



Disaster and Fire Safety Commission

CONSENT CALENDAR
June 28, 2022

To: Honorable Mayor and Members of the City Council
From: Disaster and Fire Safety Commission
Submitted by: Jose Luis Bedolla, Chairperson, Disaster and Fire Safety Commission
Subject: Recommendation to Use Measure FF Funds as Intended by Voters for Firefighting, Emergency Medical Response, 9-1-1 Communications Services, Hazard Mitigation, and Wildfire Prevention and Preparedness; to Not Reduce General Fund Allocations Towards Fire Services; and to Support Effective Commission Oversight

RECOMMENDATION

The Disaster and Fire Safety Commission (DFSC) supports revenue generated by the voter-approved *Fire, Emergency Services and Wildfire Prevention Tax* (Measure FF) going towards services described in the Fire Department's 5-year implementation plan, including:

- Wildfire Prevention and Response
- Training and Development
- EMS Operations
- Dispatch

The Commission has reviewed and provided input on expenditure plans described by the Fire Department and is engaged in the process of providing input and oversight prior to the budget being finalized. As these projects advance and line-item budgets continue to be developed in more detail, the Commission expects to follow up with more specific recommendations on funding allocations.

In order to provide effective oversight of Measure FF spending as resolved by City Council, the Commission needs to have the tools and information necessary to do so. This includes:

1. Thorough and detailed information about spending plans, including detailed line items and staffing numbers, before budgets are finalized and locked in place (as of December 2021, the commission has not been provided a measure FF budget).

2. An accounting system that will clearly designate spending from the fund, including job codes that are specific to Measure FF, so that the Commission can easily determine staff time spent on Measure FF-funded activities.

Additionally, in allocating funds towards these critical safety improvements, it is imperative that the City ensures that Measure FF funds are used to supplement, rather than replace, general funding of Berkeley Fire Department costs.

When the City's current fiscal emergency ends, the General Funds allocation to the Fire Department must be increased back to pre-COVID levels, rather than relying on Measure FF funds to fill the gap permanently. Post-crisis, the City must not decrease General Fund spending on Fire Department services while covering the difference using Measure FF funds.

Lastly, several areas of proposed Measure FF expenditures relate closely to the City's Re-Imagining Public Safety effort, including 911 dispatch and related emergency services and the Safe Passages initiative. Council should ensure that all of these related efforts are coordinated to ensure that our public safety dollars are being spent as efficiently and effectively as possible to facilitate maximum progress on all of the City's goals. To this end, the Commission recommends that the DFSC have the opportunity to provide input into the Re-Imagining Public Safety project where it relates to Measure FF-funded programs.

As the body that is charged with oversight of Measure FF spending, the DFSC will continue to work collaboratively with City staff to review and provide input on Measure FF spending plans, to monitor both budget planning and actual spending, and to object to any allocation or spending we believe is improper.

FISCAL IMPACTS OF RECOMMENDATION

Following this recommendation will allow Measure FF funds to be fully used to accomplish the safety goals described in the voter guide, while having no impact on General Funds.

If the City had an expectation that a temporary fiscal-emergency reduction in General Fund allocation to the Fire Department could be made permanent once Measure FF funding is available, then the fiscal impact of this recommendation is to eliminate that expectation.

By honoring the voters' intent that this special funding be fully used towards the services described in the 2020 Voter Guide, following this recommendation can maintain or increase the public trust in future similar tax measures, ultimately leading to more voter support for future tax measures.

CURRENT SITUATION AND ITS EFFECTS

Measure FF is expected to generate approximately \$8.5 Million in yearly revenue. The City is currently in the process of planning how to spend this money.

The DFSC has reviewed and provided input into the Fire Department's 5-year Measure FF expenditures plan, and the Commission believes that the Fire Department's planned Measure FF spending is broadly consistent with the intentions of Berkeley's voters. The Commission looks forward to continued engagement with staff on funding plans.

If funds are allocated and spent according to the ballot measure, it will accomplish improvements in several DFSC priorities, including but not limited to the following:

- More inspectors to provide increased inspections in the Fire Zones, reducing fire fuel such as dry, overgrown brush and dead timber. This will reduce fire ignitions, slow the spread of any fires that do ignite, and help keep pathways clear for emergency access and egress.
- Increased vegetation management activities, including funding an innovative program for youth jobs that is also a recruitment tool so that more of Berkeley's firefighters can be recruited from among Berkeley's youth.
- Installation and management of a citywide outdoor warning system that will provide reliable, universal emergency warnings and will reach all members of the community without relying on inconsistent and inequitable alerting systems.
- Improved public education related to wildfire evacuations, including evacuation drills that provide an opportunity for both community members and staff to practice and improve the evacuation process.
- Improved evacuation routes, with dedicated staff time to manage the Safe Passages program, to evaluate and document the problem of emergency access and egress in the City's Fire Zones and lead an interdepartmental program in addressing this problem through parking restrictions, increased enforcement, signage, and public education.
- Better planning and decision-making, with staff who can give focused attention to analysis, planning, policy, and protocols; can give the necessary time to researching options to make informed and data-driven decisions; and can interface more effectively with the public – including the Disaster and Fire Safety Commission - in both communications and collaborative planning.

Additional items not listed above include improvements to the 9-1-1 dispatch system, training facility improvements, and funding of new ambulances and technicians. The Fire Department's current five-year funding plan as described to the Disaster and Fire Safety Commission shows the following estimated allocations in each area:

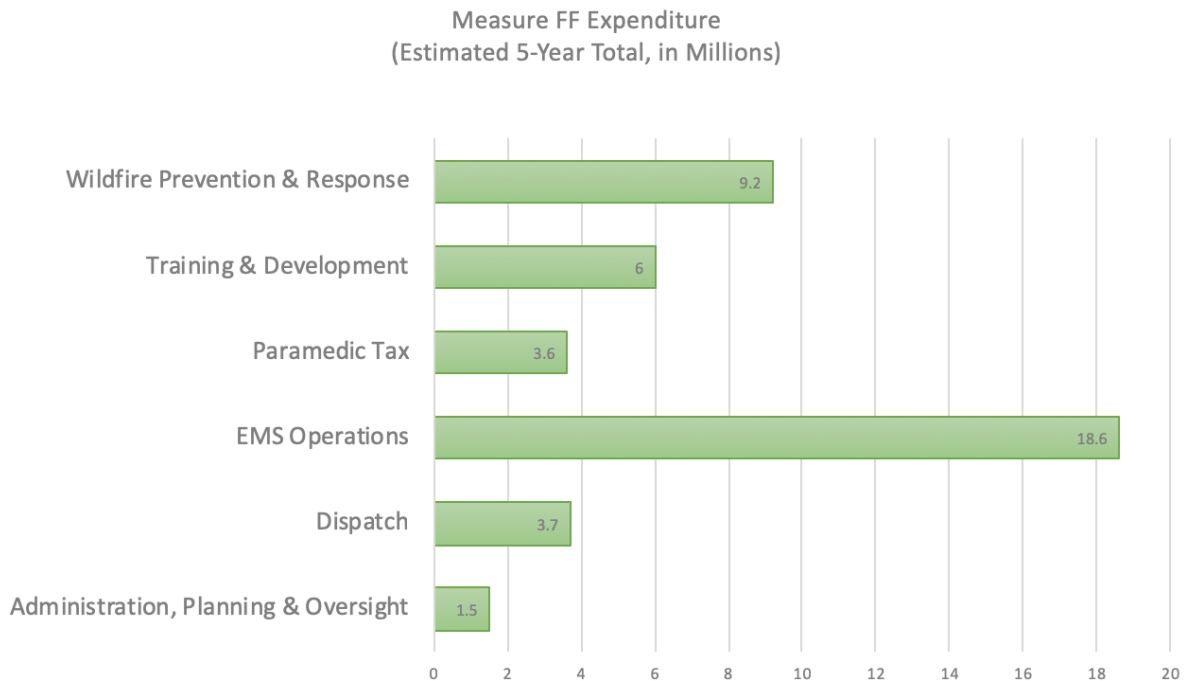


Chart: Measure FF Expenditure, Estimated 5-Year Totals Based on Berkeley Fire Department Presentation to DFSC 1/27/2021

BACKGROUND

On September 25, 2019 and October 23, 2019, The DFSC discussed a possible special assessment for wildfire prevention. Discussions focused on determining what the 1990s-era special assessment in the Berkeley Hills had been, what it had funded, and what funding would be needed today for improved vegetation management inspections in the City’s Fire Zones. The topic was also on the DFSC agenda on February 26, 2020, but was tabled.

On June 16, 2020, City Council adopted an ordinance declaring a Fiscal Emergency due to the significant loss of revenue attributable to the COVID-19 pandemic.

On July 6, 2020 The DFSC discussed the Measure FF ballot measure at a Special Session and members of the Commission provided input to Fire Department staff.

On July 14, 2020 City Council adopted an Omnibus Package including several items in the Re-Imagining Public Safety effort that may overlap with the scope of Measure FF budget items and programs. The Measure FF ballot measure language was drafted prior to this package’s adoption.

On September 22, 2020 Berkeley City Council passed a resolution Designating the DFSC as the Citizens' Oversight Committee for Expenditure of the Proceeds of the Fire, Emergency Services and Wildfire Prevention Tax (Measure FF)

In the 9/22/20 resolution, Council stated: "*Citizen input and oversight are crucial for transparency and accountability*" and "*For this purpose, in addition to its other powers, the Commission may: 1) request detailed expenditure plans for tax proceeds annually, which shall be provided to it as early in the budget process as feasible; 2) make recommendations to the City Manager and the City Council as to the rate at which the tax should be set and how any tax proceeds should be spent; and 3) obtain a report on actual expenditures.*"

On November 3, 2020, Berkeley voters approved Measure FF, by a vote of 74.2% "Yes" vs. 25.8% "No."

The measure authorized a special parcel tax of \$0.1047 per square foot of improvements (i.e., buildings or structures erected or affixed to the land) for each parcel of real property in the City of Berkeley. This tax is estimated to generate \$8.5 million per year.

An impartial analysis by the City Attorney at that time read in part:

"The tax is estimated to generate \$8.5 million annually. The proceeds shall be placed in a special fund to be used only for the following:

- Local firefighter and emergency medical response including hiring and training personnel and upgrading safety equipment and facilities.*
- Upgrading and modernizing the 9-1-1 dispatch system to implement and maintain a system to provide emergency medical dispatching.*
- Wildfire prevention and preparedness activities including, but not limited to, vegetation management, hazard mitigation, public education, evacuation planning, and an emergency alert system.*

On January 27, 2021 The DFSC received a presentation, "*Department Redesign – Measure FF Implementation Plan*," from Fire Department staff on a five-year plan for Measure FF expenditures. Individual members of the Commission provided follow up questions and input to Fire Department staff in the weeks following.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

There is no direct environmental impact of this recommendation.

RATIONALE FOR RECOMMENDATION

The DFSC is enthusiastic about the potential for Measure FF funding to accomplish important and urgent improvements to public safety, as intended by voters. The funding

can pay for numerous actions that have been recommended and supported by the DFSC over the years.

However, if the City's General Funding to the Fire Department is reduced in the coming years, this may have the effect of draining away funding and dedicated staff time from these important safety improvements.

Measure GG was a similar but smaller tax, approved by Berkeley voters in 2008. On August 1, 2018, the DFSC sent a memo to City Council objecting to the City using Measure GG funds to replace, rather than augment, general funding of Berkeley Fire Department overtime costs. See Attachment 1. It is because of this issue with Measure GG expenditures that the DFSC now makes this recommendation to avoid the same problem with Measure FF.

Additionally, effective Commission input and oversight throughout the budget planning process are necessary to ensure that Measure FF funds are put towards safety improvements as intended by voters. The Commission values the opportunity to provide input into budget decisions prior to the budget being finalized each year, as is required by Council's 9/22/20 resolution.

Because a large portion of the Fire Department's planned Measure FF expenditures are for staff time to advance crucial safety efforts, the Commission is also seeking the ability to track what staff time and activities are being charged to Measure FF.

Lastly, the City's Re-Imagining Public Safety effort is closely tied to several projects within the scope of Measure FF spending; it is important that the City coordinate the planning for these related activities, as well as other related activities in various City various departments. The omnibus package adopted by City Council includes the following items that should be coordinated with Measure FF budget items and programs as indicated:

- *Analyzing and developing a pilot program to re-assign non-criminal police service calls to a Specialized Care Unit.* The Specialized Care Unit may relate to new basic ambulance services being proposed within Measure FF expenditures.
- *Creating plans and protocols for calls for service to be routed and assigned to alternative preferred responding entities and consider placing dispatch in the Fire Department or elsewhere outside the Police Department.* The proposed Measure FF expenditure plan includes improvements to the Fire Department's 9-1-1 dispatch system and dispatch training facility improvements.
- *Pursuing the creation of a Berkeley Department of Transportation ("BerkDoT") to ensure a racial justice lens in traffic enforcement and the development of transportation policy, programs and infrastructure, and identify and implement approaches to reduce and/or eliminate the practice of pretextual stops based on minor traffic violations.* The proposed Measure FF expenditure plan may not

include budget for increased parking enforcement needed to realize the City's goals for emergency evacuation under the Safe Passages program. The City should consider whether BerkDoT should address this need.

The Commission would like to have the opportunity to give input to Re-Imagining Public Safety plans where they relate to Measure FF-funded programs; we expect that a member of the DFSC will participate and follow the progress of the Re-Imagining Public Safety effort and the Commission will develop future recommendations on this topic.

ALTERNATIVE ACTIONS CONSIDERED

None.

CITY MANAGER

The City Manager and the Fire Department Administration will continue to work with the DFSC and share information on services described in the Fire Department's 5-year implementation plan.

The Fire Department will continue to provide quarterly/biennial reports on Measure FF as outlined by Adopted Council Resolution No. 69,575–N.S..

“BE IT FURTHER RESOLVED, in addition to its other powers, the Disaster and Fire Safety Commission may: 1) request detailed expenditure plans for tax proceeds annually, which shall be provided to it as early in the budget process as feasible; 2) make recommendations to the City Manager and the City Council on the expenditure of tax proceeds to enhance public safety consistent the approved purposes in Measure FF, BMC Section 7.83.010.D; and 3) obtain a report on actual expenditures. The City Manager shall cooperate with the Disaster and Fire Safety Commission in providing the information it requests.”

We note that the accounting system in place has limitations with regards to reporting, though each Measure FF programs are fully accountable and represented in the reporting system.

As the process for the City's Re-Imagining Public Safety effort continues to be developed, it is the intent of the City Manager and Fire Department Administration to ensure that all of these related efforts are coordinated to facilitate maximum progress on all of the City's goals.

The City Manager and Fire Department Administration agrees with the Disaster and Fire Safety Commission report to the level that is possible and in accordance to the Adopted Council Resolution No. 69,575–N.S.:

“BE IT FURTHER RESOLVED, in addition to its other powers, the Disaster and Fire Safety Commission may: 1) request detailed expenditure plans for tax proceeds annually, which shall be provided to it as early in the budget process as

feasible; 2) make recommendations to the City Manager and the City Council on the expenditure of tax proceeds to enhance public safety consistent with the approved purposes in Measure FF, BMC Section 7.83.010.D; and 3) obtain a report on actual expenditures. The City Manager shall cooperate with the Disaster and Fire Safety Commission in providing the information it requests.”

The Fire Department will continue to share direction, development, and information on the various programs funded through Measure FF. All Measure FF programs and expenditures will be tracked through the current City of Berkeley’s Financial Management System called ERMA.

CONTACT PERSON


Keith May, Secretary, Disaster and Fire Safety Commission, 510-981-5508

Attachments:

- 1: Disaster and Fire Safety Commission Recommendation, 8/1/2018: Objection to Use of Measure GG Funds to Replace, Rather Than Augment, General Funding of Berkeley Fire Department
- 2: Full text of Fire, Emergency Services and Wildfire Prevention Tax (Measure FF)



Disaster and Fire Safety Commission

Date: August 1, 2018
To: Honorable Mayor and Members of the City Council
From: Disaster and Fire Safety Commission
Submitted by:  Paul Degenkolb, Chairperson, Disaster and Fire Safety Commission
Subject: Objection to Use of Measure GG Funds to Replace, Rather Than Augment, General Funding of Berkeley Fire Department

The Disaster and Fire Safety Commission objects to the City using Measure GG funds to replace, rather than augment, general funding of Berkeley Fire Department overtime costs.

At the 8/1 regular meeting of the Disaster and Fire Safety Commission, the commission approved a motion to submit this memo, Objection to the Use of Measure GG Funds to Replace, Rather Than Augment, General Funding of Berkeley Fire Department: Couzin Second: Stein Vote: 7 Ayes: Grimes, Flasher, Degenkolb, Couzin, Bailey, Stein; 1 No: Legg; 1 Absent: Golomb; 0 Abstain.

Measure GG authorizes a special tax for the purpose of funding fire protection and emergency response and preparedness. Each year, Berkeley taxpayers pay roughly \$5 million into this tax.

In the years since Measure GG was passed, the City has chosen to decrease General Fund spending on Fire Department overtime, and to cover the difference using Measure GG funds. As a result, some Measure GG funds are replacing General Fund spending on fire and emergency purposes, rather than augmenting it.

The Commission estimates that, in effect, this practice siphons \$500,000 to \$1 million per year in Measure GG funds away from fire protection and emergency preparedness uses, with a corresponding increase in General Fund monies available for other uses.

A legal review by City Attorney Farimah Brown dated 4/6/2018 found that Measure GG gives the City broad discretion, and that it is not illegal for the City to reduce General Funds that go toward fire protection and emergency preparedness purposes while making up for the lost funds with Measure GG funding.

Nevertheless, the Commission believes this practice is a disingenuous use of the special tax dollars authorized by Measure GG and does not follow the spirit of the law that was approved by Berkeley voters.

As the body that is charged with oversight of Measure GG spending, the Commission will continue to monitor this spending and object to allocation we believe is improper. We anticipate that improved accounting software will allow the Commission to revisit this question with a more rigorous audit in the next 1-2 years.

The following charts show the decrease in General Funding for Fire Department overtime since the enactment of Measure GG:

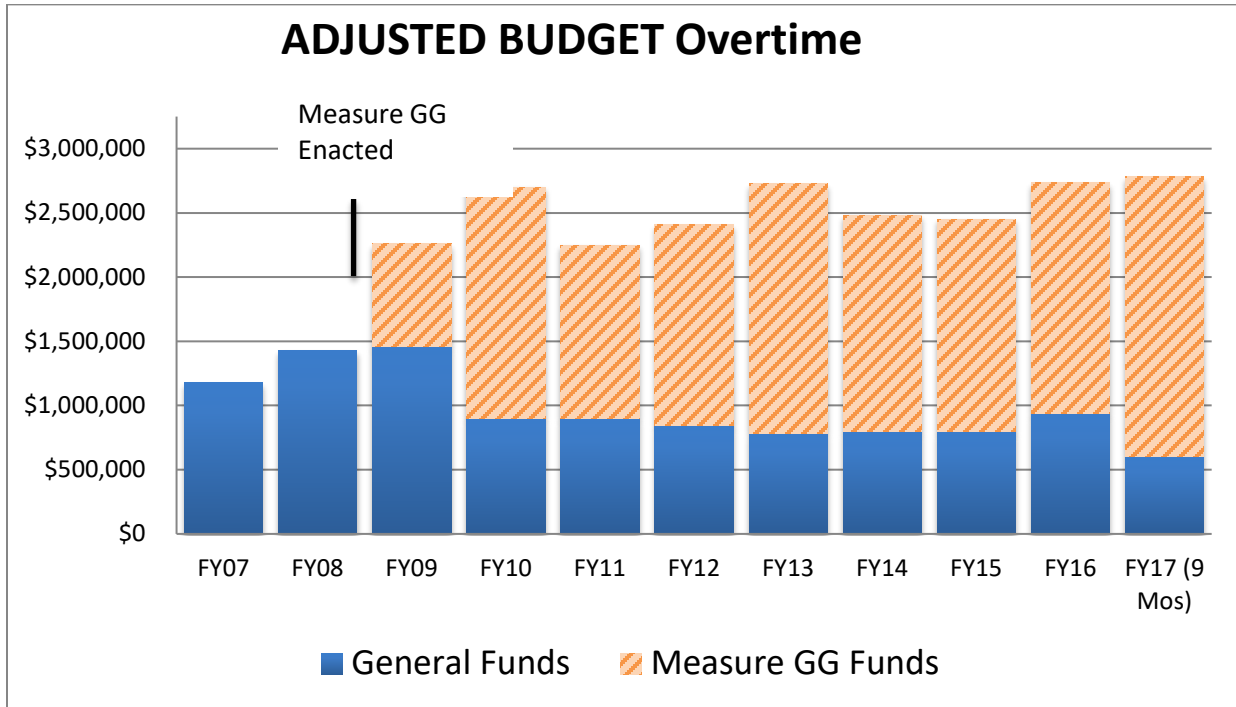


Figure 1: Berkeley Fire Department Overtime – Adjusted Budget
Data from City of Berkeley's FUND\$ system

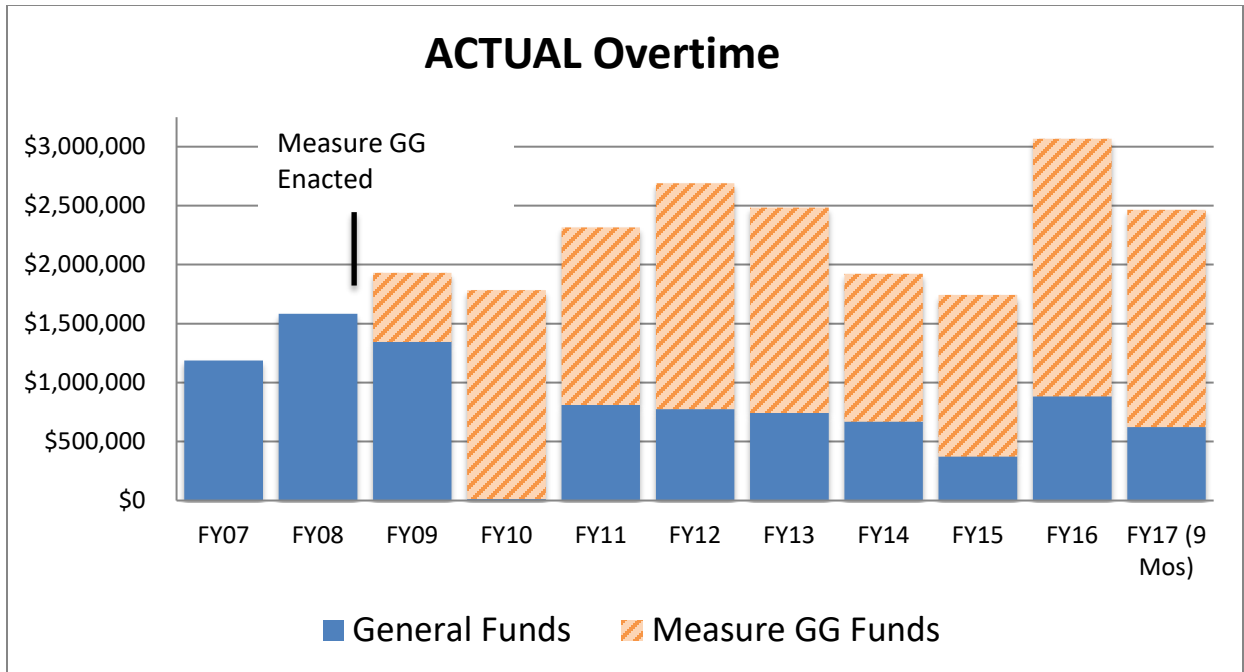
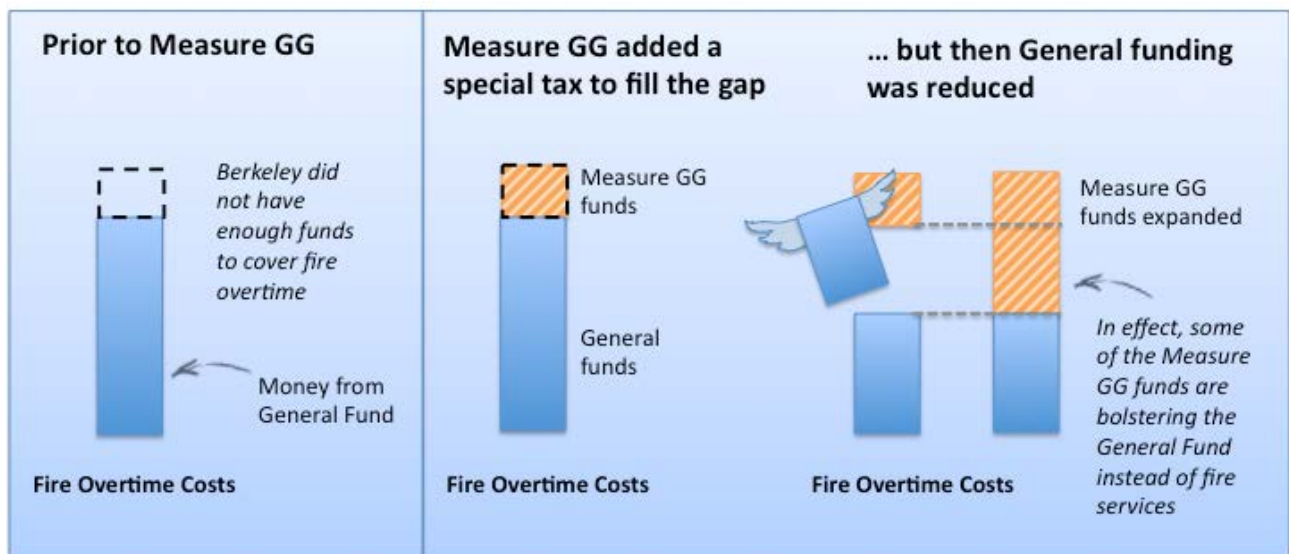


Figure 2: Berkeley Fire Department Overtime – Actual Overtime
Data from City of Berkeley's FUND\$ system

The following figure shows an illustration of how the current funding allocation has the same effect as moving Measure GG funding away from its designated Fire Department use and into the General Fund:



A City Attorney says this is perfectly legal, but is this good governance?

Figure 3: Visual Illustration of Measure GG and General Funding

Shall an ordinance enacting a tax at a rate of \$0.1047 per square foot of improvements, which is estimated to generate \$8.5 million annually for firefighting, emergency medical response, 9-1-1 communications services, hazard mitigation, and wildfire prevention and preparedness, until repealed by the voters, be adopted?

ORDINANCE NO. #,###-N.S.

IMPOSING A SPECIAL TAX AT A RATE OF \$0.1047 PER SQUARE FOOT OF IMPROVEMENTS TO PAY FOR FIREFIGHTING, EMERGENCY MEDICAL RESPONSE, 9-1-1 COMMUNICATIONS SERVICES, HAZARD MITIGATION, AND WILDFIRE PREVENTION AND PREPAREDNESS

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

Section 1. Findings and declarations.

The People of the City of Berkeley find and declare as follows:

A. On June 16, 2020, the City Council adopted an ordinance declaring a Fiscal Emergency due to the significant loss of revenue attributable to the COVID-19 pandemic and does not have adequate resources to maintain existing staffing levels, fill vacant positions, adequately train firefighters and paramedics, maintain and replace equipment and facilities, prepare and plan for wildfires, and upgrade and modernize its 9-1-1 dispatch system.

B. Over the years, the Fire Department has experienced a significant increase in calls-for-service, rising from approximately 6,300 in 1995 to approximately 16,000 in 2017 without adequate increases in staffing levels. Over the years, this has resulted in increasing response times.

C. An increasing number of calls in the Fire Department are dedicated to addressing the needs of vulnerable populations including individuals experiencing homelessness and mental health crises and the Fire Department does not have resources dedicated to addressing these vital community needs.

D. The City's 9-1-1 dispatch center does not have the resources to ensure adequate staffing levels, upgrade its systems, and modernize to include emergency medical dispatching to ensure that the appropriate emergency response services are deployed to 9-1-1 calls-for-service.

E. The City is vulnerable to wildfires that could impact significant portions of the City and without a consistent source of funding, the City does not have the resources to address wildfire prevention activities such as vegetation management, hazard mitigation, evacuation planning, public education, and an emergency alert system.

Section 2. Code Amendment. A new Chapter 7.83 is hereby added to the Berkeley Municipal Code to read as follows:

Chapter 7.83

Fire, Emergency Medical Response, 9-1-1 Communications Services, Hazard Mitigation, and Wildfire Prevention and Preparedness Tax

7.83.010 Special Tax.

A. A special tax for the purpose of funding firefighter and emergency medical response including, but not limited to, training, hiring, maintaining and upgrading facilities and equipment, upgrades to the 9-1-1 communication system, and wildfire prevention and preparedness activities is hereby authorized to be imposed on all improvements in the City of Berkeley as more fully set forth in this Chapter.

B. The City Council may impose the tax authorized by this Chapter at the rate and subject to the inflation adjustments, set forth in Section 7.83.020.

C. This special tax is imposed under Article XIII A, Section 4, of the California Constitution and the City's constitutional authority as a charter city under Article XI, Section 5 of the California Constitution.

D. The proceeds of the tax imposed by this Chapter shall be placed in a special fund to be used only for the purpose of enhancing public safety by funding the following:

1. Local firefighter and emergency medical response including hiring and training personnel and upgrading safety equipment and facilities.
2. Upgrading and modernizing the 9-1-1 dispatch system to implement and maintain a system to provide emergency medical dispatching.
3. Wildfire prevention and preparedness activities including, but not limited to, vegetation management, hazard mitigation, public education, evacuation planning, and an emergency alert system.

7.83.020 Tax Authorized – Tax rate – Adjustments for Inflation

A. The City Council is hereby authorized to impose a special tax of \$0.1047 per square foot of improvements in the City of Berkeley.

B. Annually in May, the City Council may increase the previous year's tax by up to the greater of the cost of living in the immediate San Francisco Bay Area or per capita personal income growth in the state, as verified by official United States Bureau of Labor statistics. If either index referred to above is discontinued, the City shall use any successor index specified by the applicable agency, or if there is none, the most similar existing index then in existence.

7.83.030 Definitions.

For purposes of this chapter, the following terms shall be defined as set forth below:

A. "Building" shall mean any structure having a roof supported by columns or by walls and designed for the shelter or housing of any person, chattel or property of any kind. The word "building" includes the word "structure."

B. "Improvements" shall mean all buildings or structures erected or affixed to the land.

C. "Square footage" shall mean the total gross horizontal areas of all floors, including usable basement and cellars, below the roof and within the outer surface of the main walls of buildings (or the center lines of party walls separating such buildings or portions thereof) or within lines drawn parallel to and two feet within the roof line of any building or portion thereof without walls (which includes, notwithstanding paragraph 3 below, the square footage of all porches), and including pedestrian access walkways or corridors, but excluding the following:

1. Areas used for off-street parking spaces or loading berths and driveways and maneuvering aisles relating thereto.

2. Areas which are outdoor or semi-outdoor areas included as part of the building to provide a pleasant and healthful environment for the occupants thereof and the neighborhood in which the building is located. This exempted area is limited to stoops, balconies and to natural ground areas, terraces, pools, and patios which are landscaped and developed for active or passive recreational use, and which are accessible for use by occupants of the building.

3. Arcades, porticoes, and similar open areas which are located at or near street level, which are accessible to the general public, and which are not designed or used as sales, display storage, service, or production areas.

D. "Structure" shall mean anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground.

E. "Parcel" shall mean a unit of real estate in one ownership as shown on the most current official assessment roll of the Alameda County Assessor.

7.83.040 Exemptions.

A. The tax imposed by this Chapter shall not apply to parcels and improvements exempt from taxation by the City pursuant to the laws or constitutions of the United States and the State of California.

B. The tax imposed by this Chapter shall not apply to any property owned by any person whose total personal income, from all sources, for the previous calendar year, does not exceed that level which shall constitute "very low-income," as may be established by resolution of the City Council. Any taxpayer claiming the exemption under this section shall be required to demonstrate their entitlement thereto annually

by submitting an application and supporting documentation to the City Manager or their designee in the manner and at the time established in regulations and/or guidelines hereafter promulgated by the City Manager subject to review by the City Council in its discretion. Such applications shall be on forms provided by the City Manager, or their designee, and shall provide and/or be accompanied by such information as the City Manager shall require, including but not limited to, federal income tax returns and W-2 forms.

C. Any person or entity claiming an exemption from the tax imposed by this Chapter shall file a verified statement of exemption on a form prescribed by the City Manager prior to June 30th of the first fiscal year for which the exemption is sought

7.83.050 Duties and Authority of the City Manager.

It shall be the duty of the City Manager to collect and receive all taxes imposed by this Chapter and to keep an accurate record thereof. The City Manager is charged with the enforcement of this Chapter, except as otherwise provided herein, and may prescribe, adopt, and enforce rules and regulations relating to the administration and enforcement of this chapter, including provisions for the re-examination and correction of returns and payments.

7.83.060 Collection with Property Tax – Penalties and Interest.

The special tax imposed by this Chapter shall be due in the same manner, on the same dates, and subject to the same penalties and interest as established by law for other charges and taxes fixed and collected by the County of Alameda on behalf of the City of Berkeley. The special tax imposed by this Chapter, together with all penalties and interest thereon, shall constitute a lien upon the parcel upon which it is levied until it has been paid, and shall constitute a personal obligation of the owners of the parcel on the date the tax is due.

7.83.070 Collection.

The amount of any tax, penalty, or interest imposed under the provisions of this chapter shall be deemed a debt to the City. Any person owing money under the provisions of this chapter shall be liable to an action brought in the name of the City for the recovery of such amount. The City shall be entitled to reasonable attorneys' fees and its costs of suit in any such action.

7.83.080 Refunds.

Whenever the amount of any tax, penalty, or interest has been paid more than once or has been erroneously or illegally collected or received by the City under this chapter, it may be refunded as provided in Chapter 7.20 of the Berkeley Municipal Code or any such successor chapter.

7.83.090 Savings clause – Severability.

The provisions of this chapter shall not apply to any person, association, corporation, entity, or property as to whom or which it is beyond the power of the City of Berkeley to impose the tax herein provided. If any sentence, clause, section, or part of this chapter, or any tax against any individual or any of the several groups specified herein

is found to be unconstitutional, illegal, or invalid, such sentence, clause, section or part shall be severable and such unconstitutionality, illegality, or invalidity shall affect only such clause, sentence, section, or part of this chapter and shall not affect or impair any of the remaining provisions, sentences, clauses, sections, or other parts of this chapter. It is hereby declared to be the intention of the City Council and the People of the City of Berkeley that this chapter would have been adopted had such unconstitutional, illegal, or invalid sentence, clause, section, or part thereof not been included herein.

7.83.100 Violation – Penalty.

Any person who fails to perform any duty or obligation imposed by this chapter shall be guilty of an infraction as set forth in Chapter 1.20 of the Berkeley Municipal Code. The penalties provided in this section are in addition to the several remedies provided in this chapter.

Section 3. Increase appropriations limit. Pursuant to California Constitution Article XIII B, the appropriation limit for the City of Berkeley is hereby increased by the aggregate sum authorized to be levied by this special tax for each of the four fiscal years from 2021 through 2024.

Section 4. Effective date. The tax imposed by this Chapter shall be operative on January 1, 2021.

Section 5. Amendment, repeal, and reenactment. The City Council may repeal this ordinance, or amend it in any manner that does not result in an increase in the tax imposed herein, or add or modify exemptions, without further voter approval. If the City Council repeals this ordinance, it may subsequently reenact it without voter approval, as long as the reenacted ordinance does not result in an increase in the tax imposed herein.

Section 6. California Environmental Quality Act Requirements. This Ordinance is exempt from the California Environmental Quality Act, Public Resources Code section 21000 et seq., under, including without limitation, Public Resources Code section 21065 and CEQA Guidelines sections 15378(b)(4) and 15061(b)(3), as it can be seen with certainty that there is no possibility that the activity authorized herein may have a significant effect on the environment and pursuant to Public Resources Code section 21080, subdivision (b)(8), and CEQA Guidelines section 15273 as the approval of government revenues to fund existing services.

Section 7. Special Tax; Two Thirds Vote Requirement. This Ordinance imposes a special tax for restricted general revenue purposes and shall be effective only if approved by two-thirds of the voters voting thereon.

ORDINANCE NO. #,###-N.S.

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

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B. Over the years, the Fire Department has experienced a significant increase in calls-for-service, rising from approximately 6,300 in 1995 to approximately 16,000 in 2017 without adequate increases in staffing levels. Over the years, this has resulted in increasing response times.

C. An increasing number of calls in the Fire Department are dedicated to addressing the needs of vulnerable populations including individuals experiencing homelessness and mental health crises and the Fire Department does not have resources dedicated to addressing these vital community needs.

D. The City's 9-1-1 dispatch center does not have the resources to ensure adequate staffing levels, upgrade its systems, and modernize to include emergency medical dispatching to ensure that the appropriate emergency response services are deployed to 9-1-1 calls-for-service.

E. The City is vulnerable to wildfires that could impact significant portions of the City and without a consistent source of funding, the City does not have the resources to address wildfire prevention activities such as vegetation management, hazard mitigation, evacuation planning, public education, and an emergency alert system.

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7.83.030 Definitions.

For purposes of this chapter, the following terms shall be defined as set forth below:

A. "Building" shall mean any structure having a roof supported by columns or by walls and designed for the shelter or housing of any person, chattel or property of any kind. The word "building" includes the word "structure."

B. "Improvements" shall mean all buildings or structures erected or affixed to the land.

C. "Square footage" shall mean the total gross horizontal areas of all floors, including usable basement and cellars, below the roof and within the outer surface of the main walls of buildings (or the center lines of party walls separating such buildings or portions thereof) or within lines drawn parallel to and two feet within the roof line of any building or portion thereof without walls (which includes, notwithstanding paragraph 3 below, the square footage of all porches), and including pedestrian access walkways or corridors, but excluding the following:

1. Areas used for off-street parking spaces or loading berths and driveways and maneuvering aisles relating thereto.

2. Areas which are outdoor or semi-outdoor areas included as part of the building to provide a pleasant and healthful environment for the occupants thereof and the neighborhood in which the building is located. This exempted area is limited to stoops, balconies and to natural ground areas, terraces, pools, and patios which are landscaped and developed for active or passive recreational use, and which are accessible for use by occupants of the building.

3. Arcades, porticoes, and similar open areas which are located at or near street level, which are accessible to the general public, and which are not designed or used as sales, display storage, service, or production areas.

D. "Structure" shall mean anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground.

E. "Parcel" shall mean a unit of real estate in one ownership as shown on the most current official assessment roll of the Alameda County Assessor.

7.83.040 Exemptions.

A. The tax imposed by this Chapter shall not apply to parcels and improvements exempt from taxation by the City pursuant to the laws or constitutions of the United States and the State of California.

B. The tax imposed by this Chapter shall not apply to any property owned by any person whose total personal income, from all sources, for the previous calendar year, does not exceed that level which shall constitute "very low-income," as may be established by resolution of the City Council. Any taxpayer claiming the exemption under this section shall be required to demonstrate their entitlement thereto annually

by submitting an application and supporting documentation to the City Manager or their designee in the manner and at the time established in regulations and/or guidelines hereafter promulgated by the City Manager subject to review by the City Council in its discretion. Such applications shall be on forms provided by the City Manager, or their designee, and shall provide and/or be accompanied by such information as the City Manager shall require, including but not limited to, federal income tax returns and W-2 forms.

C. Any person or entity claiming an exemption from the tax imposed by this Chapter shall file a verified statement of exemption on a form prescribed by the City Manager prior to June 30th of the first fiscal year for which the exemption is sought

7.83.050 Duties and Authority of the City Manager.

It shall be the duty of the City Manager to collect and receive all taxes imposed by this Chapter and to keep an accurate record thereof. The City Manager is charged with the enforcement of this Chapter, except as otherwise provided herein, and may prescribe, adopt, and enforce rules and regulations relating to the administration and enforcement of this chapter, including provisions for the re-examination and correction of returns and payments.

7.83.060 Collection with Property Tax – Penalties and Interest.

The special tax imposed by this Chapter shall be due in the same manner, on the same dates, and subject to the same penalties and interest as established by law for other charges and taxes fixed and collected by the County of Alameda on behalf of the City of Berkeley. The special tax imposed by this Chapter, together with all penalties and interest thereon, shall constitute a lien upon the parcel upon which it is levied until it has been paid, and shall constitute a personal obligation of the owners of the parcel on the date the tax is due.

7.83.070 Collection.

The amount of any tax, penalty, or interest imposed under the provisions of this chapter shall be deemed a debt to the City. Any person owing money under the provisions of this chapter shall be liable to an action brought in the name of the City for the recovery of such amount. The City shall be entitled to reasonable attorneys' fees and its costs of suit in any such action.

7.83.080 Refunds.

Whenever the amount of any tax, penalty, or interest has been paid more than once or has been erroneously or illegally collected or received by the City under this chapter, it may be refunded as provided in Chapter 7.20 of the Berkeley Municipal Code or any such successor chapter.

7.83.090 Savings clause – Severability.

The provisions of this chapter shall not apply to any person, association, corporation, entity, or property as to whom or which it is beyond the power of the City of Berkeley to impose the tax herein provided. If any sentence, clause, section, or part of this chapter, or any tax against any individual or any of the several groups specified herein

is found to be unconstitutional, illegal, or invalid, such sentence, clause, section or part shall be severable and such unconstitutionality, illegality, or invalidity shall affect only such clause, sentence, section, or part of this chapter and shall not affect or impair any of the remaining provisions, sentences, clauses, sections, or other parts of this chapter. It is hereby declared to be the intention of the City Council and the People of the City of Berkeley that this chapter would have been adopted had such unconstitutional, illegal, or invalid sentence, clause, section, or part thereof not been included herein.

7.83.100 Violation – Penalty.

Any person who fails to perform any duty or obligation imposed by this chapter shall be guilty of an infraction as set forth in Chapter 1.20 of the Berkeley Municipal Code. The penalties provided in this section are in addition to the several remedies provided in this chapter.

Section 3. Increase appropriations limit. Pursuant to California Constitution Article XIII B, the appropriation limit for the City of Berkeley is hereby increased by the aggregate sum authorized to be levied by this special tax for each of the four fiscal years from 2021 through 2024.

Section 4. Effective date. The tax imposed by this Chapter shall be operative on January 1, 2021.

Section 5. Amendment, repeal, and reenactment. The City Council may repeal this ordinance, or amend it in any manner that does not result in an increase in the tax imposed herein, or add or modify exemptions, without further voter approval. If the City Council repeals this ordinance, it may subsequently reenact it without voter approval, as long as the reenacted ordinance does not result in an increase in the tax imposed herein.

Section 6. California Environmental Quality Act Requirements. This Ordinance is exempt from the California Environmental Quality Act, Public Resources Code section 21000 et seq., under, including without limitation, Public Resources Code section 21065 and CEQA Guidelines sections 15378(b)(4) and 15061(b)(3), as it can be seen with certainty that there is no possibility that the activity authorized herein may have a significant effect on the environment and pursuant to Public Resources Code section 21080, subdivision (b)(8), and CEQA Guidelines section 15273 as the approval of government revenues to fund existing services.

Section 7. Special Tax; Two Thirds Vote Requirement. This Ordinance imposes a special tax for restricted general revenue purposes and shall be effective only if approved by two-thirds of the voters voting thereon.