



Office of the City Manager

CONSENT CALENDAR
June 29, 2021

To: Honorable Mayor and Members of the City Council
 From: Dee Williams-Ridley, City Manager
 Submitted by: David White, Deputy City Manager, City Manager's Office
 Subject: Appointment of Interim Director of Police Accountability

RECOMMENDATION

Adopt a Resolution confirming the appointment of Katherine J. Lee to be Interim Director of Police Accountability and approving an employment contract to be effective July 1, 2021 at an annual salary of \$182,260.65.

FISCAL IMPACTS OF RECOMMENDATION

The salary and benefits for the Interim Director of Police Accountability are included in the FY 2022 Proposed Budget for the newly-established Office of the Director of Police Accountability. The annual salary for Ms. Lee is \$182,260.65, which is within the salary range for the position that was approved by City Council on May 25, 2021.

CURRENT SITUATION AND ITS EFFECTS

Pursuant to Resolution 69,531–N.S. that was adopted by the City Council on July 28, 2020, city staff has taken the following action so that the Police Accountability Board can commence its work on July 1, 2021:

- Issued an application to solicit community interest in the Police Accountability Board (“Board”) and on June 1, 2021, the Mayor and City Council adopted Resolution 69,916-N.S. consisting of appointments of the nine (9) members to the Board.
- On May 25, 2021, the City Council adopted Resolution amending Resolution 69,538-N.S. to establish the unrepresented classification of Director of Police Accountability with a monthly salary range of \$11,862.93 - \$17,794.40, effective May 25, 2021.

City staff are in the process of hiring an Executive Recruitment firm to assist the City in filling the Director of Police Accountability on a permanent basis. It is anticipated that the recruitment will take approximately six (6) months. Until the recruitment process is complete and City Council has appointed an individual to serve as the permanent Director of Police Accountability, City Council is being asked to approve the attached resolution appointing Katherine J. Lee as the Interim Director of Police Accountability. The Interim will serve at the pleasure of City Council.

Ms. Lee is well qualified to serve as the City's Interim Director of Police Accountability. She has an extensive background in civilian police oversight and public administration and has been recognized by the National Association for Civilian Oversight for Law Enforcement as a Certified Practitioner of Oversight. In addition, Ms. Lee has served the City of Berkeley capably and well for more than 30 years, serving as a Deputy City Attorney in the City Attorney's Office, a Senior Hearing Examiner at the Rent Board, and for the last six (6) years as the Police Review Commission Officer for the Police Review Commission. Finally, Ms. Lee received a law degree from the Georgetown University Law Center and her undergraduate degree from the University of California, Berkeley.

The attached Agreement provides that Ms. Lee shall serve as Interim Director of Police Accountability for six (6) months commencing on July 1, 2021 and that she shall serve as the Interim Director of Police Accountability until the City Council either acts to appoint a Director of Police Accountability or terminates her interim appointment. Should the City Council determine that it will not retain Ms. Lee as Interim Director of Police Accountability, then Ms. Lee's release would constitute a layoff and she would be entitled to exercise her rights under Section 10.8 of the Unrepresented Employee Manual regarding Employee Retreat Rights. Pursuant to the Agreement, Ms. Lee shall receive an annual salary of \$182,260.65, which is within the salary range for the Director of Police Accountability approved by the City Council.

BACKGROUND

In 1973, a ballot measure was adopted to establish a Police Review Commission for the community to participate in setting Police Department policies, practices, and procedures and to provide a means for investigation of complaints against sworn employees of the Police Department. The existing Police Review Commission consists of nine (9) commissioners that are appointed by the Mayor and City Council, and is supported by three (3) full-time equivalent employees.

On November 3, 2020, Berkeley voters adopted Measure II, a Charter Amendment that established the Office of the Director of Police Accountability that consists of a new position, Director of Police Accountability, and the Police Accountability Board. The Police Accountability Board replaces the existing Police Review Commission.

Pursuant to Measure II, the purpose of the Police Accountability Board is to promote public trust through independent, objective, civilian oversight of the Berkeley Police Department, provide community participation in setting and reviewing Police Department policies, practices, and procedures, and to provide a means for prompt, impartial and fair investigation of complaints brought by members of the public against sworn employees of the Berkeley Police Department. The Director of Police Accountability, a position to be filled by the City Council at a noticed public meeting, is responsible for investigating complaints filed against sworn employees of the Berkeley Police Department, carrying out the work of the Police Accountability Board, and

overseeing the day-to-day operations of the Office of the Director of Police Accountability, amongst other responsibilities as outlined in Measure II. Both the Police Accountability Board and Director of Police Accountability are independent of the City Manager, except for administrative purposes, and report to the Mayor and City Council.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

There are no identifiable environmental impacts from the action being requested by City Council.

RATIONALE FOR RECOMMENDATION

Ms. Lee has an extensive background in civilian police oversight and public administration and as a long-standing employee with the City, she is well qualified to assume the responsibilities of the Interim Director of Police Accountability and will ensure a seamless transition from the Police Review Commission to the Office of the Director of Police Accountability.

ALTERNATIVE ACTIONS CONSIDERED

None.

CONTACT PERSON

David White, Deputy City Manager, City Manager's Office, (510) 981-7012

Attachments:

1: Resolution

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

APPOINTMENT OF KATHERINE J. LEE AS INTERIM DIRECTOR OF POLICE
ACCOUNTABILITY

WHEREAS, Section 125 of the City Charter provides that the Director of Police Accountability shall be appointed by the City Council to implement Measure II adopted on November 3, 2020, oversee the operations of Office of the Director of Police Accountability and carryout the work of the Police Accountability Board; and

WHEREAS, Katherine J. Lee has an extensive background in civilian police oversight and public administration and has been recognized by the National Association for Civilian Oversight for Law Enforcement as a Certified Practitioner of Oversight; and

WHEREAS, Ms. Lee received her law degree from the Georgetown University Law Center and her undergraduate degree from the University of California, Berkeley; and

WHEREAS, Ms. Lee has served the City of Berkeley capably and well for more than 30 years, serving as a Deputy City Attorney in the City Attorney's Office, a Senior Hearing Examiner at the Rent Board, and for the last six (6) years as the Police Review Commission Officer for the Police Review Commission.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that that it hereby appoints Katherine J. Lee as the Interim Director of Police Accountability, effective July 1, 2021, on the terms and conditions set forth in the contract attached hereto as Exhibit A.

Exhibit

A: Agreement by and between the City of Berkeley and Katherine J. Lee

AGREEMENT

This Agreement is entered into on June 29, 2021 between the CITY OF BERKELEY, a Charter City organized and existing under the laws of the State of California ("City") and KATHERINE J. LEE, ("Lee") collectively "the parties."

This Agreement is made with reference to the following facts and objectives:

The Charter of the City of Berkeley, Section 125, vests the City Council with the sole authority to employ a Director of Police Accountability; and the City Council desires to employ KATHERINE J. LEE as the Interim Director of Police Accountability of the City of Berkeley for a six-month period or until such time as the Council appoints a Director of Police Accountability or terminates Lee's Interim appointment.

THEREFORE, in consideration of mutual promises and covenants set forth below, the parties agree as follows:

1. COMMENCEMENT AND TERMINATION OF EMPLOYMENT

- a. The City Council hereby employs Lee as the Interim Director of Police Accountability, and she hereby accepts employment as the Interim Director of Police Accountability for a period of six months commencing on July 1, 2021. Lee shall continue to serve as Interim Director of Police Accountability until such time as the Council either takes action to appoint a Director of Police Accountability, or terminates her Interim appointment.
- b. Pursuant to Charter section 125, Lee shall serve at the pleasure of the Council and may be removed from office by a two-thirds vote of the City Council with or without cause.

2. DUTIES

- a. Lee shall carry out the functions and duties of the position of the Director of Police Accountability in a manner consistent with the Charter of the City of Berkeley and such other laws and regulations as may be applicable.

3. COMPENSATION

- a. As compensation for services rendered under this contract, Lee shall receive an annual salary of \$182,260.65. Said salary shall be paid on the dates and in the manner consistent with the payroll procedures in use for City of Berkeley career employees.
- b. In addition, Lee shall receive such employee benefits as are payable to the City's regular-at-will employees under the City's Unrepresented Employee Manual, and any cost of living increases Council approves for regular at-will employees.

- c. During the period Lee serves as Interim Director of Police Accountability, if the Council determines that it will not retain Lee as Interim Director of Police Accountability, then Lee's release shall constitute a layoff and Lee shall be provided the opportunity to exercise her rights under Section 10.8 of the Unrepresented Employee Manual regarding Employee Retreat Rights. Lee shall not be entitled to exercise her rights under Section 10.8 of the Unrepresented Employee Manual regarding Employee Retreat Rights if the Council terminates Lee from her position as Interim Director of Police Accountability for-cause.
- d. Notwithstanding the provisions of Section 3.c, in the event the Council terminates Lee based on conviction of, or no contest plea to, a felony or any crime involving moral turpitude or personal gain, Lee shall not be entitled to return to her prior position as Police Review Commission Officer and shall be entitled only to such salary accrued to the date of termination, and such other termination benefits and payments as are required by law.

4. LEAVE

- a. Lee shall be entitled to such paid leave as that received by all other regular at-will employees under the City's Unrepresented Manual and will continue to accrue such leave at the same rates as she accrued in the position of Police Review Commission Officer.

5. AMENDMENT

- a. The City Council and Lee may at any time mutually agree to amend or terminate this Agreement. Any such agreement shall be in writing.

6. ENTIRE AGREEMENT

- a. This Agreement supersedes any other agreements, written or oral, expressed or implied, between the City of Berkeley and Lee.

7. GOVERNING LAW

- a. This Agreement shall be governed by the laws of the State of California.

IN WITNESS WHEREOF, the parties have executed this Agreement which shall be effective upon approval by the City Council.

CITY OF BERKELEY

By

Hon. Jesse Arreguin,
Mayor

KATHERINE J. LEE

By _____
Katherine J. Lee

CITY OF BERKELEY
Approved as to form:

By _____
Farimah Faiz Brown,
City Attorney