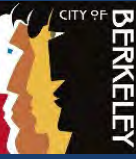
# BERKELEY



2022 Economic Dashboard  
Office of Economic Development







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# Employment Activity by industry sector - employment



**Percent change in employment by sector  
(Dec. 2021 – Dec. 2022)**

| East Bay Industry Sector                      | % Change |
|-----------------------------------------------|----------|
| Arts, Entertainment & Recreation              | 19.1%    |
| Manufacturing                                 | 7.2%     |
| Clothing & Clothing Accessory Stores          | 7.0%     |
| Accommodation & Food Services                 | 6.2%     |
| Architectural, Engineering & Related Services | 6.1%     |
| Construction                                  | 5.7%     |
| Real Estate & Rental & Leasing                | 5.6%     |
| Educational & Health Services                 | 3.0%     |
| Retail Trade                                  | 2.9%     |
| Transportation & Warehousing                  | 1.1%     |
| Government                                    | -1.4%    |

Source: Alameda County Workforce Development Board, Labor Market Information (LMI-EDD) for East Bay.

## Job Recovery Amidst the Pandemic

Between December 2021 -2022, the total number of jobs located in the East Bay increased by 14,800 (1.1%). The following sectors have notable job gains post-pandemic:

- Arts, Entertainment & Recreation
- Manufacturing
- Retail and
- Accommodation & Food Services.

Berkeley's unemployment rate is lower than the County's or State's.

|                | December 2021 | December 2022 |
|----------------|---------------|---------------|
| California     | 4.8%          | 3.7%          |
| Alameda County | 3.8%          | 2.7%          |
| Berkeley       | 2.9%          | 2.5%          |

Source: State of California Employment Development Department (EDD)

# Employment Activity

## by industry sector - employment



### Top 25 Berkeley Employers

| Company                              | Sector               |
|--------------------------------------|----------------------|
| Ansys, Inc.                          | Software             |
| Arris Composites, Inc.               | Manufacturing/R&D    |
| Backroads Inc.                       | Recreation           |
| Bayer Corp.                          | Biotech              |
| Berkeley Bowl Produce                | Food & Beverage      |
| Berkeley Cement Inc.                 | Construction         |
| Berkeley City College                | Education            |
| Berkeley Repertory Theater           | Arts & Entertainment |
| Berkeley Unified School District     | Education            |
| City of Berkeley                     | Government           |
| DoubleTree by Hilton                 | Hospitality          |
| Fieldwork Brewing Co.                | Food & Beverage      |
| Foresight Mental Health              | Healthcare           |
| Kaiser Permanente Medical Group Inc. | Healthcare           |
| Lawrence Berkeley National Lab       | Laboratory           |
| Lifelong Medical Care                | Healthcare           |
| UPSIDE Foods                         | Biotech/R&D          |
| OC Jones & Sons                      | Construction         |
| Siemens Corp.                        | Manufacturing/R&D    |
| Sutter Bay Hospital                  | Healthcare           |
| Technical Safety Services, Inc.      | Biotech              |
| The Wright Institute                 | Education            |
| University of California             | Education            |
| Whole Foods Market                   | Food & Beverage      |
| YMCA of the Central Bay Area         | Recreation           |



Berkeley Repertory Theatre  
Credit: Young Electric



Berkeley Bowl West  
Credit: Architectural Record

Berkeley's top 25 employers (by number of employees) is reflective of the city's diverse economy. There are four top employers in both the healthcare and education sectors. UC Berkeley remains one of the city's main economic engines. New biotech and R&D companies have now made it onto the top 25 list, which reflects the strength and positive growth trajectory of these industries.

Source: State of California Employment Development Department (EDD)

# Employment Activity

## by industry sector - hospitality



Berkeley's tourism and lodging sector came roaring back in 2022, posting solid gains in hotel occupancy and revenue.

### Food & Beverage Services

One of the sectors hardest hit by the pandemic—restaurants—notched solid gains in 2022 as indoor seating returned to complement the popular addition of outdoor dining citywide. Berkeley Restaurant Week, March Munch Madness, and the fast-growing Berkeley Wine Block and its First Friday events spurred sales.



DoubleTree by Hilton. Photo: Visit Berkeley.



Residence Inn by Marriot. Photo: Visit Berkeley.



Berkeley Wine Block First Friday. Photo: Visit Berkeley.

### Tourism & Lodging

- Average nightly hotel occupancy rose from **53% in 2021 to 69% in 2022**. This is still below pre-pandemic average occupancy rates in the low 80% range.
- Revenues are up 110% from 2021, but total revenue still lags by 10% from pre-pandemic levels.
- Several Berkeley lodging properties were repurposed for the [Homekey program](#) and two new high-rate hotels opened: Aiden by Best Western and Residence Inn by Marriott.
- Leisure travel led the recovery with a return to more traditional vacation patterns. Meetings, conventions, and group travel continue to lag, but there are signs of increased demand in these segments for 2023.

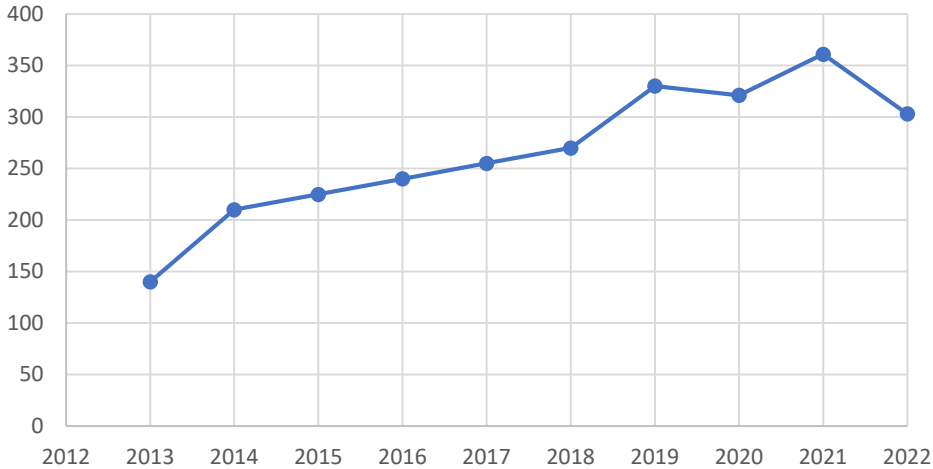


# Employment Activity

## by industry sector – startups & innovation businesses



Number of Startups in Berkeley



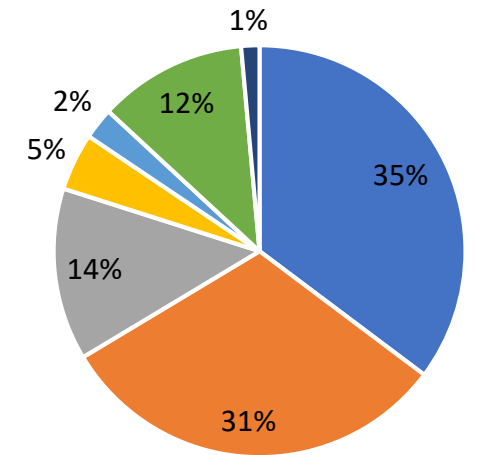
Source: City of Berkeley Office of Economic Development (OED), UC Berkeley IPIRA

\*Companies defined as startups are for-profit businesses that sell innovative technology products or services OR substantively use innovative technologies to develop and manufacture their products or provide their services AND are developing repeatable and scalable business models that aren't yet profitable.

In 2022, 62 Berkeley companies raised more than **\$1.8B** in venture capital. In addition, Berkeley companies were awarded more than **\$5.9M** in grant funding and almost **\$250M** in loans in 2022.

Of more than 400 Berkeley innovation companies citywide, Software is the largest component (35%). Healthcare and Life Sciences comprise nearly a third (31%). CleanTech is also a growing component (representing 13% of the total, up from 9% two years ago).

Innovation Companies by Industry Category

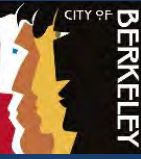


- Software
- Healthcare & Life Sciences
- Hardware
- Food & Beverage
- Education
- CleanTech
- Other

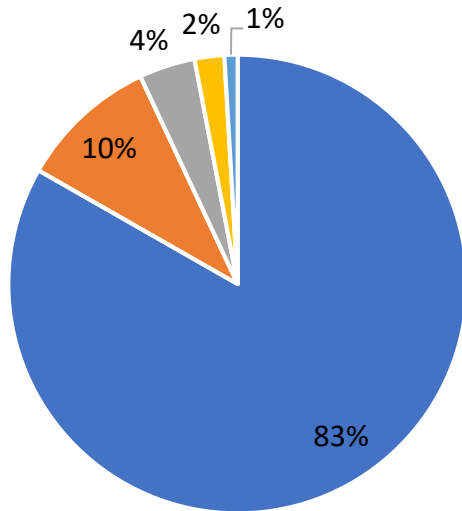
Source: OED, Berkeley Startup Cluster

# Employment Activity

by industry sector – startups & innovation businesses



Innovation Companies by Growth Stage



- Startup
- Established Company
- Consulting Company
- Subsidiary Company
- Incubator or Coworking Facility



More than 80% of Berkeley’s innovation companies are relatively early stage. The remainder of the companies in the local innovation ecosystem are:

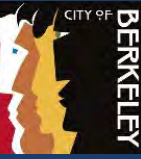
- publicly traded or operating profitably in the STEM (science, technology, engineering & math) industry;
- consultants without explicit goals to scale;
- subsidiary companies who are part of a larger parent company;
- incubators or coworking facilities, like Bonnevill Labs or Cell Valley Labs.

## Berkeley Innovation Sector 2022 Highlights

- [Upside Foods](#) raised \$387 million and became the first in the world to receive the [greenlight from the FDA](#) for cultivated meat.
- [Twelve](#) raised \$130 million for its carbon transformation technology that converts CO2 into fuels and other products historically made from fossil fuels.
- [Carmot Therapeutics](#) raised \$160 million to develop therapeutic treatments for diseases, cancer, and inflammation.

# Commercial Activity

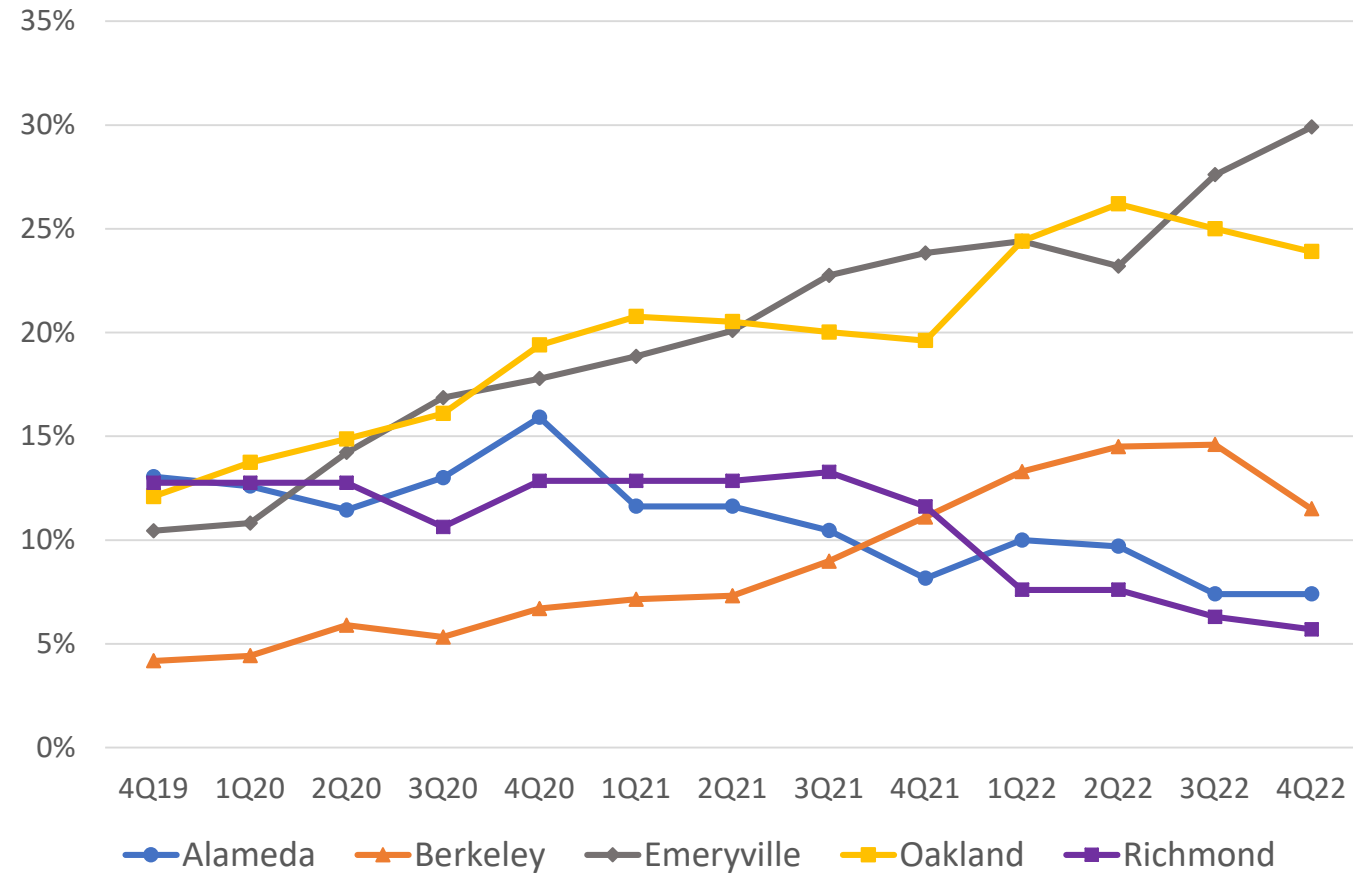
## Office trends & transactions



| Q4 2022 Office Market, Berkeley | Indicators   |
|---------------------------------|--------------|
| Total Inventory                 | 3,449,141 SF |
| Under Construction              | 611,800 SF   |
| Availability Rate               | 11.5%        |
| Qtr Gross Absorption            | 2,112 SF     |
| Qtr Net Absorption              | 84,666 SF    |
| YTD Net Absorption              | 55,844 SF    |
| Average Asking Rent             | \$3.96 / SF  |

Source: Newmark Cornish & Carey, 4Q22 Greater Oakland Office Market Report

### Office Availability, East Bay Cities Q4 2019 – Q4 2022



Source: Newmark Cornish & Carey, 4Q22 Greater Oakland Office Market Report



## New Developments for Research and Development (R&D)

**Berkeley Commons** (600 Addison St., Berkeley, CA) will be a new state-of-the-art life science campus located on the West Berkeley waterfront. Construction is under way on two buildings that will offer 539,000 rentable square feet (RSF). The property will be LEED Gold certified, featuring expressed balconies and native plant gardens. Leasing has begun and will continue through 2023.

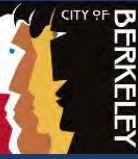


**Foundry 31** (3100 San Pablo Ave) officially opened in 2022. Oxford Properties Group bought the property in 2021 and pursued a rapid renovation to create new lab space for life science users. Two R&D companies have already signed leases and the building still has flexible office and lab space available for future tenants.

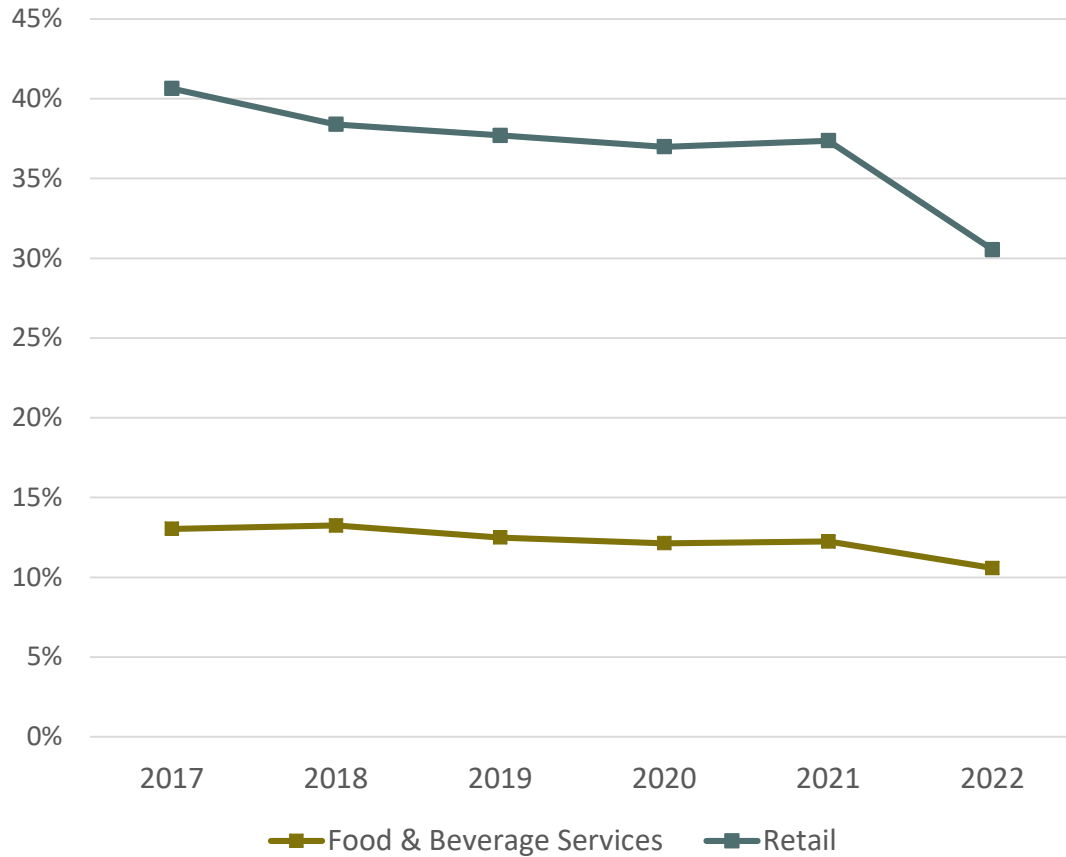


# Commercial Activity

## Commercial trends & transactions



**Citywide Commercial Inventory by Square Footage, Select Sector Trends 2017-2022**



Source: OED, Q3 2022



Retail space available in Elmwood (2946 College Avenue). Photo: Gordon Commercial Real Estate.



Masa Ramen Bistro opened in Downtown Berkeley in the fall of 2022. Photo: Jason F, Yelp.

**Retail** saw the biggest drop as a proportion of total commercial inventory, decreasing by 7% over the last year. Food and beverage also saw a slight decrease as restaurants continue to face lasting pandemic impacts.

# Commercial Activity



## Spotlight: West Berkeley Real Estate Prices

|                                 | Manufacturing   | Warehousing (traditional) | Warehousing (Advanced Manufacturing / R&D) | Life Sciences/ Lab | Office          | Retail          |
|---------------------------------|-----------------|---------------------------|--------------------------------------------|--------------------|-----------------|-----------------|
| Rents per square foot (monthly) | \$0.78 - \$1.88 | \$0.90 - \$2.00           | \$1.49 - \$2.25                            | \$2.75 - \$7.44    | \$2.50 - \$3.25 | \$3.00 - \$3.25 |

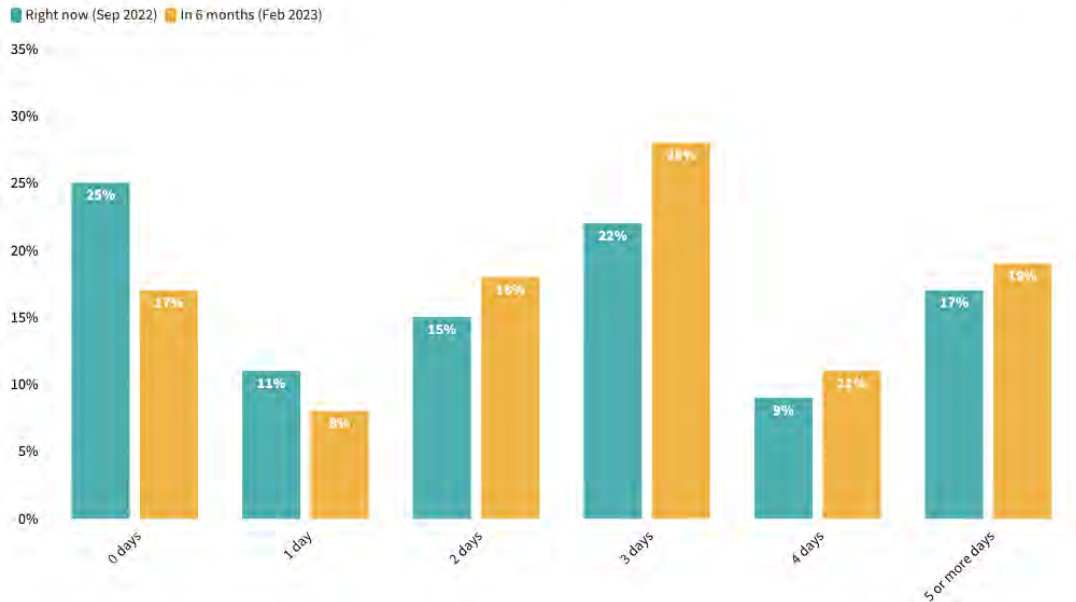
Costs per square foot for West Berkeley commercial properties vary dramatically based on whether they are based on *sale* or *rental* price and also based on the property age, quality, embedded operating systems, submarket location, and other included amenities or assets. Pricing range is also affected by total rented square footage, with smaller spaces (such as the type that are prevalent in West Berkeley) tending to drive a higher price per square foot.

# Commercial Activity

## Commercial trends & transactions

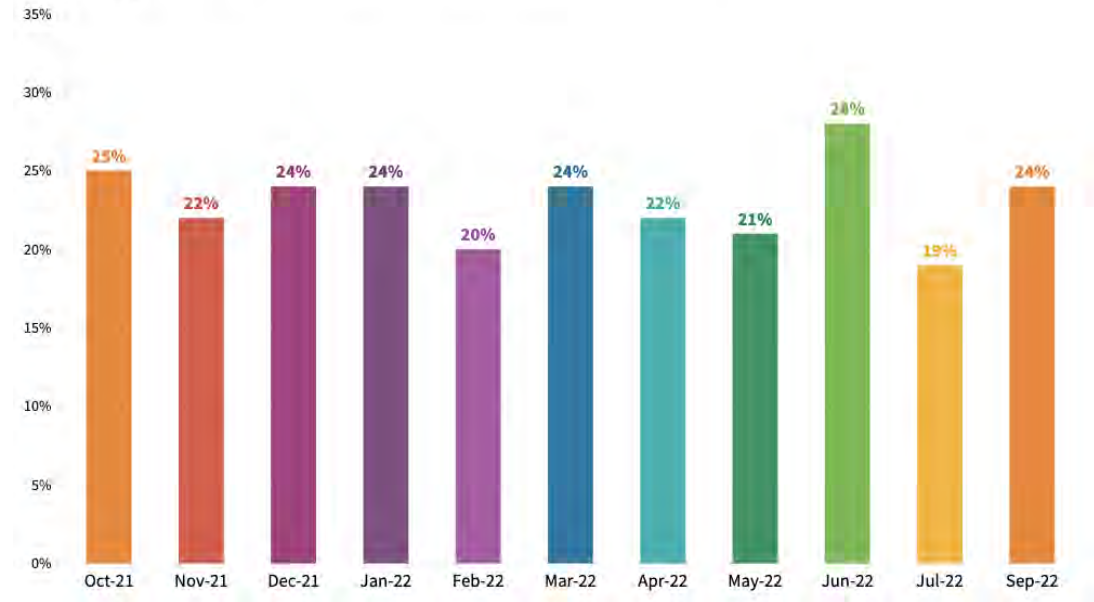


In six months, what is your best estimate of the frequency your Bay Area workforce comes to the workplace each week?



Source: Bay Area Council Employer Network Poll - September 2022

What is your best guess at the percent of your Bay Area workforce that will be fully remote post-pandemic?



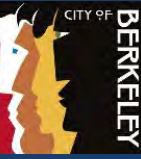
Source: Bay Area Council Employer Network Poll – September 2022

The Bay Area Council survey of Bay Area employers found that the majority of workers don't come into the office every day, and 25% don't come into the workplace at all (a slight drop from 28% one year ago). Employers expect this to fall slightly in the next six months to only 17% working completely remote, with 76% of workers traveling into the workplace at least two days a week. With remote and hybrid work patterns becoming the new norm, demand for office space may begin to level off in the Bay Area.

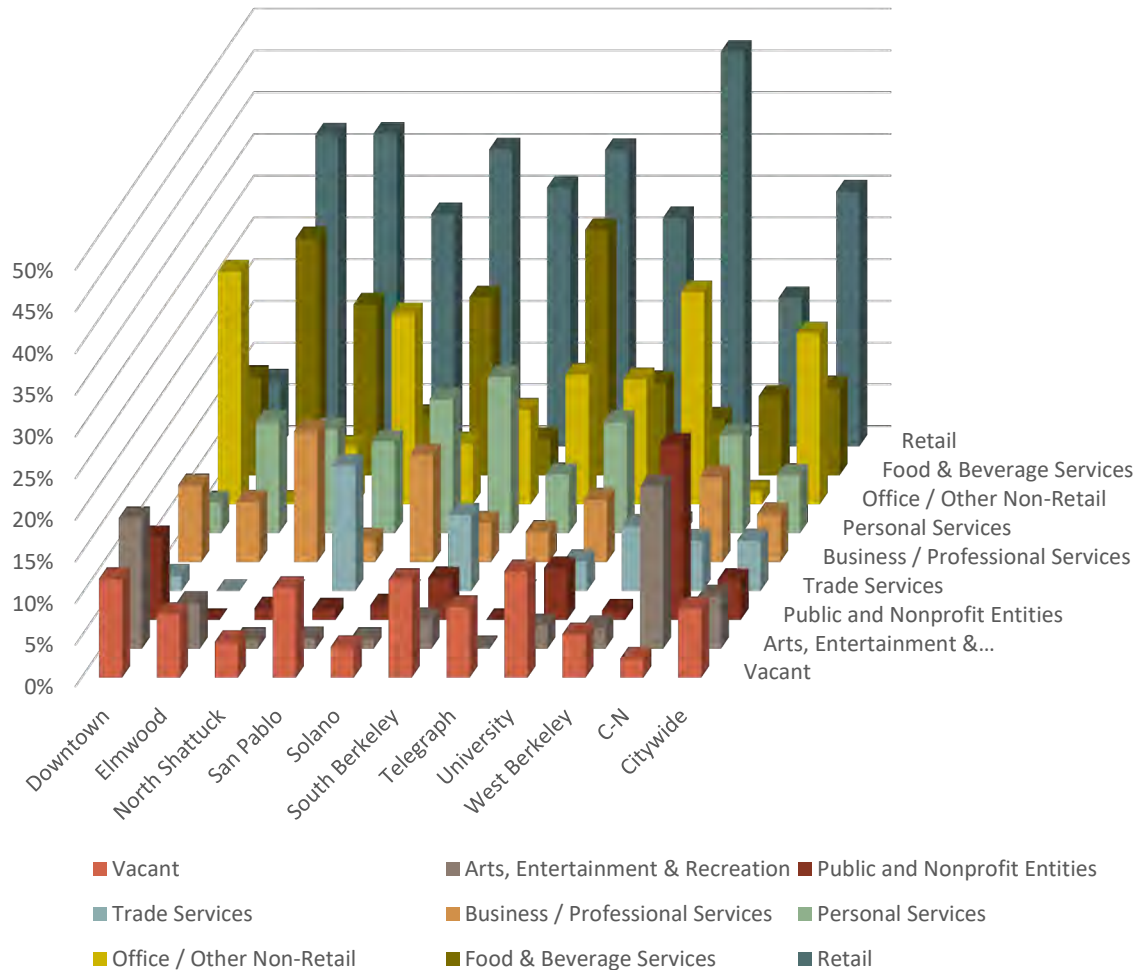


# Commercial Activity

## Commercial districts & vacancy rates



**Ground Floor Commercial Occupancy By Category, 2022 Q3**



Source: Berkeley OED

Citywide, the ground floor commercial vacancy rate has increased to **8.4%\***, an increase of 0.1% since Q3 2021. San Pablo has experienced the highest jump in vacancy rate in the last year, while Elmwood and Solano have both dropped to pre-pandemic vacancy rates.

**Vacancy Rates by District, Calculated by Square Footage, 2017-2022**

| District                      | 2017        | 2018        | 2019        | 2020        | 2021        | 2022        |
|-------------------------------|-------------|-------------|-------------|-------------|-------------|-------------|
| Downtown                      | 4.6%        | 3.1%        | 5.1%        | 9.9%        | 15.7%       | 11.9%       |
| Elmwood                       | 5.4%        | 7.3%        | 7.3%        | 10.9%       | 10.9%       | 7.7%        |
| North Shattuck                | 0.4%        | 1.7%        | 0.7%        | 4.3%        | 4.3%        | 4.3%        |
| San Pablo                     | 5.5%        | 4.9%        | 4.6%        | 4.8%        | 7.9%        | 10.8%       |
| Solano                        | 4.8%        | 4.1%        | 2.6%        | 6.7%        | 4.4%        | 3.7%        |
| South Berkeley                | 9.6%        | 9.7%        | 7.6%        | 10.1%       | 8.8%        | 11.8%       |
| Telegraph                     | 7.1%        | 7.9%        | 4.4%        | 17.2%       | 12.6%       | 8.5%        |
| University                    | 12.0%       | 11.0%       | 7.8%        | 11.0%       | 9.1%        | 12.8%       |
| Neighborhood Commercial (C-N) |             |             |             | 7.3%        | 3.2%        | 2.3%        |
| West Berkeley                 | 1.9%        | 3.7%        | 5.8%        | 3.7%        | 4.7%        | 5.2%        |
| <b>Citywide Avg.</b>          | <b>4.6%</b> | <b>5.0%</b> | <b>5.4%</b> | <b>6.9%</b> | <b>8.3%</b> | <b>8.4%</b> |

\*Typical commercial district storefront vacancy rates range from 4-8% due to natural market churn. The high vacancy rate in Q3 2022 can be attributed to the ongoing effects of the COVID-19 pandemic with many businesses not renewing their leases facing economic downturn.

Source: Berkeley OED

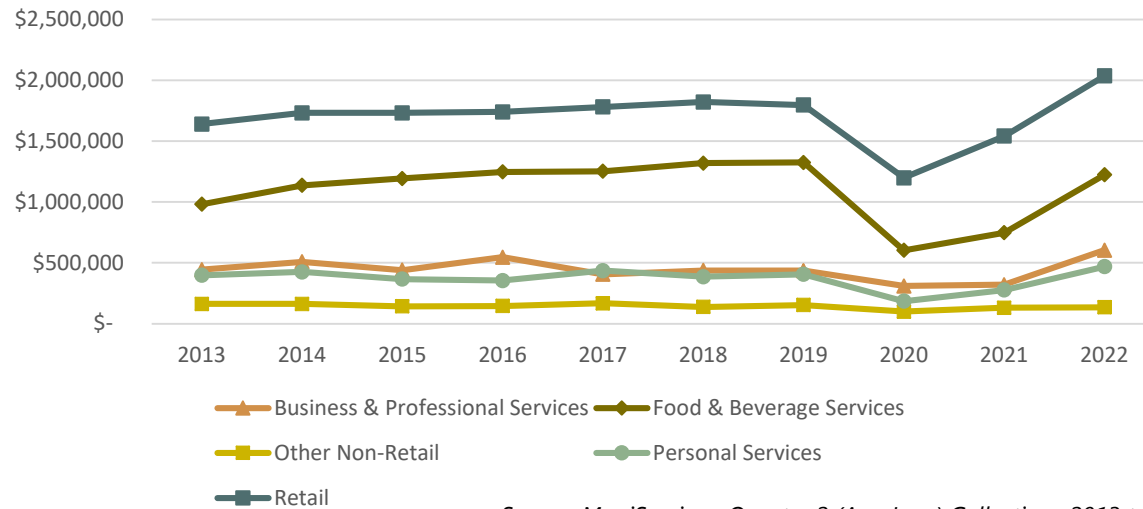
# Commercial Activity

## Sales tax revenues in 2022



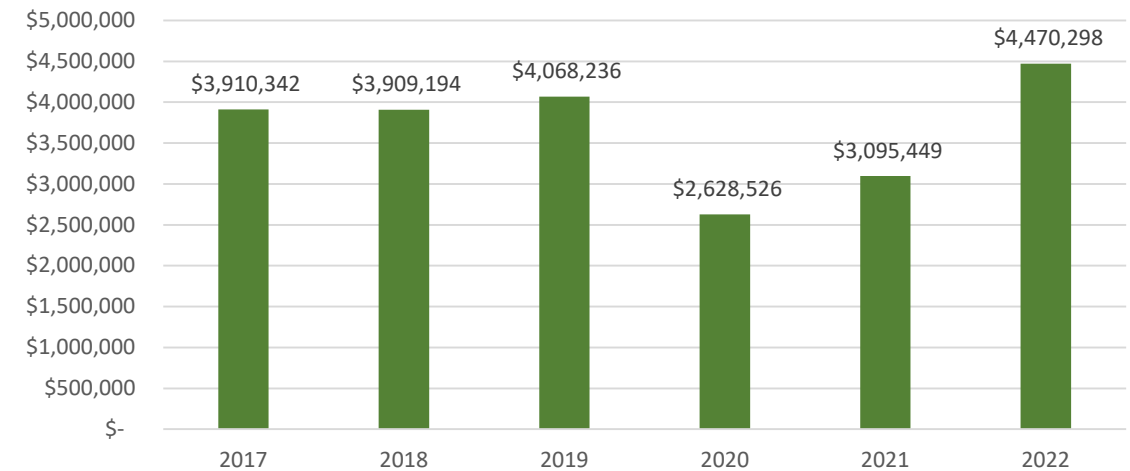
| Total Annual Sales Tax Revenue - Past 4 Quarters | Q3 2020- Q2 2021 | Q3 2021- Q2 2022 | % Change |
|--------------------------------------------------|------------------|------------------|----------|
| City of Berkeley                                 | \$13,361,873     | \$16,385,109     | 22.6%    |
| Alameda County (total including cities)          | \$369,540,764    | \$416,849,170    | 12.8%    |
| State of California                              | \$8,332,085,544  | \$9,292,057,968  | 11.5%    |

**Berkeley Q2 Sales Tax Revenue by Business Category**



Source: MuniServices, Quarter 2 (Apr-June) Collections 2013 to 2022

**Total City of Berkeley Q2 Sales Tax Revenues**



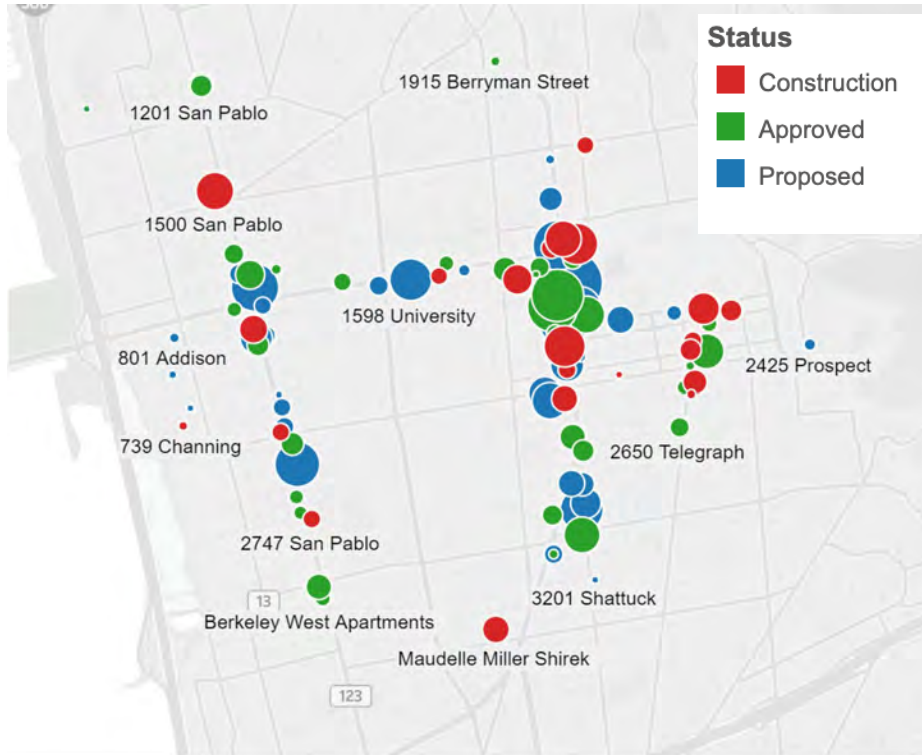
Source: MuniServices, Quarter 2 (Apr-June) 2017 to 2022, Nominal Values

In Q2 2022, the *Retail* subsector was the largest contributor to the city’s sales tax revenue (45.6%), with *Food & Beverage* second (27.4%). As the city economy recovers post-pandemic, sales tax revenues also climb. Compared to Q2 last year, sales tax revenue across business categories is up 44% and has surpassed pre-pandemic revenue. Since the early days of the pandemic, total Q2 sales tax revenue has increased by 70%. The increase in Q2 sales tax collection was largely due to significant increases in the *Food and Beverage* sector (up 63.6% from Q2 2021), *Retail* (up 32.1%) and select sub-categories in the *Business & Professional Services* sector, *i.e.* *Bio R&D* and *Light Industry* (up 88.6%).

# Development & Housing Construction & pipeline



## Berkeley Multi-Family Residential Developments, 2022



### Housing Development Pipeline

*3,744 housing unit permits were issued from 2015 to 2021. 85 percent of the permits issued have been for market rate units.*

Source: [Map](#) Red Oak Realty, updated November 2022; City of Berkeley Planning Dept. November 2022.

## Housing Pipeline Project Highlights



**Medak Center** at 2009 Addison St. is a new, seven-story artist housing development that opened this fall. In addition to 45 apartment units, the building includes two workshop spaces and an outdoor terrace. The building will house visiting artists and 15 young professionals who are awarded a fellowship each year.

**Riaz Capital** is preparing plans for two buildings in South Berkeley: one six-story, 174-unit building with 1,900 square feet of ground floor commercial space at 3030 Telegraph Ave. and another seven-story apartment building at 2300 Ellsworth St.



Source: SF Business Times (below) and Berkeley Rep Press Release 2022 (above).



# Development & Housing

## Rental costs & sale prices



### Housing Prices in Berkeley, 2017-2022



Sources: Redfin, and City of Berkeley Rent Stabilization Board

| Median Sale Price, Single-Family Homes, Dec. 2022 |                    |
|---------------------------------------------------|--------------------|
| Alameda                                           | \$1,337,500        |
| Albany                                            | \$1,300,000        |
| <b>Berkeley</b>                                   | <b>\$1,379,000</b> |
| El Cerrito                                        | \$1,058,000        |
| El Sobrante                                       | \$730,000          |
| Emeryville                                        | \$833,000          |
| Oakland                                           | \$817,500          |
| Richmond                                          | \$640,000          |
| Piedmont                                          | \$2,250,000        |
| San Leandro                                       | \$850,000          |

Source: Redfin

#### Home sales and rental prices remain high

Berkeley's **single family home values decreased 12.2%** from Dec. 2021 – Dec. 2022, with a 52% decrease in sales volume over the same period. 27 single family homes were sold in Berkeley in Dec. 2022, with an average of 20 days on the market. Since March 2020, the median price of single family homes in Berkeley hit an all time high (\$1,910,000) in April 2022. For rentals, between Q3 2021 and Q3 2022, Berkeley's **rents for studio apartments increased by 12%**, rising to an average of \$1,784 per month.

Sources: Redfin, and City of Berkeley Rent Stabilization Board



**Mask required if unvaccinated**

**Best**  
N95, KN95, KF94

**Better**  
Double mask (surgical + cloth mask)

**Fair**  
Face mask with 3 or more cloth layers

CITYOFBERKELEY.INFO/COVID19

# Sustained Economic Recovery



# Business & Arts Support



## Small business revolving loan fund & resiliency loan program

| Revolving Loan Fund (RLF) Portfolio | Total Loans | Active Loans |
|-------------------------------------|-------------|--------------|
| Number of RLF Loans                 | 45          | 8            |
| RLF \$ Loaned                       | \$2,778,417 | \$795,000    |
| Total Non-RLF \$ Leveraged          | \$7,453,083 | \$2,303,486  |
| Private Sector Jobs Created         | 204         | 50           |
| Private Sector Jobs Saved           | 100         | 76           |

| COVID-19 Resiliency Loan Program (RLP) Portfolio | Active Loans |
|--------------------------------------------------|--------------|
| Number of RLP Loans                              | 16           |
| RLP \$ Loaned                                    | \$682,000    |

Source: Berkeley OED, January 2023

### Current RLF Borrowers Include:

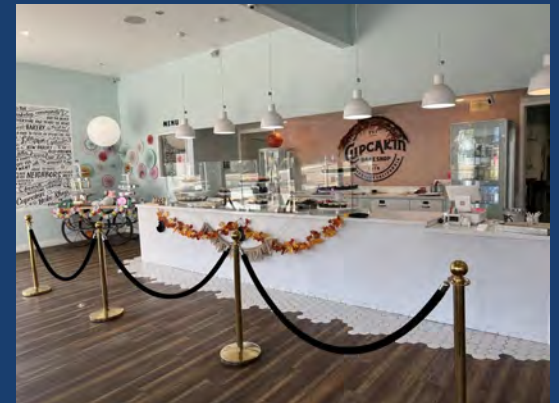


### Supporting Berkeley's existing small businesses

RLF recipient *Nabolom Bakery* is a woman-owned bakery located in the Elmwood district that specializes in baked goods and pizza. Nabolom has been in operation in Berkeley since 1976!



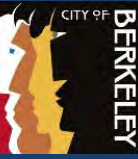
RLF recipient *Cupcakin'*, with locations on Telegraph Ave. and Shattuck Ave., has been selling gourmet cupcakes in Berkeley since 2014. As an advocate for sustainability and the natural food movement, owner Lila Owens found Berkeley to be the perfect place to set up shop.





# Business & Arts Support

## Arts and Culture in Berkeley



### Berkeley's Cultural Vibrancy

Arts and culture is important for Berkeley's identity and economy. Berkeley is home to over 150 arts and culture nonprofits who together generate approximately \$165 million annually in economic activity and provide ~6,500 jobs. While the industry's economic impact stalled during the pandemic, the vibrancy of Berkeley's arts sector is returning to pre-pandemic levels with most theaters, music venues, museums, galleries, and other arts organizations opening back up to the public. As we continue pandemic recovery, Berkeley is in a strong position as an international destination for arts and culture.

The City of Berkeley Civic Arts program provides grant funding to support a robust arts ecosystem, strengthen diverse cultural expressions, and ensure equitable access to arts and culture throughout Berkeley.

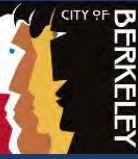
#### Civic Arts Grants Awarded in 2022:

- 11 individual arts projects (\$44,000)
- 33 festivals (\$194,299)
- 70 arts organizations (\$458,697)



# Business & Arts Support

## Berkeley Arts Recovery Grants



### Artists and Cultural Practitioners

The Berkeley Arts Recovery Grants (BARG) for artists & cultural practitioners provided \$275,000 in grants to help individuals mitigate their financial needs resulting from the pandemic. In May and June 2022, grants ranging from \$1,250 to \$8,000 were awarded to 114 artists and cultural practitioners.

### Organizations and Festivals

BARG for organizations & festivals were funded through a one-time allocation by Berkeley City Council of American Rescue Plan Act (ARPA) dollars. The one-time grant funding to all qualifying Berkeley-based nonprofit and fiscally sponsored arts organizations and festivals was used to mitigate an organization's economic loss from the pandemic, implement COVID-19 prevention tactics, and procure consulting and marketing services to support future financial sustainability. In February and March 2022, arts organizations received 74 grant awards ranging from \$3,000 to \$33,000, with an average grant award amount of \$20,734.





#DISCOVERED in BERKELEY

## business marketing campaign

The **#DiscoveredinBerkeley** campaign continued to make Berkeley business owners proud to have chosen Berkeley as their home while exciting local residents and shoppers about the businesses they can find in Berkeley's commercial districts, as well as the high impact innovations that companies are commercializing locally.

### Throughout 2022:

- More than 3,300 new users visited the campaign's microsite, [DiscoveredinBerkeley.com](https://DiscoveredinBerkeley.com)
- [Instagram @DiscoveredinBerkeley](https://www.instagram.com/DiscoveredinBerkeley) achieved nearly 900 followers (and #DiscoveredinBerkeley exceeded 4,400 uses)
- 10 *Berkeleyside* articles generated 23,000+ page views and the corresponding banner ads generated 829k+ impressions and more than 900 "clicks"



Both hotel guests and locals enjoy microbrews and rooftop views at the **Aiden by Best Western** @ Berkeley.

Learn more about Berkeley's innovative businesses >



**BERKELEYHOLIDAYS.COM Gift Guide**

Spoil your friends and family with stained glass from **Snoring Orange** or creative gifts from other **Berkeley Holiday Gift Fair** vendors.

Support local businesses this holiday season >



West Berkeley's **Caribou Bio** is developing novel technologies to treat cancer.

Learn more about Berkeley's innovative businesses >



Find local gifts for moms, dads and grads at Berkeley small businesses on Fourth Street like **Paraiso Plant Studio**.

Learn more about Berkeley's innovative businesses >



At the **Berkeley Potters Guild** in West Berkeley, **Kiyomi Koide** crafts pieces that make eating and drinking more personal and intimate.

Learn more about Berkeley's innovative businesses >



Berkeley's **Transcendentist**, a green-certified dental business, not only pampers patients, but goes easy on the planet, too.

Learn more about Berkeley's innovative businesses >



**BERKELEYHOLIDAYS.COM Gift Guide**

Spoil your friends and family with artwork from **Laurel Burch Studios** or creative gifts from other **Berkeley Holiday Gift Fair** vendors.

Support local businesses this holiday season >

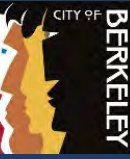


Find parklet dining, community, 800+ games, and beers on tap at **Victory Point Cafe** in Berkeley's North Shattuck neighborhood.

Learn more about Berkeley's innovative businesses >

# Business & Arts Support

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## #BerkeleyHolidays Gift Guide and marketing campaign

- The Berkeley Chamber held its [4th Annual Holiday Gift Fair](#) at Hotel Shattuck Plaza, featuring 30 merchants selling eco-friendly goods, clothing, jewelry, books, art, coffee, spices, and more. Despite stormy weather, it drew more than 300 attendees.
- Gift bags were given to the first 100 attendees and included promotional goods from a dozen local businesses, providing a unique marketing opportunity.
- The fair was featured in [Fun Cheap East Bay](#), as well as the [SF Chronicle](#)'s list of top holiday events, and [Berkeley Times](#) featured photos of the fair in its Dec. 15 print edition.
- The [#berkeleyholidays](#) hashtag was used in hundreds of social media posts and marketing for the fair reached 6,000+ people.
- The online [BerkeleyHolidays.com](#) Gift Guide was updated to feature 40 businesses, including two dozen women-owned businesses and 8 minority or black-owned businesses. The site drew several thousand unique visitors.





# Berkeley's Future Talent Pipeline

## STEM CareerX Day Tours



As part of the Berkeley Startup Cluster's *Berkeley Ventures*, *Berkeley Values* programming, and with support from the Institute for STEM Education at Cal State University, dozens of Berkeley High School (BHS) students had an opportunity to see how their science, technology, engineering and math (STEM) skills will apply in the workplace through tours of Berkeley startups, accelerators, and other STEM companies.

### Novel Farms Tour

At West Berkeley foodtech startup Novel Farms, 15 BHS students heard from co-founder Nieves Martinez-Marshall about how she went from getting her PhD in molecular biology to launching a startup in Berkeley. A hands-on experiment prepared by co-founder Michelle Lu, CSO, also showed how to make gourmet food in a lab setting.

### Bakar BioEginuity Hub Tour

At UC Berkeley's Bakar BioEginuity Hub, 30 BHS seniors learned about the history and mission of the new state of the art Bakar Labs facilities from UC Berkeley's Chief Innovation & Entrepreneurship Officer, Professor Rich Lyons. Then they had a near-peer networking lunch with UC Berkeley bioscience students and participated in a collaborative neuroscience innovation exercise with Professor Daniela Kaufer.



Berkeley High School students visit Novel Farms, Fall 2022.



City of

# BERKELEY

## Office of Economic Development (OED)

See the OED website for past Economic Dashboards and other economic reports:

<https://www.cityofberkeley.info/oed/reports/>

Contact OED for more information:

[oedmailbox@cityofberkeley.info](mailto:oedmailbox@cityofberkeley.info)

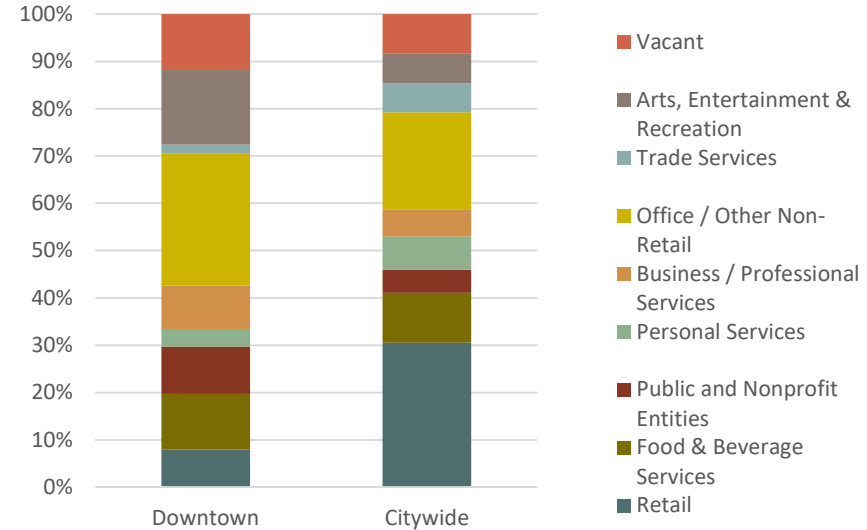
# Downtown: 2022 Snapshot



Downtown Berkeley serves as the City's core commercial district, meeting the daily needs of residents, students, workers, and visitors. The district features from a significant number of arts and entertainment businesses which occupy 15.7% of total ground floor commercial space in the district compared to 6.3% citywide. As of Q3 2022, the vacancy rate in Downtown is 11.9%, down from 15.7% in 2021. Sales tax revenue generated by Food & Beverage services increased in 2022 to \$980,700 (a 66% increase from 2021). Sales tax revenue from other sectors has stayed consistent over the past five years.

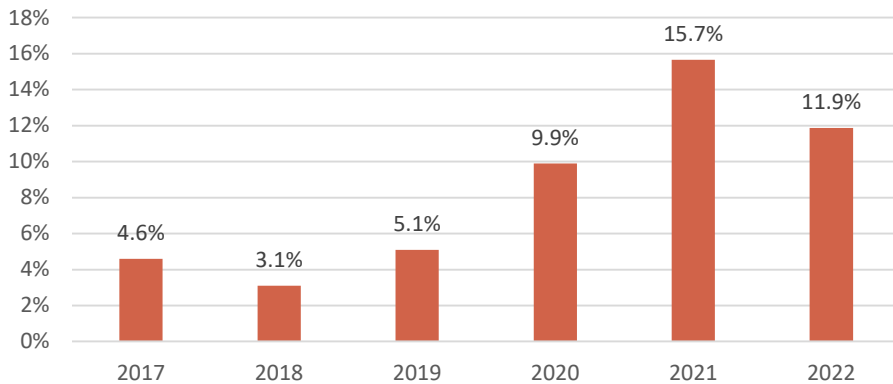


### Ground Floor Commercial Business Mix (by Square Footage), 2022 Q3



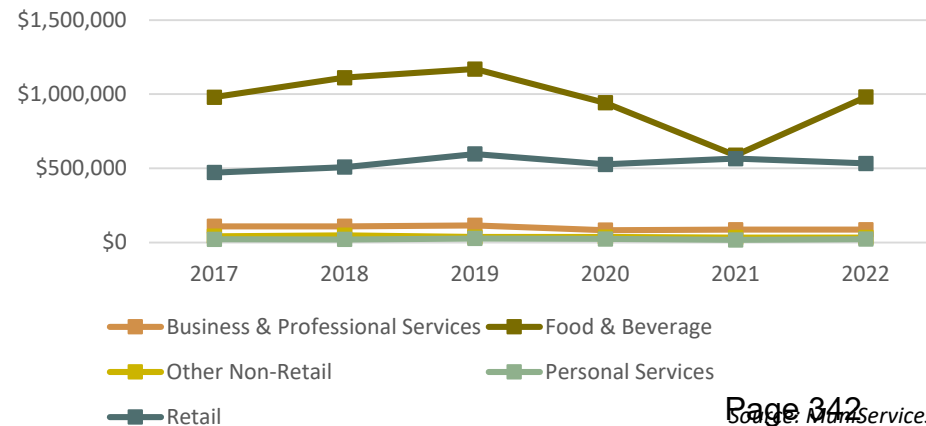
Source: Berkeley OED

### Ground Floor Commercial Vacancy Rate (by Square Footage), 2017-2022



Source: Berkeley OED

### Sales Tax Revenue by Sector, 2017-2022 (Q3, Q4, Q1, Q2 Annually)



Source: City of Berkeley

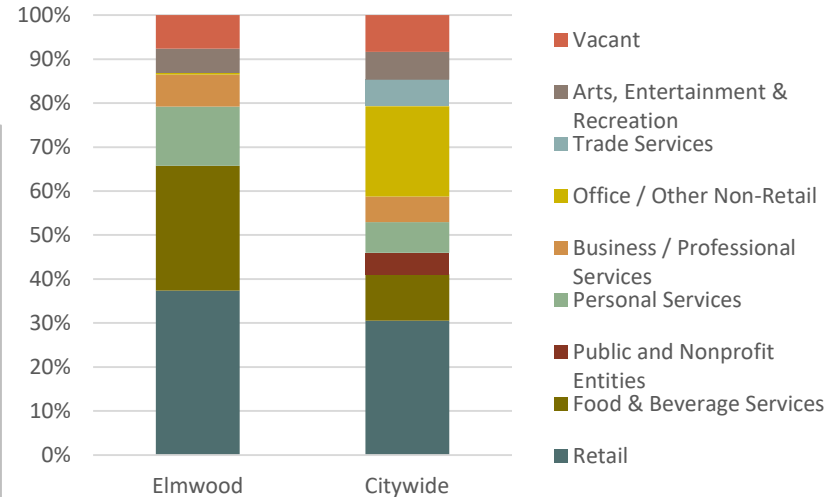


Elmwood is a compact, three-block commercial district along College Avenue near the Berkeley-Oakland border and the neighboring Rockridge shopping district. The Elmwood features many Food & Beverage businesses (28.4%) and Personal Services (13.4%), and is a walkable, neighborhood-serving commercial district. As of Q3 2022, the district's vacancy rate by square footage is 7.7%, which is a lower rate than 2021 (10.9%). Two large

commercial spaces that will soon be filled include the new 5 Tacos & Beers restaurant at 2914 College Avenue and the Catfenated Café at 2960 College Avenue. Sales tax collected from the Food & Beverage sector in the Elmwood increased 21% from last year, totaling \$170,738 in 2022. Similarly, sales tax revenue for Retail increased 37% since last year, totaling \$121,658 in 2022.

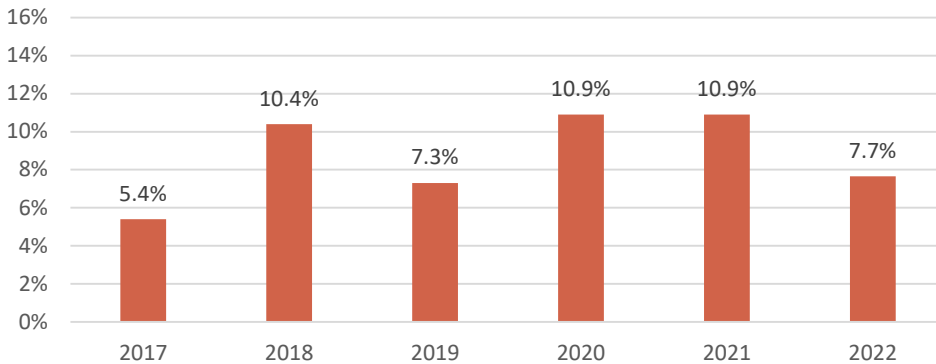


## Ground Floor Commercial Business Mix (by Square Footage), 2022 Q3



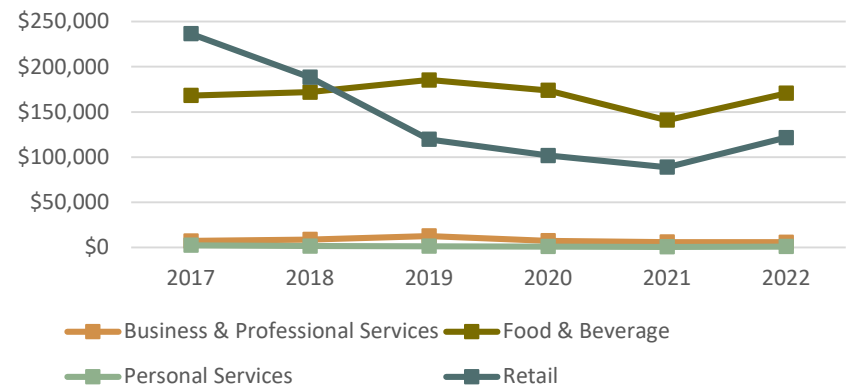
Source: Berkeley OED

## Ground Floor Commercial Vacancy Rate (by Square Footage), 2017-2022



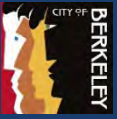
Source: Berkeley OED

## Sales Tax Revenue by Sector, 2017-2022 (Q3, Q4, Q1, Q2 Annually)



Source: Main Services

# North Shattuck: 2022 Snapshot

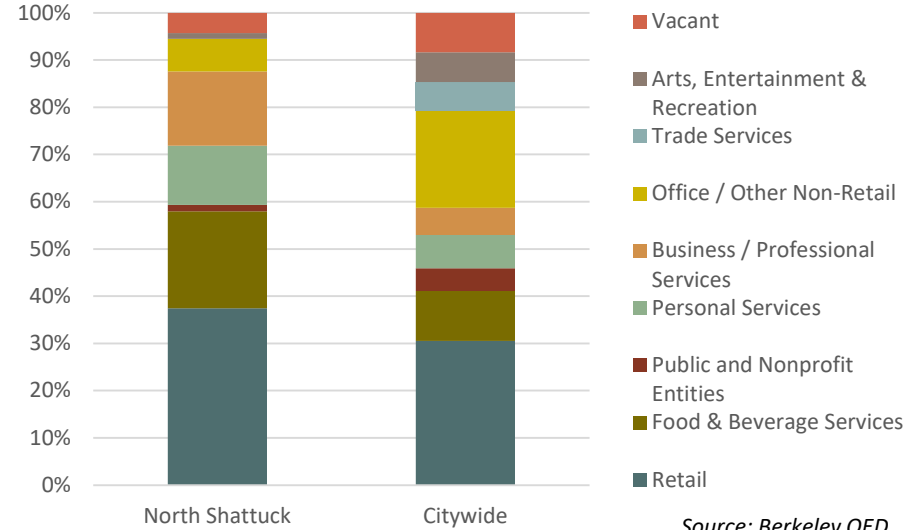


The North Shattuck district is characterized by a high concentration of well-known, long-standing, and celebrated restaurants. North Shattuck is both a walkable, neighborhood-serving commercial district as well as a global destination for food and dining. As of Q3 2022, the district's vacancy rate by square footage is 4.3%—the same rate as last year.

Sales tax collected from the Food & Beverage sector in North Shattuck increased by 42% in the last year, from \$298,196 in 2021 to \$424,038 in 2022. Sales tax revenue from Retail has declined slightly, which could partly be tied to the 2% drop in commercial retail space by square footage since 2021.

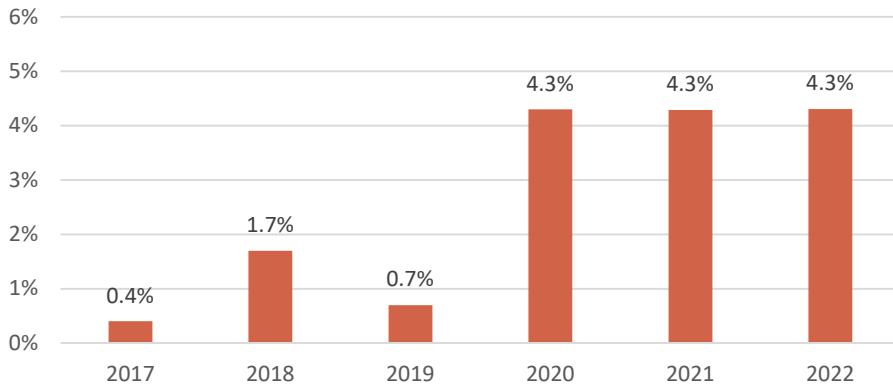


## Ground Floor Commercial Business Mix (by Square Footage), 2022 Q3



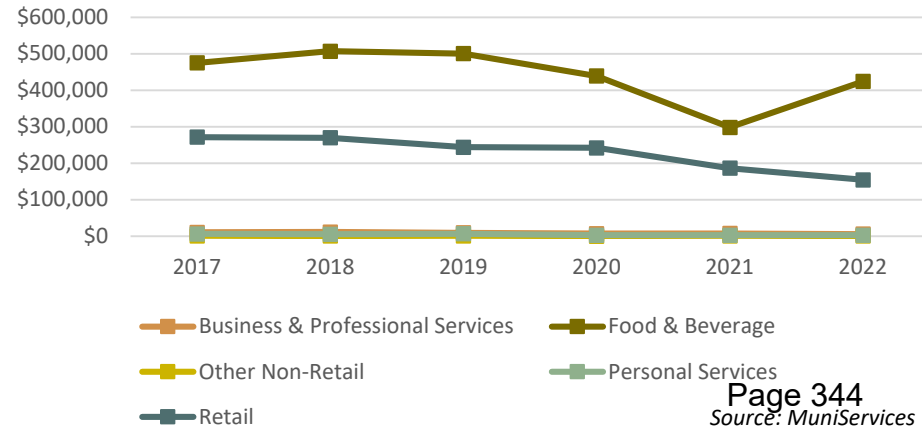
Source: Berkeley OED

## Ground Floor Commercial Vacancy Rate (by Square Footage), 2017-2022



Source: Berkeley OED

## Sales Tax Revenue by Sector, 2017-2022 (Q3, Q4, Q1, Q2 Annually)



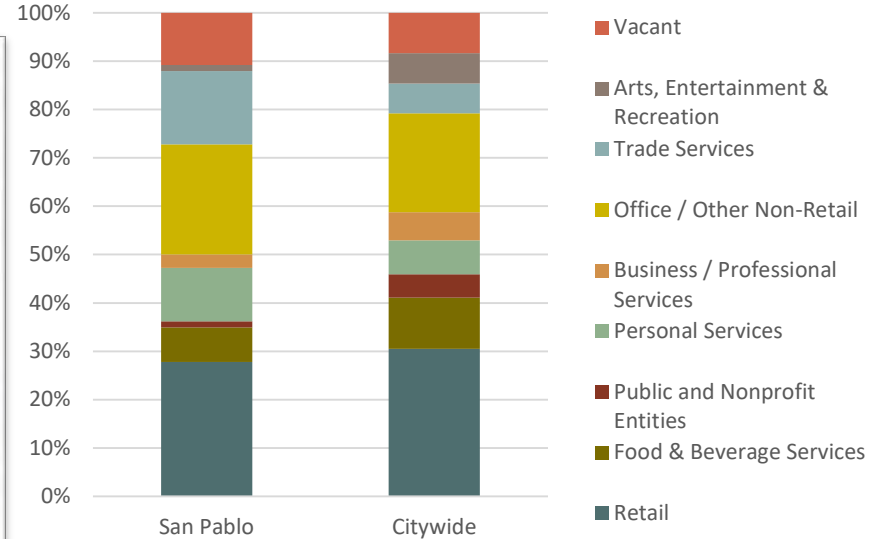
Page 344  
Source: MuniServices



San Pablo Avenue is Berkeley’s largest commercial corridor, running the entire north-south length of the City. San Pablo is characterized by a high concentration of Trade Services (15.1%)—including over 50 automobile services—and Office/Non-Retail space (22.8%). San Pablo functions as a regional destination for specific uses rather than a walkable, neighborhood-serving commercial district; as such, it features fewer Food & Beverage Services (7.1%) and Personal Services (11%). In Q3 2022, the district’s vacancy rate was 10.8%—a significant increase from 7.9% in 2021 and among the highest in the City. Sales tax revenue has not changed significantly in the last year, although there was an increase of \$39,187 in the Business and Professional Services sector.

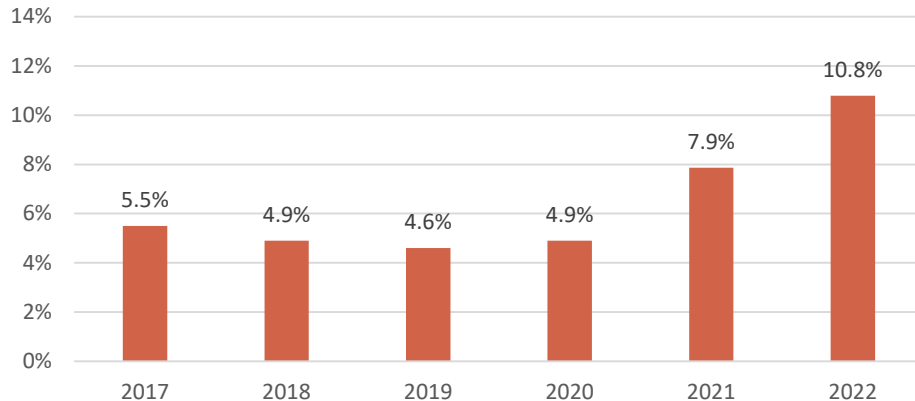


## Ground Floor Commercial Business Mix (by Square Footage), 2022 Q3



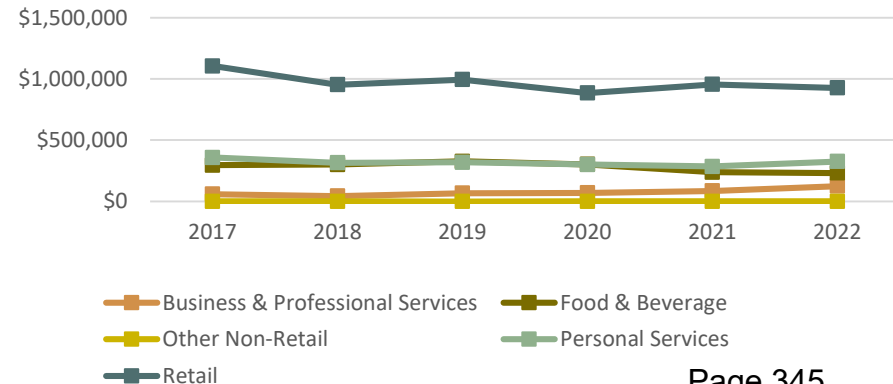
Source: Berkeley OED

## Ground Floor Commercial Vacancy Rate (by Square Footage), 2017-2022



Source: Berkeley OED

## Sales Tax Revenue by Sector, 2017-2022 (Q3, Q4, Q1, Q2 Annually)



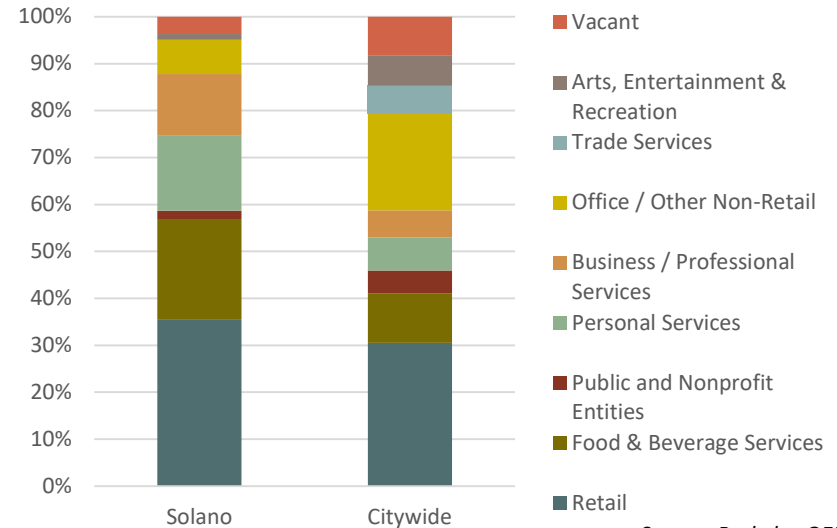
Page 345  
Source: MuniServices



Solano is a small commercial district in North Berkeley, with a total of 147 commercial spaces and approximately 274,800 total square feet of commercial space. It shares a border with Albany and is situated next to an elementary school and an active neighborhood of single-family homes. Solano has a large key asset (the former Oaks Theatre) that is due to be occupied by a climbing gym. The district's vacancy rate by square footage is among the city's lowest, at 3.7%. Sales tax revenue has been recovering steadily since 2021, with the Food & Beverage sector's sales tax increasing by 16% over the last year, from \$216,349 in 2021 to \$250,160 in 2022.

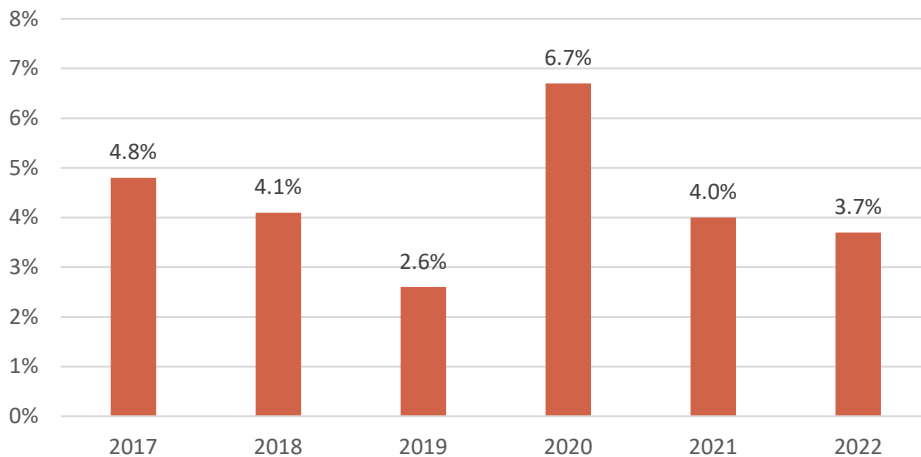


## Ground Floor Commercial Business Mix (by Square Footage), 2022 Q3



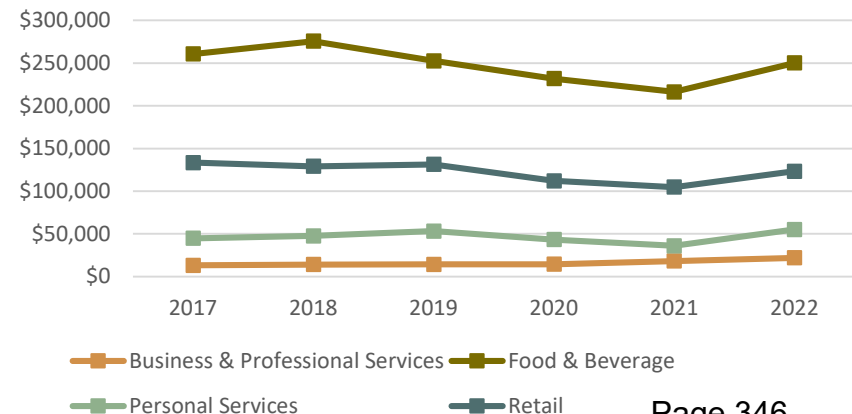
Source: Berkeley OED

## Ground Floor Commercial Vacancy Rate (by Square Footage), 2017-2022



Source: Berkeley OED

## Sales Tax Revenue by Sector, 2017-2022 (Q3, Q4, Q1, Q2 Annually)



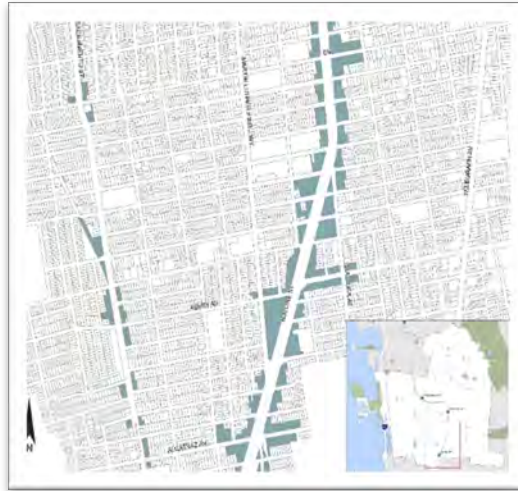
Page 346  
Source: MuniServices



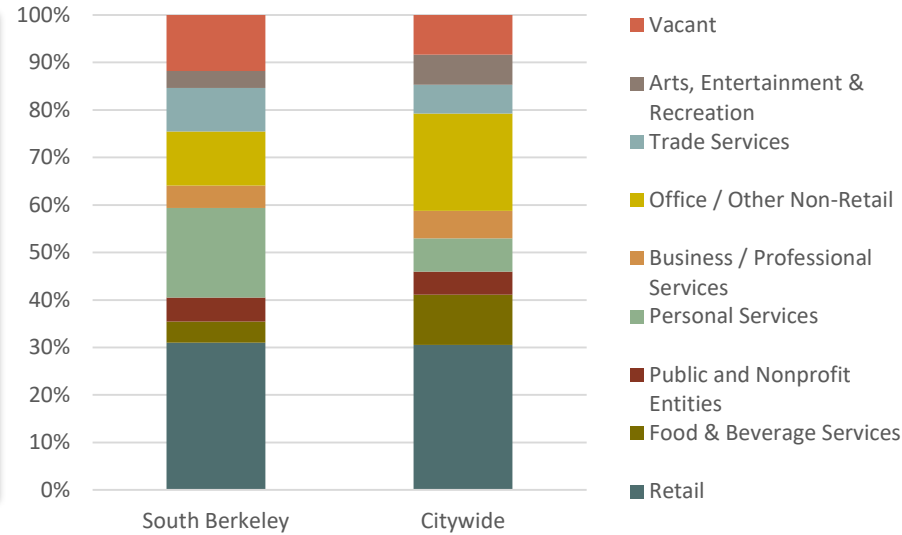
# South Berkeley: 2022 Snapshot



South Berkeley is a large, diverse commercial district that includes the Lorin District, the Sacramento corridor, and the South Shattuck area. South Berkeley includes several car dealerships, which accrue significant retail sales tax revenue for the City. The area also features a high concentration of Personal Services businesses (18.8% vs. 7% citywide) but is under-served by Food & Beverage services, which account for only 4.4% of ground floor commercial space, as compared to 10.5% citywide. As of Q3 2022, the district's vacancy rate by square footage increased from 8.8% to 11.8%. Sales tax revenue has not changed significantly over the last year.

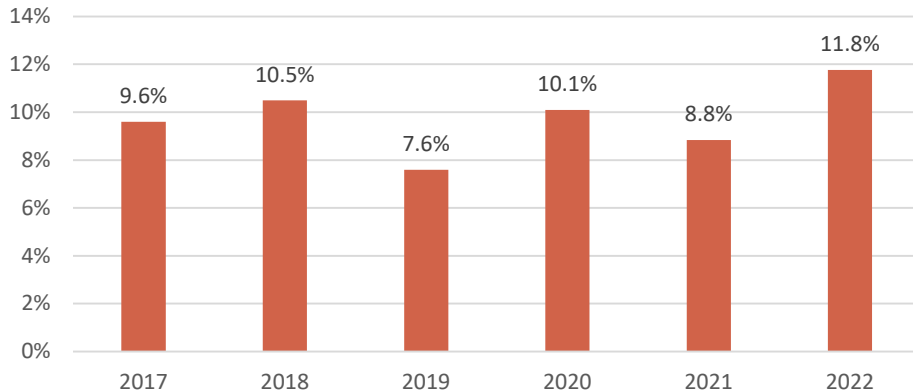


## Ground Floor Commercial Business Mix (by Square Footage), 2022 Q3



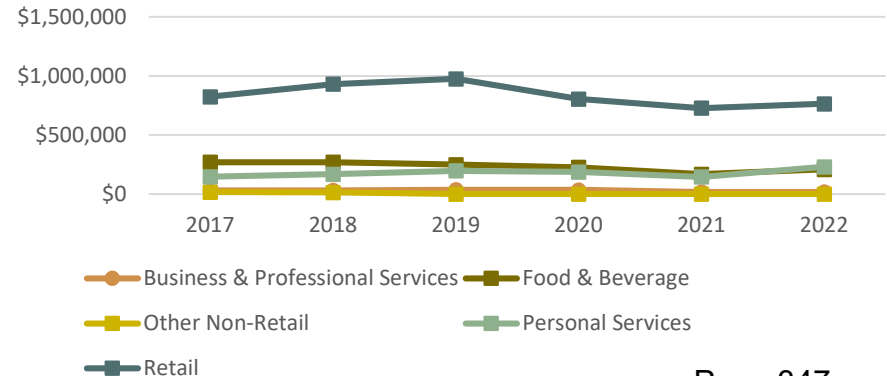
Source: Berkeley OED

## Ground Floor Commercial Vacancy Rate (by Square Footage), 2017-2022



Source: Berkeley OED

## Sales Tax Revenue by Sector, 2017-2022 (Q3, Q4, Q1, Q2 Annually)



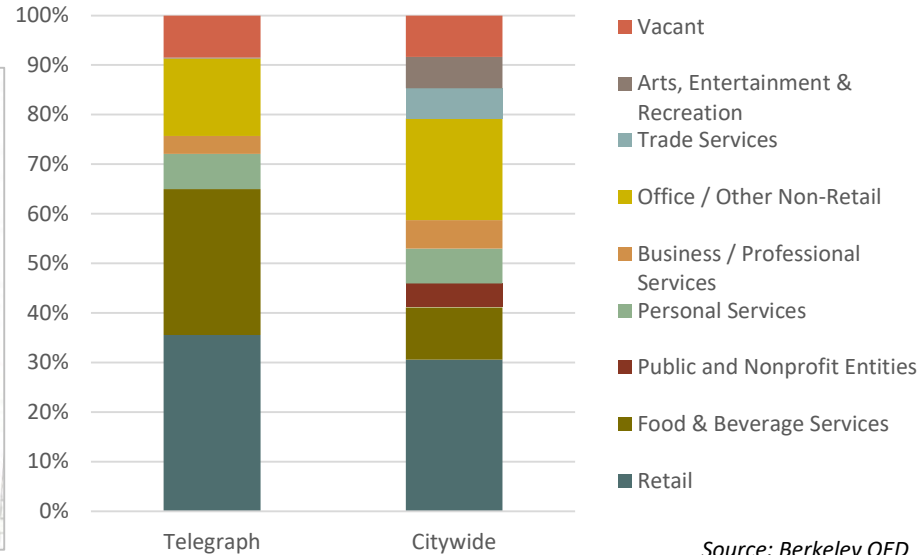
Page 347  
Source: MuniServices



The Telegraph district is a bustling commercial district that stretches south of the UC Berkeley campus. It has a high concentration of Food & Beverage businesses, with 29.4% of ground floor commercial space occupied by restaurants and eateries in 2022, compared to 10.5% citywide. The district's vacancy rate continues to decline, dropping from 12.6% to 8.5% in the past year. This can be attributed partly to 8 new developments opening along Telegraph Avenue, including The Standard; a large housing complex on Bancroft Ave. Sales tax revenue from the Retail and Food & Beverage sectors on Telegraph have been increasing steadily and are back to 2020 levels; due in part to the full return of students on campus.

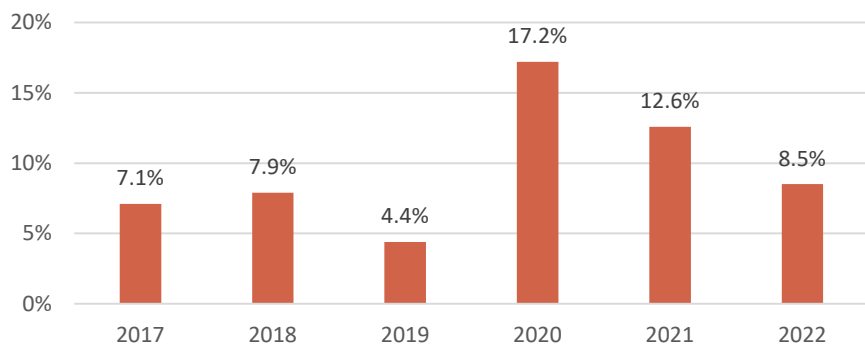


## Ground Floor Commercial Business Mix (by Square Footage), 2022 Q3



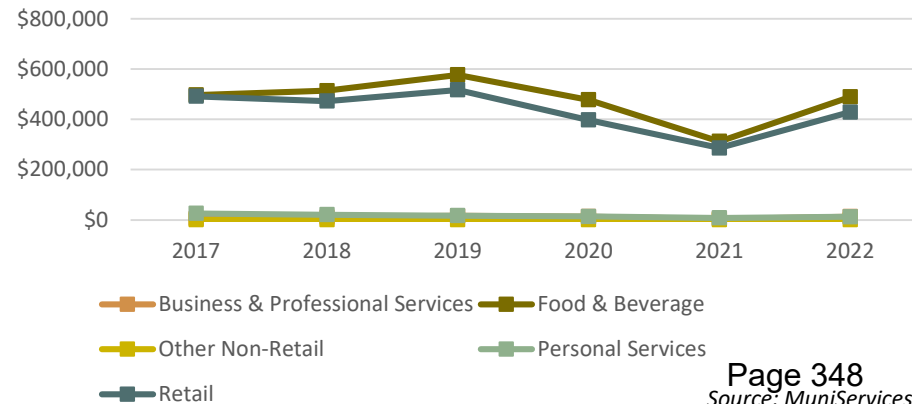
Source: Berkeley OED

## Ground Floor Commercial Vacancy Rate (by Square Footage), 2017-2022



Source: Berkeley OED

## Sales Tax Revenue by Sector, 2017-2022 (Q3, Q4, Q1, Q2 Annually)



Page 348  
Source: MuniServices

# University Ave: 2022 Snapshot

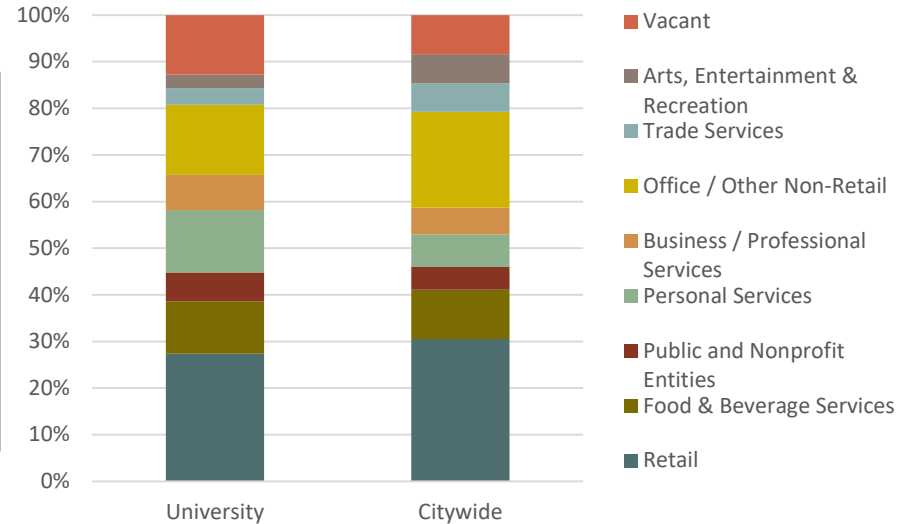


University Avenue, from Martin Luther King Jr Way to the waterfront, intersects many of the City's residential neighborhoods and serves as a gateway to the UC Berkeley campus. Since 2017, Retail and Food & Beverage Services have generated the most sales tax revenue in the district.

Food & Beverage sales tax revenue increased from \$729,387 in 2021 to \$1,045,950 in 2022. The ground floor vacancy rate has increased over the last year, jumping from 9.1% in 2021 to 12.8% in 2022.

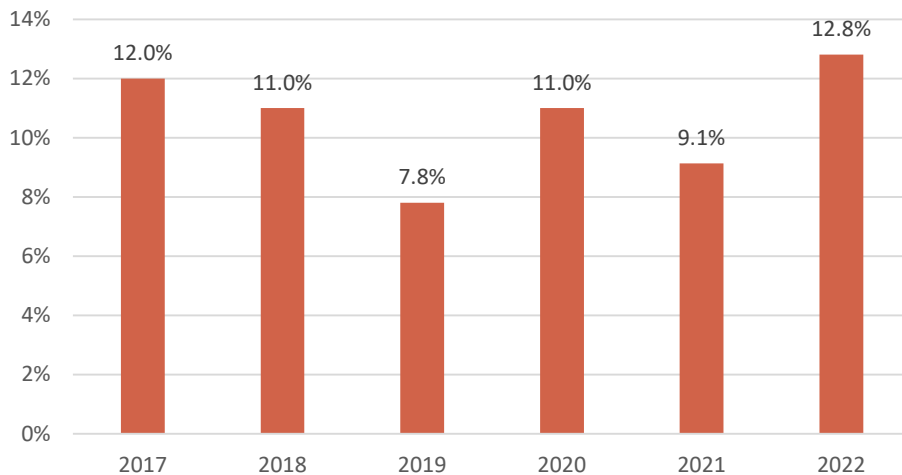


## Ground Floor Commercial Business Mix (by Square Footage), 2022 Q3



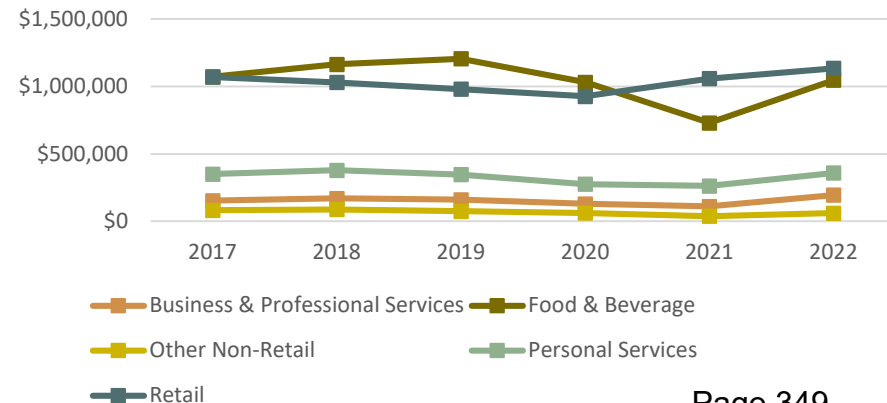
Source: Berkeley OED

## Ground Floor Commercial Vacancy Rate (by Square Footage), 2017-2022



Source: Berkeley OED

## Sales Tax Revenue by Sector, 2017-2022 (Q3, Q4, Q1, Q2 Annually)



Page 349  
Source: MuniServices

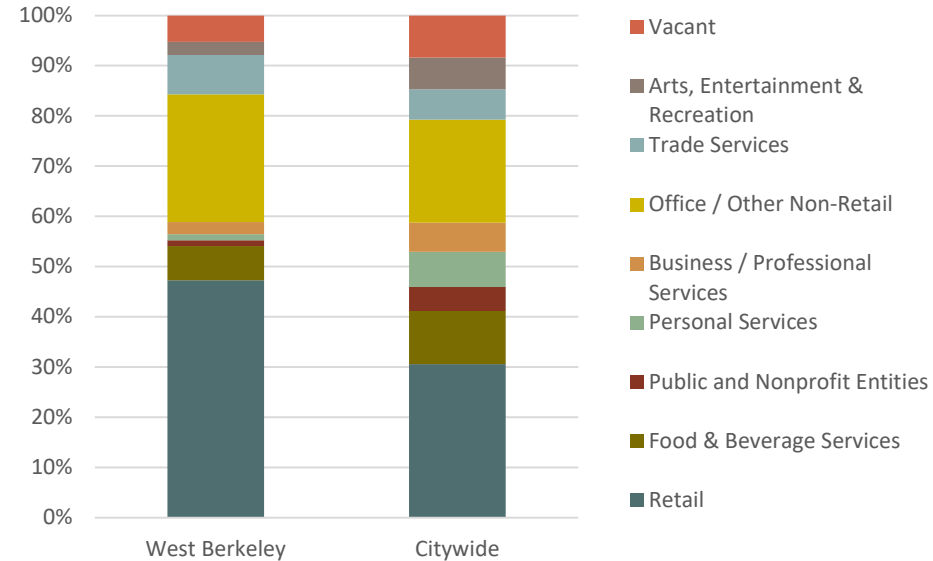
# West Berkeley: 2022 Snapshot



West Berkeley represents all commercial spaces west of San Pablo Avenue, including 4<sup>th</sup> Street and the Gilman Corridor. There are a number of major, large-floor-plate retailers, and a dense cluster of home supplies and construction businesses. There is also a higher percentage of non-retail commercial uses, including manufacturing and warehousing, compared to other districts. Retail accounts for 47.3% of ground floor commercial space. West Berkeley has a smaller percentage of square footage devoted to Food & Beverage (6.8%) businesses than the citywide rate of 10.5%. The commercial vacancy rate in Q3 of 2022 is 5.2%--a small increase from last year. Sales tax revenue has increased across all sectors in West Berkeley in the last year, with Retail seeing the largest increase (21%) compared to 2021 revenue. Retail accounts for the most sales tax revenue generated in the district.

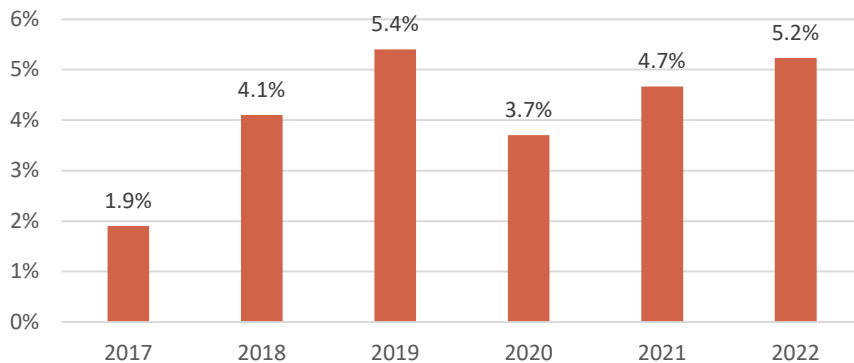


## Ground Floor Commercial Business Mix (by Square Footage), 2022 Q3



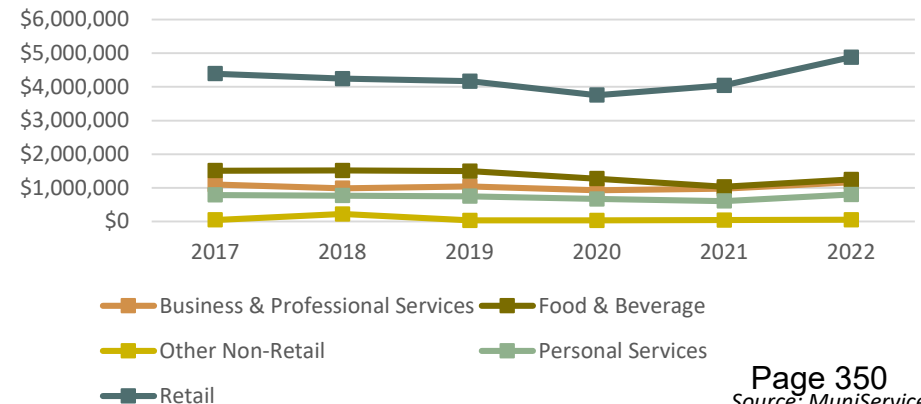
Source: Berkeley OED

## Ground Floor Commercial Vacancy Rate (by Square Footage), 2017-2022



Source: Berkeley OED

## Sales Tax Revenue by Sector, 2017-2022 (Q3, Q4, Q1, Q2 Annually)



Page 350  
Source: MuniServices

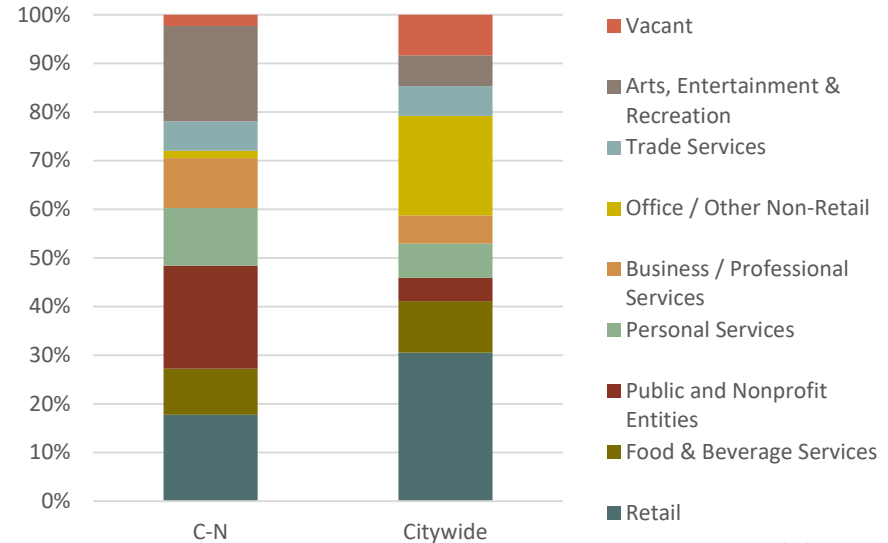
# Neighborhood (C-N): 2022 Snapshot



Across Berkeley there are **11** smaller commercial pockets, zoned as “C-N” or “Neighborhood Commercial.” These areas are one or two block collections of commercial enterprises that are found throughout Berkeley (see map in blue). Taken together, the C-N areas represent nearly 190 commercial spaces, and approximately 300,000 square feet of commercial space. The C-N areas collectively generate 2.6% of the city’s total sales tax. They also include a few large Arts, Entertainment & Recreation facilities (19.6% by square footage) and Public and Non-Profit entities (21.2% compared to 4.8% citywide).



## Ground Floor Commercial Business Mix (by Square Footage), 2022 Q3

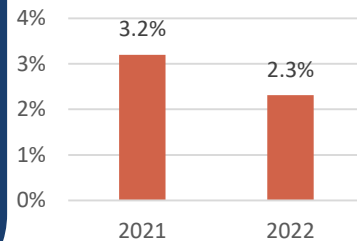


Source: Berkeley OED

*C-N areas include commercial nodes at the following intersections:*

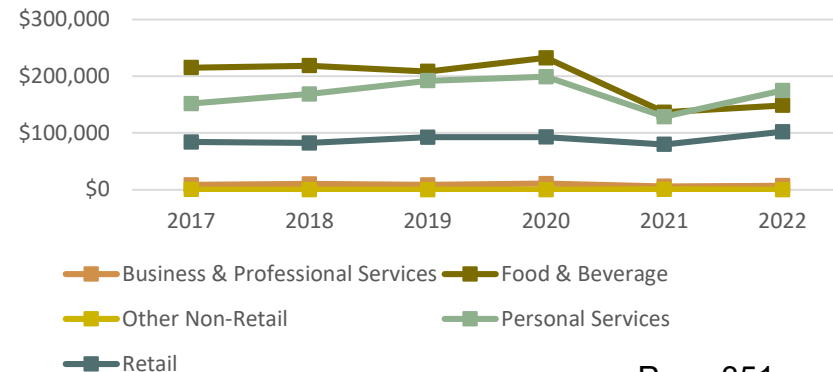
- Hopkins and Monterey
- Hearst and Euclid
- Martin Luther King Jr Way (MLK) and Dwight
- MLK and Hearst
- MLK and Rose
- MLK and Virginia
- Claremont and Prince
- Claremont and Tunnel
- College and Alcatraz
- Gilman and Curtis
- Hopkins and El Dorado

## Ground Floor Commercial Vacancy Rate (by Square Footage), 2021-2022



Source: Berkeley OED

## Sales Tax Revenue by Sector, 2017-2022 (Q3, Q4, Q1, Q2 Annually)









Lori Droste  
Councilmember, District 8

Action Calendar  
March 14, 2023

**To:** Honorable Mayor Jesse Arreguín and Members of the City Council

**From:** Councilmember Lori Droste

**Subject:** Bureaucratic Effectiveness and Referral Improvement and Prioritization Effort (BE RIPE)

### **Recommendation**

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

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



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

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

### **Policy Committee Recommendation**

On February 14, 2023, the Agenda and Rules Committee adopted the following action: M/S/C (Hahn/Arreguin) to send the item to the City Council with a Qualified Positive Recommendation to refer the relevant concepts of the original item to the Agenda & Rules Committee for consideration under the existing committee agenda item regarding enhancements to the City's legislative process. Vote: All Ayes.

### **Current Situation and Its Effects**

Over the past few years (excluding the COVID-19 state of emergency), City Council has grappled with potential options to reduce the legislative workload on the City of Berkeley staff. While a significant portion of this workload is generated from non-legislative matters and staffing vacancies, it is important to recognize that staff also continue to struggle to keep up with Council directives while still accomplishing the City's core mission or providing high quality public infrastructure and services.

### **Background and Rationale**

Berkeley faces an enormous staffing crisis due in part to workload concerns; as such, Council should take steps to hone its focus on legislative priorities. [November 2022's Public Works Off-Agenda Memo](#) offers a benchmark for problems faced by City departments. Public Works staff struggles to complete its top strategic plan projects, respond to audit findings, and provide basic services, in addition to fulfilling legislative priorities by Council. While the "Top Goals and Priorities" outlined by Public Works is tied to 130+ directives by the City Council, it is not reasonable to assume that all will be implemented.

The challenges faced by the Public Works department are not an anomaly. Other departments share the same challenges. In addition to needing to ensure that the City can adopt a compliant state-mandated Housing Element, process permits, secure new grant funding, mitigate seismic risks, and advance our Climate Action Plan, Planning Department staff have been tasked with addressing multiple policy proposals from the City Council. The sheer number of referrals also impacts the ability of staff in the City Attorney's office to vet all ordinances, protect the City's interests, participate in litigation, and address the City's other various legal needs.

### **Best Practices**

A number of nearby, similarly-sized cities were contacted to request information about how these cities approach Councilmember referrals and prioritizations processes. Cities contacted

included Richmond, Vallejo, Santa Clara, Concord, and Sunnyvale. Of these cities, Santa Clara, Concord, and Sunnyvale replied.

### **Santa Clara**

Overall, Santa Clara staff indicated that—similar to Berkeley—the Council referrals and prioritization process is not especially formalized, with additional referrals being made outside of the prioritization process.

Each year, the Council holds an annual priority setting session at which the Council examines and updates priorities from the previous year and considers what progress was made toward those priorities. The prioritization process takes place in February so that any priorities that rise to the top may be considered for funding ahead of the budget process. In any given year, some priorities may go unfunded and even holding those priorities over to a second year is not necessarily a guarantee of funding.

Despite conducting this annual prioritization exercise, Councilmembers in Santa Clara often still do bring forward additional referrals outside of this process. Part of this less restricted approach in Santa Clara's 030 ("zero thirty") policy, which allows members of the the City Council to add items to the Council agenda with sufficient notice and even allows members of the public to petition to have items added to a special section of the Council agenda.

Despite the overally looseness of Santa Clara's approach. Council members still rely upon staff to provide direction with respect to what priorities are or are not feasible based upon available funding and staff bandwidth.

### **Concord**

According to Concord City staff, although Concord—like Berkeley and Santa Clara—does have a process for Councilmembers to request items be added to Council agendas, Councilmembers generally agree not to add referrals outside of the formal priority-setting process.

Concord City staff only work on "new" items/policies that are mandated by law, recommended by the City Manager, and have been recommended for review/work of some kind by a majority (three of the five members) of the City Council.

In general, Councilmembers agree to not add work items outside of the Council's formal priority setting process. The Concord City Council has a once-a-year goal setting workshop each spring where the City plans its Tier 1 and Tier 2 priorities for the year (or sometimes for a 2-year cycle). Most Councilmembers abide by this process and refrain from bringing forward additional items. However any Councilmember may put forward a referral outside of the process and use the method outlined below.

Outside of the prioritization process, Councilmembers can request that their colleagues (under Council reports at any Council meeting) support placing an item on a future Council meeting agenda for a discussion. The Concord City Attorney has advised councilmembers that they can make a three sentence statement, e.g. "I would like my colleagues' support to agendize [insert item]" or "to send [insert item] to a Council standing committee for discussion." Followed by: "This is an important item to me or a timely item for the Council because [insert reasoning]. Do I have your support?" The other Councilmembers then cannot engage in any detailed discussion or follow up, but may only vote yes or no to agendizing the item.

If two of the Councilmember's colleagues (for a total of 3 out of 5) agree to the request to have the item agendaized for a more detailed discussion by Council, then the item will be added to a future agenda for fuller consideration. An additional referral outside the prioritization process is suggested perhaps once every month in Concord, but the Concord City Council usually does not provide the majority vote to agendaize these additional items.

### **Sunnyvale**

Of all the cities surveyed, Sunnyvale has the most structured approach for selecting, rating, and focusing on City Council priorities. "Study issues" require support from multiple councilmembers before being included in the annual priority setting, and then must go through a relatively rigorous process to rise to the top as Council priorities. And, perhaps most importantly, policy changes *must* go through the priority setting process to be considered. The Sunnyvale City Council's Policy 7.3.26 Study Issues reads, in part:

*Any substantive policy change (large or relatively small) is subject to the study issues process (i.e. evaluated for ranking at the Council Study Issues Workshop).*

*Policy related issues include such items as proposed ordinances, new or expanded service delivery programs, changes to existing Council policy, and/or amendments to the General Plan. Exceptions to this approach include emergency issues, and urgent policy issues that must be completed in the short term to avoid serious negative consequences to the City, subject to a majority vote of Council.*

If a study issue receives the support of at least two Councilmembers, the issue will go to staff for the preparation of a study issue paper. Council-generated study issues must be submitted to staff at least three weeks ahead of the priority-setting session, with an exception for study issues raised by the public and carried by at least two Councilmembers, if the study issues hearing takes place less than three weeks before the priority setting.

At the Annual Study Issues Workshop, the Council votes whether to rank, defer, or drop study issues. If a majority votes to drop the issue, it may not return the following year; if the issue is deferred, it returns at the following year's workshop; and if a majority votes to rank an issue, it proceeds to the ranking process. Sunnyvale's process uses "forced ranking" for "departments" with ten or fewer issues and "choice ranking" for departments with eleven or more issues. (The meaning of "departments" and the process for determining the number of issues per department are not elucidated within the policy.) Forced ranking involves assigning a ranking to every policy within a given subset, while choice ranking only assigns a ranking to a third of policies within a given subset, with the others going unranked.

After the Council determines which study issues will be moving forward for the year based on the rankings, the City Manager advises Council of staff's capacity for completing ranked issues. However, if the Council provides additional funding, the number of study issues addressed may be increased.

In 2022, Sunnyvale had 24 study issues (including 17 from previous years and only 7 new ones) and **zero** budget proposals. Although Sunnyvale does consider urgency items outside the prioritization process, this generally happens only 1 to 3 times per year and usually pertains to highly urgent items, such as gun violence.

### **Status Quo and Its Effects**

Council currently uses a reweighted range proportional representation voting method to determine which priorities represent both a) a consensus and b) district/neighborhood concerns. This process allows Council to coalesce around a particular common area of concern; but if there is a specific neighborhood or district issue that is not addressed by Council consensus, it also allows for that district's councilmember's top priority to be elevated in the ratings even without broad consensus, so long as there are not multiple items designated as that councilmember's "top" item. More information about this process can be found [here](#). This [system was established](#) in 2016 due to the sheer amount of referrals by Council and the lack of cohesive direction on which of the 100+ referrals the City Manager should act upon.

Subsequent to this effort, Council created a "short-term referral" pool which was intended to be light-lift referrals that could be accomplished in less than 90 days. However, that designation was always intended to be determined by the City Manager, not Council, with respect to what was operationally feasible in terms of the 90 day window. The challenge with Council determining what is a short-term referral is that it is not always realistic given other duties that the staff has to attend to and inappropriate determinations can stymie work on other long term priorities if staff have to drop everything they are doing to attend to an "short-term" or "emergency" referral.

An added challenge is that the City Auditor [reported in 2018](#) that the City of Berkeley's Code Enforcement Unit (CEU) had insufficient capacity to enforce various Municipal Code provisions. This was due to multiple factors, including understaffing—some of which have since improved. Nevertheless, the City Auditor wrote,

*"Council passes some ordinances without fully analyzing the resources needed for enforcement and without understanding current staffing capacity. In order to enforce new ordinances, the CEU must take time away from other enforcement areas. This increases the risk of significant health and safety code violations going unaddressed. It also leads to disgruntled community members who believe that the City is failing to meet its obligations. This does not suggest that the new ordinances are not of value and needed. Council passes policy to address community concerns. However, it does mean that the City Council routinely approves policy that may never result in the intended change or protections."*

Subsequent to that report, [an update](#) was published in September of 2022. A staffing and resource analysis for Code Enforcement is still needed to ensure that the laws Council passes can be implemented.

### **Fiscal Impacts**

These reforms are likely to result in significant direct savings related to reduced staff time/overtime as well as potential decreases to costs associated with the recruitment/retention of staff.

### **Alternatives Considered**

Alternatives were considered using effectiveness and efficiency as the evaluative criteria for referrals. One missing criterion that will be necessary in developing this process will be operational considerations so the City of Berkeley can continue to deliver basic services in an efficient manner.

*All-Council determination*

Council could vote *as a body* on the top 10 legislative priorities. The drawback of this method is that it, by default, eliminates any remaining priorities that have been passed by Council. It also eliminates “minority” voices which may disproportionately impact neighborhood-specific concerns as the remainder of the Council may not value district-specific concerns outside of their council district.

*Councilmember parameters*

Councilmembers could select their top two legislative priorities (as a primary author) for the year and the Mayor could select four legislative priorities for the year for a total of 10 legislative priorities per year. These “legislative priorities” would not include resolutions of support, budget referrals for infrastructure or traffic mitigations or other non-substantive policy items.....

*Status Quo Sans Short-Term Referrals*

The status quo of rating referrals is the fairest and most equitable if Council wishes to continue to pass the same quantity of referrals; however, it does not address the overall volume and that certain legislative items skip the prioritization queue due to popularity or perceived community support. Council enacts ordinances that fall outside of the priority setting process and designates items as short-term referrals. This loophole has made this process a bit more challenging. One potential option is to continue the prioritization process but eliminate the short-term referral option unless it is undeniably and categorically an emergency or time-sensitive issue.

**Contact Person**

Councilmember Lori Droste (legislative aide Eric Panzer)  
[erpanzer@cityofberkeley.info](mailto:erpanzer@cityofberkeley.info)  
Phone: 510-981-7180

**Attachments**

Update on Public Works’ Goals, Projects, Measures, and Challenges



Office of the City Manager

November 15, 2022

To: Honorable Mayor and Members of the City Council

From: *DWR* Dee Williams-Ridley, City Manager

Re: Update on Public Works' Goals, Projects, Measures, and Challenges

This memo shares an update on the department's *Performance Measures* and *FY 2023 Top Goals and Projects*, and identifies the department's highest priority challenge. I am proud of this department's work, its efforts to align its work with City Council's goals, and the department's dedication to improving project and program delivery.

#### *Performance Measures*

The department's performance measures were first placed on the department's website (<https://berkeleyca.gov/your-government/about-us/departments/public-works>) in 2020. They are updated annually in April. Progress continues in preventing trash from reaching the Bay, reducing waste, increasing bike lane miles, reducing the City fleet's reliance on gas, increasing City-owned electric chargers, expanding acres treated by green infrastructure, and reducing the sidewalk repair backlog. Challenges remain with the City's street condition and safety.

#### *Top Goals and Projects*

Public Works' top goals and projects are also on the department's website (<https://berkeleyca.gov/your-government/about-us/departments/public-works>). Department goals are developed annually. This year, after reviewing the 130+ directives from open City Council referrals, FY 2023 adopted budget referrals, audit findings, and strategic plan projects, staff matched existing resources with City Council's direction and the ability to deliver on this direction while ensuring continuity in baseline services.

The *FY 2023 Top Goals and Projects* is staff's projection of the work that the department has the capacity to advance this fiscal year. This list is intended to be both realistic and a stretch to achieve. More than three-quarters of the work on the *FY 2023 Top Goals and Projects* is tied to the existing 130+ directives from City Council referrals, budget referrals, audit findings, and strategic plan projects. The remainder are initiatives internal to the department aimed at increasing effectiveness and/or improving baseline services.

Public Works conducts quarterly monitoring of progress on the goals and projects, and status updates are shared on the department's website using a simple status reporting

Page 2

November 15, 2022

Re: Update on Public Works' Goals, Projects, Measures, and Challenges

procedure. Each goal or project is coded green, yellow, or red. A project coded green is either already completed or is on track and on budget. A project in yellow is at risk of being off track or over budget. A project in red either will not meet its milestone for this fiscal year or is significantly off track or off-budget. Where a project or goal has multiple sub-parts, an overall status is color-coded for the numbered goal and/or project, and exceptions within the subparts are identified by color-coding. Quarter 1's status update is [here](#). The 2<sup>nd</sup>, 3<sup>rd</sup>, and 4<sup>th</sup> quarter results will be posted at the same location.

### *Challenge*

Besides the volume of direction, the most significant challenge in delivering on City Council's directions is the department's high vacancy rate. The Public Works Department is responsible for staff retention and serves as the hiring manager in the recruitment and selection process. Both retention and hiring contribute to the department's vacancy rate, and the department collaborates closely with the Human Resources Department to reduce the rate. Over the last year, the vacancy rate has ranged from 12% to 18%, and some divisions, such as Equipment Maintenance (Fleet), Transportation,<sup>1</sup> and Engineering, have exceeded 20%. While the overall vacancy rate is lower than in Oakland and San Francisco, it is higher than in Public Works Departments in Alameda, Albany, Emeryville, and San Leandro.

The high vacancy rate obviously reduces the number of services and projects that staff can deliver. It leaves little room for new direction through the course of the fiscal year and can lead to delays and diminished quality. It also detracts from staff morale as existing staff are left to juggle multiple job responsibilities over long periods with little relief. The department's last two annual staff surveys show that employee morale is in the lowest quarter of comparable public agencies and the vacancy rate is a key driver of morale.

Attachment 1 offers an excerpted list of programs and projects that the department is unable to complete or address in this fiscal year due to the elevated vacancy rate and/or the volume of directives.

Attachment 1: Selected list of program, project, referral, and audit finding impacts

cc: Paul Buddenhagen, Deputy City Manager  
LaTanya Bellow, Deputy City Manager  
Jenny Wong, City Auditor  
Mark Numainville, City Clerk  
Matthai Chakko, Assistant to the City Manager

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<sup>1</sup> Three of the City's five transportation planner positions will be vacant by December 3. Before January 1, 2023, the City Manager will share an off agenda memo that explains the impact of transportation-specific vacancies on existing projects and programs.



## **Attachment 1: Selected list of program, project, referral, and audit finding impacts**

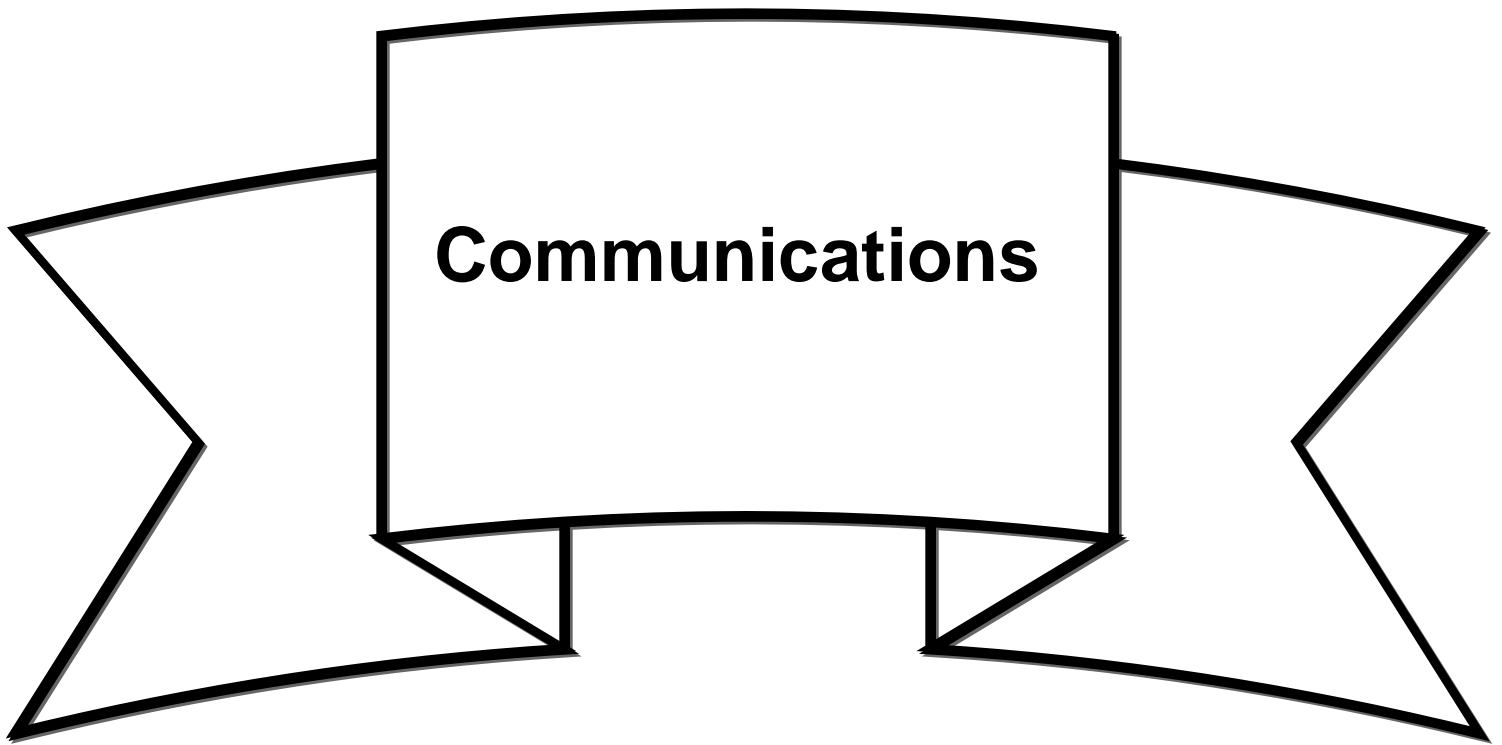
### *Project and Program Impacts*

- Major infrastructure planning processes are 6+ months behind schedule, including comprehensive planning related to the City's Zero Waste goal, bicycle, stormwater/watershed, sewer, and streetlight infrastructure.
- Some flashing beacon installations have been delayed for more than 18 months, new traffic maintenance requests can take 2+ months to resolve, and the backlog of neighborhood traffic calming requests stretches to 2019.
- The City may lose its accreditation status by the American Public Works Association because of a lack of capacity to gain re-accreditation.
- Some regular inspections and enforcement of traffic control plans for the City's and others' work in the right of way are missed.
- Residents experience missed waste and compost pickups as drivers and workers cover unfamiliar routes and temporary assignments.
- Illegal dumping, ongoing encampment, and RV-related cleanups are sometimes missed or delayed.
- The backlog of parking citation appeals has increased.
- Invoice and contracting approvals can face months-long delays.
- The Janitorial Unit has reduced service levels and increased complaints.
- Maintenance of the City's fleet has declined, with preventative maintenance happening infrequently, longer repair response times, and key vehicles being unavailable during significant weather events.

### *Prior Direction Deferred or Delayed*

- Referral: Expansion of Paid Parking (DMND0003994)
- Referral: Long-Term Zero Waste Strategy (DMND0001282)
- Referral: Residential Permit Parking (PRJ0016358)
- Referral: Parking Benefits District at Marina (DMND0003997)
- Referral: Prioritizing pedestrians at intersections (DMND0002584)
- Referral: Parking Districts on Lorin and Gilman (DMND0003998)
- Budget Referral: Durant/Telegraph Plaza, 12/14/2021
- Referral: Traffic Calming Policy Revision (PRJ0012444)
- Referral: Public Realm Pedestrianization Opportunities (PRJ0019832)
- Referral: Long-Term Resurfacing Plan (PRJ0033877)
- Referral: Street Sweeping Improvement Plan (DMND0002583)
- Audit: Leases: Conflicting Directives Hinder Contract Oversight (2009)
- Audit: Underfunded Mandate: Resources, Strategic Plan, and Communication Needed to Continue Progress Toward the Year 2020 Zero Waste Goal (2014)
- Audit: Unified Vision of Zero Waste Activities Will Help Align Service Levels with Billing and Ensure Customer Equity (2016)





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**

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**Records Online**

<https://records.cityofberkeley.info/>

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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