



Office of the City Manager

CONSENT CALENDAR
October 13, 2020

To: Honorable Mayor and Members of the City Council
 From: Dee Williams-Ridley, City Manager
 Submitted by: Scott Ferris, Director, Parks, Recreation and Waterfront
 Liam Garland, Director, Public Works
 Subject: Measure T1 Phase 1 Project List Additions

RECOMMENDATION

Adopt a Resolution authorizing the following additions to the Measure T1 Phase 1 project list with no additional funding:

- James Kenney Park play area (ages 2-5, and 5-12) and picnic area
- Euclid Street (at Rose Garden)
- Cedar Street from 6th Street to San Pablo Avenue
- Center Street from Martin Luther King Jr. Way to Shattuck Avenue
- Rose Street from Le Roy Avenue to La Loma Avenue
- Santa Fe Avenue from Gilman Street to Cornell Avenue/ Page Street
- Shasta Road from Grizzly Peak Boulevard to east City limit
- Arcade Avenue from Fairlawn Drive to Grizzly Peak Boulevard
- Dohr Street from Ashby Avenue to Prince Street
- West Street from Bancroft Way to Dwight Way

FISCAL IMPACTS OF RECOMMENDATION

This is not a request for additional funding and there are no fiscal impacts associated with this action. The additional projects are already funded by non-T1 funds and are currently under construction.

CURRENT SITUATION AND ITS EFFECTS

The purpose of this item is to add projects to the Measure T1 Phase 1 Project List in order to ensure that the City meets the federal tax expenditure limit that requires municipalities to spend 85% of bond funds sold within three years of the sale. The City is currently on-target to meet this deadline, but in an abundance of caution, staff propose adding the above projects in case T1 funding needs to be expended by additional projects to meet this requirement. Per T1 guidelines, City Council approval is required to add or remove projects from the T1 Project List.

Under federal tax law, the City must have a reasonable expectation of spending at least 85% of bond proceeds within three years of the sale. This federal requirement is in

place so that municipalities don't sell bonds to solely earn funds off the interest of bonds sales. If 85% is not spent within three years, there are two consequences:

1. The unspent project funds must be yield-restricted, i.e. invested at a rate that generates less than the bond yield; and
2. If the City's bonds are audited, and the IRS determines that the City did not have a reasonable expectation at closing that it could spend 85% within three years, then the IRS could conclude that interest on the bonds is taxable, which could require a significant payment by the City to the IRS.

The City is currently working on 45 Measure T1 Phase 1 projects and is on-target to meet this 85% limit. However, there have been several Covid-19 related construction delays and unanticipated issues in some of larger projects that have resulted in lower expenditures at this point in time than was originally projected. Therefore, staff would like to add ten (10) current non-T1 construction projects to the Measure T1 Phase 1 list. These projects are fully funded with separate sources and are currently in construction, providing staff the opportunity to allocate Measure T1 funds if needed. If these additional projects are not allocated T1 funds, we will come back to Council to remove them at a later date.

Section 4.5 of the Measure T1 Policies and Procedures manual states the following: "When changes need to be made at the program-level, such as adding/removing a project or changing the project's level of completion, staff will review these options with the Lead Commissions and seek Council's approval to revise the approved list. This process is intended to ensure that any change to the approved Measure T1 project list is made with community input, Commission oversight, and Council approval." The recommended changes in this report have been reviewed the Parks and Waterfront Commission on August 12, 2020 and the Public Works Commission on October 1, 2020.

BACKGROUND

In November 2016, Berkeley voters approved [Measure T1](#)¹ – a \$100 million dollar general obligation bond to repair, renovate, replace or reconstruct the City's aging existing infrastructure, including facilities, streets, sidewalks, storm drains, and parks. Measure T1 passed with 86.5% of the vote.

From December 2016 through June 2017, the City undertook a robust public process to gather input on the proposed projects. In addition to three Measure T1 Workshops for the general public, the Parks & Waterfront and Public Works Commissions invited and received input from the public and other City Commissions. They submitted a [joint report to Council in June 2017](#)² detailing their recommendations. The City Manager

¹ See <https://www.cityofberkeley.info/MeasureT1/>

² See https://www.cityofberkeley.info/uploadedFiles/Parks_Rec_Waterfront/Level_3_-_General/Measure%20T1%20-%20Joint%20Commission%20Report%20-%20June%202017%20w%20attachments.pdf

incorporated this input and submitted a [final recommended list of projects](#)³. Council adopted this list and proposed plan for implementing Phase 1 of the T1 bond program on June 27, 2017.

On January 23, 2018, Council approved Resolution No. 68,290-N.S., authorizing \$2 million from Measure T1 Phase 1 funds to be allocated to the Adult Mental Health Clinic located at 2640 Martin Luther King Jr. Way.

On March 26, 2018, Council approved Resolution No. 68,802-N.S. authorizing \$5.3 million in additional funding to complete Measure T1 Phase 1 projects.

On July 23, 2019, Council approved Resolution No. 69,051-N.S., authorizing the removal of the King School Park bio swale project and the addition of 12 alternate green infrastructure projects to the Measure T1 Phase 1 project list.

On December 10, 2019, Council approved Resolution No. 69,221-N.S., authorizing the: 1) Removal of the Transfer Station Conceptual Master Plan and West Berkeley Service Center Conceptual Design; 2) Change of phase from construction to planning for the Berkeley Health Clinic, Public Safety Building, Hopkins Street (San Pablo to the Alameda) and Bancroft Way (Milvia to Shattuck); 3) Change of phase from design to planning for Berkeley Municipal Pier and Tom Bates (Gilman) Fields North Field House / Restroom; 4) Addition of San Pablo Park Play Structure Replacement (ages 2-5), Strawberry Creek Park – Play Structure Replacement, and Codornices Creek at Kains Avenue.

ENVIRONMENTAL SUSTAINABILITY

Measure T1 projects include environmentally sustainable elements, such as electrification for facilities projects, permeable pavers or bio swales for street projects, and energy saving lighting in parks.

RATIONALE FOR RECOMMENDATION

In order to meet the Federal Tax Law requirement for municipal bonds, the City must add projects to the Measure T1 Phase 1 project list in order to expend 85% of the Measure T1 bonds sold in November 2017.

ALTERNATIVE ACTIONS CONSIDERED

None.

CONTACT PERSON

Scott Ferris, Director, Parks, Recreation and Waterfront, 510-981-6700
Liam Garland, Director, Public Works, 510-981-6300

Attachments:

1: Resolution

³ See https://www.cityofberkeley.info/Clerk/City_Council/2017/06_June/Documents/2017-06-27_Item_49_Implementing_Phase_1.aspx

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

ADDITIONS TO THE MEASURE T1 PHASE 1 PROJECT LIST

WHEREAS, on June 27, 2017, Council adopted Resolution 68,076-N.S., approving a list of projects for Measure T1 Phase 1; and

WHEREAS, on January 23, 2018, Council approved Resolution No. 68,290-N.S., authorizing \$2 million from Measure T1 Phase 1 funds to be allocated to the Adult Mental Health Clinic located at 2640 Martin Luther King Jr. Way; and

WHEREAS, on July 23, 2019, Council approved Resolution No. 69,051-N.S., authorizing the removal of the King School Park Bioswale project and the addition of 12 alternate green infrastructure projects to the Measure T1 Phase 1 project list; and

WHEREAS, existing T1 projects were added, changed level of completion or removed due to funding availability and/or project feasibility; and

WHEREAS, since the current Phase 1 list was approved by Council on June 27, 2017, the current list has not been revised to reflect the above changes; and

WHEREAS, the Measure T1 Phase 1 list must be revised to comply with Section 4.5 of the Measure T1 Bond Policies and Procedures Manual, which states “When changes need to be made at the program-level, such as adding/removing a project or changing the project’s level of completion, staff will review these options with the Lead Commissions and seek Council’s approval to revise the approved list. This process is intended to ensure that any change to the approved Measure T1 project list is made with community input, Commission oversight, and Council approval”; and

WHEREAS, the revised list was reviewed by the Parks and Waterfront Commission on August 12, 2020 and the Public Works commission on October 1, 2020.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the Measure T1 Phase 1 Project List receive the additions contained in Exhibit A.

Exhibit

A: Additions to the Measure T1 Phase 1 Project List

Additions to the Measure T1 Phase 1 Project List (with no additional funding):

- James Kenney Park play area (ages 2-5, and 5-12) and picnic area
- Euclid Street (at Rose Garden)
- Cedar Street from 6th Street to San Pablo Avenue
- Center Street from Martin Luther King Jr. Way to Shattuck Avenue
- Rose Street from Le Roy Avenue to La Loma Avenue
- Santa Fe Avenue from Gilman Street to Cornell Avenue/ Page Street
- Shasta Road from Grizzly Peak Boulevard to east City limit
- Arcade Avenue from Fairlawn Drive to Grizzly Peak Boulevard
- Dohr Street from Ashby Avenue to Prince Street
- West Street from Bancroft Way to Dwight Way

