



**BERKELEY CITY COUNCIL BUDGET & FINANCE COMMITTEE
REGULAR MEETING**

**Thursday, January 25, 2024
10:00 AM**

2180 Milvia Street, 6th Floor - Redwood Room

Committee Members:

Mayor Jesse Arreguin, Councilmembers Rashi Kesarwani and Kate Harrison
Alternate: Councilmember Sophie Hahn

This meeting will be conducted in a hybrid model with both in-person attendance and virtual participation. If you are feeling sick, please do not attend the meeting in person.

Remote participation by the public is available through Zoom. To access the meeting remotely using the internet: Join from a PC, Mac, iPad, iPhone, or Android device: Use URL - <https://cityofberkeley-info.zoomgov.com/j/1606002506>. To request to speak, use the “raise hand” icon on the screen. To join by phone: Dial **1-669-254-5252 or 1-833-568-8864 (Toll Free)** and Enter **Meeting ID: 160 600 2506** 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.

To submit a written communication for the Committee’s consideration and inclusion in the public record, email policycommittee@berkeleyca.gov.

Written communications submitted by mail or e-mail to the Budget & Finance Committee by 5:00 p.m. the Friday before the Committee meeting will be distributed to the members of the Committee in advance of the meeting and retained as part of the official record.

Pursuant to the City Council Rules of Procedure and State Law, the presiding officer may remove, or cause the removal of, an individual for disrupting the meeting. Prior to removing an individual, the presiding officer shall warn the individual that their behavior is disrupting the meeting and that their failure to cease their behavior may result in their removal. The presiding officer may then remove the individual if they do not promptly cease their disruptive behavior. “Disrupting” means engaging in behavior during a meeting of a legislative body that actually disrupts, disturbs, impedes, or renders infeasible the orderly conduct of the meeting and includes, but is not limited to, a failure to comply with reasonable and lawful regulations adopted by a legislative body, or engaging in behavior that constitutes use of force or a true threat of force.

AGENDA

Roll Call

Public Comment on Non-Agenda Matters

Minutes for Approval

Draft minutes for the Committee's consideration and approval.

1. Minutes - December 11, 2023

Committee Action Items

The public may comment on each item listed on the agenda for action as the item is taken up. The Chair will determine the number of persons interested in speaking on each item. Up to ten (10) speakers may speak for two minutes. If there are more than ten persons interested in speaking, the Chair may limit the public comment for all speakers to one minute per speaker.

Following review and discussion of the items listed below, the Committee may continue an item to a future committee meeting, or refer the item to the City Council.

2. Federal and State Legislative Update

From: City Manager

Recommendation: Receive a presentation and discuss the City of Berkeley's draft 2024 state and federal legislative platform and provide direction to staff.

Financial Implications: See report

Contact: Dee Williams-Ridley, City Manager, (510) 981-7000

3. State of California Encampment Resolution Funding Program- Round 3

From: City Manager

Recommendation: Receive a presentation on a proposal for the State of California Encampment Resolution Funding Program (Round 3) and provide recommendations regarding the funding of a local match and the submittal of the grant application to the State.

Financial Implications: See report

Contact: Peter Radu, City Manager's Office, (510) 981-7000

Unscheduled Items

These items are not scheduled for discussion or action at this meeting. The Committee may schedule these items to the Action Calendar of a future Committee meeting.

4. Audit Recommendation Status - Berkeley Police: Improvements Needed to Manage Overtime and Security Work for Outside Entities

From: City Manager

Referred: May 23, 2023

Due: April 30, 2024

Contact: Jennifer Louis, Police, (510) 981-5900

Unscheduled Items

- 5. Audit Status Reports: Fleet Replacement Fund Short Millions & Rocky Road: Berkeley Streets at Risk and Significantly Underfunded**
From: City Manager
Recommendation: ***On May 23, 2023, the City Council referred to the Budget and Finance Policy Committee to prioritize funding to the vehicle replacement fund to make up the shortfall over time in order to stabilize the fund.***
Financial Implications: See report
Contact: Andrew Murray, Public Works, (510) 981-6300
- 6. Accept the Risk Analysis for Long-Term Debt (Bonding Capacity) Report provided by Government Finance Officers Association (Item contains supplemental material)**
From: City Manager
Referred: April 26, 2022
Due: February 29, 2024
Recommendation: Accept the report titled 'Risk-Based Analysis and Stress Test of Long-Term Debt Affordability' as provided by the Government Finance Officers Association (GFOA). This report is based on their research and development of a risk-modeling tool to address issuing long-term debt related to City of Berkeley Vision 2050.
On April 26, 2022, the City Council referred this item to the City Manager and Budget & Finance Committee to return to Council with recommendations or analysis on as many of the following items as possible by October 2022, if feasible. 1) Consideration of reserves policies for operational funds other than the General Fund; 2) Potential reduction of the maximum indebtedness rate from 15% of assessed property value down to 4-8% range; 3) A new policy to not incur indebtedness when interest rates go above 5% or a different specific threshold; 4) Tools for increased transparency for taxpayers; 5) Updated report and discussion of pension and healthcare costs; 6) Refer the full Report to the Budget & Finance Committee for consideration.
Financial Implications: None
Contact: Henry Oyekanmi, Finance, (510) 981-7300
- 7. Investment Report Update - Investment Policies of Other Jurisdictions**
From: City Manager
Contact: Henry Oyekanmi, Finance, (510) 981-7300

Unscheduled Items

8. **Budget Referral: Allocate the Existing \$900,000 Transportation Network Company (TNC) Tax to Calm Traffic in Vicinity of Derby St., Increase Citywide Traffic Calming Budget, and Establish Ongoing General Fund Allocation Policy for the TNC** *(Item contains supplemental material)*
From: Councilmember Harrison (Author)
Referred: December 5, 2023
Due: June 3, 2024
Recommendation: Refer to City Manager and the Budget and Finance Committee to consider establishing an ongoing General Fund policy of allocating 50% of annual TNC Tax revenues to a citywide traffic calming budget and the remaining 50% to tier 1 bike/pedestrian/transit priority projects as specified under 3. a-c.
Financial Implications: None
Contact: Kate Harrison, Councilmember, District 4, (510) 981-7140
9. **City Council Legislative Systems Redesign**
From: Agenda & Rules Committee
Referred: January 16, 2024
Due: July 12, 2024
Recommendation: ****On January 16, 2024, the Agenda and Rules Committee referred the questions in the supplemental materials to the Budget and Finance Policy Committee for review and response.****
Contact: Mark Numainville, City Clerk, (510) 981-6900

Items for Future Agendas

- **Requests by Committee Members to add items to the next agenda**

Adjournment

~~~~~  
*Written communications addressed to the Budget & Finance Committee and submitted to the City Clerk Department will be distributed to the Committee prior to the meeting.*

*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. Members of the City Council who are not members of the standing committee may attend a standing committee meeting even if it results in a quorum being present, provided that the non-members only act as observers and do not participate in the meeting. If only one member of the Council who is not a member of the committee is present for the meeting, the member may participate in the meeting because less than a quorum of the full Council is present. Any member of the public may attend this meeting. Questions regarding public participation may be addressed to the City Clerk Department (510) 981-6900.*



### 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.

---

I hereby certify that the agenda for this meeting of the Standing Committee 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 January 18, 2024.



Mark Numainville, City Clerk

## **Communications**

*Communications submitted to City Council Policy Committees are on file in the City Clerk Department at 2180 Milvia Street, 1st Floor, Berkeley, CA, and are available upon request by contacting the City Clerk Department at (510) 981-6908 or [policycommittee@berkeleyca.gov](mailto:policycommittee@berkeleyca.gov).*



**BERKELEY CITY COUNCIL BUDGET & FINANCE COMMITTEE  
SPECIAL MEETING MINUTES**

**Monday, December 11, 2023  
9:00 AM**

2180 Milvia Street, 5th Floor - Pepperwood Room

Committee Members:

Mayor Jesse Arreguin, Councilmembers Rashi Kesarwani and Kate Harrison  
Alternate: Councilmember Sophie Hahn

This meeting will be conducted in a hybrid model with both in-person attendance and virtual participation. If you are feeling sick, please do not attend the meeting in person.

Remote participation by the public is available through Zoom. To access the meeting remotely using the internet: Join from a PC, Mac, iPad, iPhone, or Android device: Use URL - <https://cityofberkeley-info.zoomgov.com/j/1600085900>. To request to speak, use the “raise hand” icon on the screen. To join by phone: Dial **1-669-254-5252 or 1-833-568-8864 (Toll Free)** and Enter Meeting ID: **160 008 5900**. 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.

To submit a written communication for the Committee’s consideration and inclusion in the public record, email [policycommittee@berkeleyca.gov](mailto:policycommittee@berkeleyca.gov).

Written communications submitted by mail or e-mail to the Budget & Finance Committee by 5:00 p.m. the Friday before the Committee meeting will be distributed to the members of the Committee in advance of the meeting and retained as part of the official record.

Pursuant to the City Council Rules of Procedure and State Law, the presiding officer may remove, or cause the removal of, an individual for disrupting the meeting. Prior to removing an individual, the presiding officer shall warn the individual that their behavior is disrupting the meeting and that their failure to cease their behavior may result in their removal. The presiding officer may then remove the individual if they do not promptly cease their disruptive behavior. “Disrupting” means engaging in behavior during a meeting of a legislative body that actually disrupts, disturbs, impedes, or renders infeasible the orderly conduct of the meeting and includes, but is not limited to, a failure to comply with reasonable and lawful regulations adopted by a legislative body, or engaging in behavior that constitutes use of force or a true threat of force.

**Roll Call:** 9:07 a.m.

**Present:** Kesarwani, Harrison, Arreguin

**Absent:** None

## Minutes for Approval

*Draft minutes for the Committee's consideration and approval.*

### 1. Minutes - November 16, 2023

**Action:** M/S/C (Harrison/Kesarwani) to approve the minutes on 11/16/23.

**Vote:** All Ayes.

## Committee Action Items

*The public may comment on each item listed on the agenda for action as the item is taken up. The Chair will determine the number of persons interested in speaking on each item. Up to ten (10) speakers may speak for two minutes. If there are more than ten persons interested in speaking, the Chair may limit the public comment for all speakers to one minute per speaker.*

*Following review and discussion of the items listed below, the Committee may continue an item to a future committee meeting, or refer the item to the City Council.*

### 2. Fiscal Year 2024 Annual Appropriations Ordinance Amendment *(Item contains supplemental material)*

**From:** City Manager

**Recommendation:**

1. Review and discuss the Fiscal Year 2023 year-end encumbrance rollover and requested carryover items and Fiscal Year 2024 new requested adjustments for inclusion within the First Amendment to the FY 2024 Annual Appropriations Ordinance and provide direction to staff.
2. Authorize staff to present the First Amendment to the FY 2024 Annual Appropriations Ordinance to City Council on November 7, 2023, for consideration and first reading.

**Financial Implications:** See report

Contact: Sharon Friedrichsen, Budget Manager, (510) 981-7000

**Action:** 9 speakers. M/S/C (Harrison/Kesarwani) to approve the recommendations from the City Manager as amended by the Mayor's submission and further amended as noted below.

- Include \$6,000 for the request from Councilmember Harrison for mentoring and violence prevention for Berkeley youth.
- Increase the Hero Pay allocation from the City Manager from \$2 million to \$3 million using funds from the investment allocation to the reserves for the additional \$1 million.
- Include \$50,000 for the prevailing wage study related to the Southside Zoning Amendments.



- Recommend allocation of \$450,000 from the previously allocated TNC tax revenues to complete recommendations 1, 2, and 3 for traffic calming from the December 5, 2023 Council item from Councilmember Harrison.

**Vote:** Ayes – Harrison, Arreguin; Noes – None; Abstain - Kesarwani.

**3. Audit Recommendation Status - Berkeley Police: Improvements Needed to Manage Overtime and Security Work for Outside Entities**

**From: City Manager**

**Referred: May 23, 2023**

**Due: December 12, 2023**

Contact: Jennifer Louis, Police, (510) 981-5900

**Action:** 0 speakers. Item extended in committee to April 30, 2024.

### Unscheduled Items

*These items are not scheduled for discussion or action at this meeting. The Committee may schedule these items to the Action Calendar of a future Committee meeting.*

**4. Audit Status Reports: Fleet Replacement Fund Short Millions & Rocky Road: Berkeley Streets at Risk and Significantly Underfunded**

**From: City Manager**

**Recommendation:** *\*\*\*On May 23, 2023, the City Council referred to the Budget and Finance Policy Committee to prioritize funding to the vehicle replacement fund to make up the shortfall over time in order to stabilize the fund.\*\*\**

**Financial Implications:** See report

Contact: Liam Garland, Public Works, (510) 981-6300

**5. Accept the Risk Analysis for Long-Term Debt (Bonding Capacity) Report provided by Government Finance Officers Association (Item contains supplemental material)**

**From: City Manager**

**Referred: April 26, 2022**

**Due: February 29, 2024**

**Recommendation:**

Accept the report titled 'Risk-Based Analysis and Stress Test of Long-Term Debt Affordability' as provided by the Government Finance Officers Association (GFOA). This report is based on their research and development of a risk-modeling tool to address issuing long-term debt related to City of Berkeley Vision 2050.

On April 26, 2022, the City Council referred this item to the City Manager and Budget & Finance Committee to return to Council with recommendations or analysis on as many of the following items as possible by October 2022, if feasible. 1)

Consideration of reserves policies for operational funds other than the General Fund; 2) Potential reduction of the maximum indebtedness rate from 15% of assessed property value down to 4-8% range; 3) A new policy to not incur indebtedness when interest rates go above 5% or a different specific threshold; 4) Tools for increased transparency for taxpayers; 5) Updated report and discussion of pension and

## Unscheduled Items

healthcare costs; 6) Refer the full Report to the Budget & Finance Committee for consideration.

**Financial Implications:** None

Contact: Henry Oyekanmi, Finance, (510) 981-7300

**6. Investment Report Update - Investment Policies of Other Jurisdictions**

**From:** City Manager

Contact: Henry Oyekanmi, Finance, (510) 981-7300

**7. Budget Referral: Allocate the Existing \$900,000 Transportation Network Company (TNC) Tax to Calm Traffic in Vicinity of Derby St., Increase Citywide Traffic Calming Budget, and Establish Ongoing General Fund Allocation Policy for the TNC** *(Item contains revised material)*

**From:** Councilmember Harrison (Author), Councilmember Taplin (Co-Sponsor)

**Referred:** December 5, 2023

**Due:** June 3, 2024

**Recommendation:** Refer to City Manager and the Budget and Finance Committee to consider establishing an ongoing General Fund policy of allocating 50% of annual TNC Tax revenues to a citywide traffic calming budget and the remaining 50% to tier 1 bike/pedestrian/transit priority projects as specified under 3. a-c.

**Financial Implications:** None

Contact: Kate Harrison, Councilmember, District 4, (510) 981-7140

## Items for Future Agendas

- None

## Adjournment

**Action:** M/S/C (Arreguin/Kesarwani) to adjourn the meeting.

**Vote:** All Ayes.

Adjourned at 11:17 a.m.

I hereby certify that the foregoing is a true and correct record of the Budget & Finance Committee special meeting held on December 11, 2023.

---

Mark Numainville, City Clerk

## Communications

Communications submitted to City Council Policy Committees are on file in the City Clerk Department at 2180 Milvia Street, 1st Floor, Berkeley, CA, and are available upon request by contacting the City Clerk Department at (510) 981-6908 or [policycommittee@berkeleyca.gov](mailto:policycommittee@berkeleyca.gov).




---



---

**M E M O R A N D U M**

---



---

**To:** The Honorable Jesse Arreguin and Members of the Berkeley City Council  
**CC:** Dee Williams-Ridley, City Manager

**From:** Christopher Townsend, President, Townsend Public Affairs, Inc.  
 Niccolo De Luca, Vice President  
 Joseph Mello, Federal Senior Associate  
 Andres Ramirez, Senior Associate  
 Carly Shelby, Legislative Associate  
 Sammi Maciel, Federal Associate

**Date:** December 29, 2023  
**Subject:** Draft 2024 State and Federal Legislative Agenda

---

Townsend Public Affairs, Inc. (TPA) has prepared a draft 2024 Legislative Platform for the City of Berkeley. The City's legislative platform for 2023 will reflect the priorities of the Mayor, the City Council, and the people of Berkeley. The platform will include advocating for legislation, regulations, and funding that is consistent with the City's adopted goals.

Once adopted, this blueprint will be shared with key stakeholders in the State Legislature and Governor's Administration as well as Congress and the Biden Administration. However, it will be necessary to remain nimble and responsive as we move through the legislative year. Our legislative agenda will be fluid as some issues will be addressed with introduced legislation.

**Proposed Legislative Priorities for 2024**

It is expected that the State Legislature in 2024 will maintain its focus on its recent priorities including; Climate Resiliency, Governance and Transparency, Homelessness and Behavioral Health, Housing and Greater Access, Public Safety, and Transportation and Infrastructure.

The State Legislature is currently in interim recess and will reconvene on January 3rd to resume legislative activities. Legislators may begin introducing new pieces of legislation, many of which may be like bills that did not advance in 2023, the second year of the two-year legislative cycle.

In Washington, DC a politically fraught Congress and new Speaker of the House will aim to legislate on several key priorities while balancing elections for the Presidency, House, and Senate. Major legislative action will center on the Fiscal Year (FY) 25 National Defense Authorization Act, 2024 Water Resources Development Act, the Farm Bill, and Energy Permitting Reform. Border security, foreign conflicts, artificial intelligence, and continued implementation of the Inflation Reduction Act and Bipartisan Infrastructure Law will also garner much attention.

Before Congress can focus on policy, both chambers must reconcile FY24 appropriations differences to fund the government and avoid a shutdown. Although this will likely drag into next year, Congress will begin accepting earmark requests for FY25 appropriations process as soon as February 2024.

### **Federal and State Legislative Monitoring and Potential Action**

The following legislative priorities are being recommended for monitoring, analysis, and potential action. The City Council may choose to take a position on a piece of legislation, continue to monitor without a position, or determine if any further response is required.

TPA maintains a constantly updated matrix of state legislation and in years past have presented recommendations after session has started then providing rolling updates. TPA will monitor legislative activity in the following areas.

#### **Homelessness**

##### Policy Priorities:

- 1) Prevent displacement of tenants and residents
- 2) Expand emergency, transitional, and permanent housing opportunities
- 3) Expand resources and housing alternatives for those unhoused persons who suffer with severe mental illness and require conservatorship
- 4) Support legislative efforts that require counties to partner with cities when receiving direct allocation of homeless funds and have a regional focus in the expenditure of state funds
- 5) Support legislative efforts that will allocate State homeless dollars such as the HHAP program and others, based off city point-in-time count numbers
- 6) Support legislative changes to Coordinated Entry requirements that allow local governments to prioritize based on local unsheltered needs and encampment resolution for housing placements
- 7) Support legislative efforts that have a focus on keeping people in housing, once placed, for many years which could include legislative changes to emergency shelter crisis declarations
- 8) Support legislative efforts that address racial disparities in homelessness
- 9) Support legislative efforts that provide minimum basic income for those who are unhouse or at risk of becoming unhoused

##### Funding Priorities:

- 1) Continue the state-funded emergency rent and utility assistance program for those at-risk of becoming homeless
- 2) Expand funding for homeless services (e.g., the wrap around services necessary for transitional and permanent housing), non-congregate shelters and emergency shelters, as well as operating costs for permanent supportive housing
- 3) Funding for permanent housing interventions that reduce and prevent homelessness
- 4) Support for more mental health and behavioral health outreach services; incentivize County provision of In-Lieu of Services in the CalAIM system change
- 5) Funding for targeted homeless prevention programs that provide financial assistance, legal and housing navigation services
- 6) Funding for employment, wage-earning programs for homeless people
- 7) Funding for substance abuse services
- 8) Support funding efforts for non-congregate shelter such as Safe Parking programs and allow existing rent subsidies sources to be used to subsidize the rent at these programs
- 9) Support funding for homeless services (e.g., the wrap around services necessary for transitional and permanent housing) and emergency shelters, as well as operating costs for permanent housing
- 10) Investment in extremely low income housing for those experiencing homelessness
- 11) Investment in mental health treatment across the continuum of care, including efforts to support or encourage creation of additional board and care beds as well as subacute treatment and psychiatric skilled nursing facilities

## Housing

### Policy Priorities:

- 1) Help promote and support housing legislation to enable the construction of more housing at various income levels; fight to repeal Article 34
- 2) Support legislation that advances the creation or funding of affordable housing projects
- 3) Pursue updates to the State building code, if necessary, and to promote innovative forms of housing construction
- 4) Reasonable reform to CEQA to streamline development and housing opportunities
- 5) Support legislative and funding efforts relating to housing preservation and acquisition and operation
- 6) Support legislative efforts to protect tenants and small property owners impacted by the COVID-19 pandemic which includes residential lease terminations
- 7) Support legislative efforts to extend the State rent relief program and to bring back the eviction moratorium/eviction protections
- 8) Support legislative efforts to reduce the voter threshold for passage of affordable housing bonds
- 9) Support legislative efforts to repeal or reform the Ellis Act and the Costa–Hawkins Rental Housing Act
- 10) Work with UC Regents to help support more opportunities for student housing
- 11) Support legislative efforts that clarify recent ADU related legislation and count ADUs towards RHNA goals
- 12) Support efforts that also encourage other forms of housing such as co-ops, land trusts, social housing, public housing, and other efforts
- 13) Seek amendments to ADU legislation to establish additional conditions/protections on ADU construction in high fire hazard zones

### Funding Priorities:

- 1) Support for soft-story seismic retrofits
- 2) Funding for housing programs that advance racial equity
- 3) Funding for innovative programs to prevent displacement and address hazardous housing conditions
- 4) Enhance funding of state programs for operating costs that support permanent affordable housing for individuals with area median income up to 120 percent (which includes extremely low-income up to moderate incomes, i.e., workforce housing)
- 5) Enhance funding opportunities for existing state programs to help support bicycle and pedestrian infrastructure in connection to housing
- 6) Develop a state funding program that can support small sites acquisition and rehab (like San Francisco)
- 7) Expand funding for affordable housing on transit agency sites
- 8) Support funding for remediation of hazardous sites (to make viable for housing)
- 9) Support efforts to create more student housing funding opportunities

## **Economic Development**

### Policy Priorities:

- 1) Support and funding for arts and cultural spaces, arts education, and outdoor commerce
- 2) Measures providing for new tax increment financing opportunities (i.e., business district establishment or Enhanced Infrastructure Financing Districts) to support commercial districts as well as infrastructure and affordable housing
- 3) Efforts to encourage the development of sectors (and real estate sites) that align with quality job opportunities in local manufacturing, light industrial, bioscience, research and development, and other priority industry sectors. This includes environmental remediation of large industrial sites for redevelopment into research and development and/or life sciences use
- 4) Cannabis Tax reform which includes lowering taxes and tax simplification
- 5) Support efforts to address the digital divide
- 6) Support legislation relating to Online Sales Tax Distribution Formula reform
- 7) HARD HATS + funding for apprentice programs
- 8) Support legislative and other efforts for programs that create pathways out of poverty, including guaranteed income programs
- 9) Support legislative efforts to create and expand public banking

### Funding Priorities:

- 1) Support for small business recovery, tourism/visitor recovery and other business sectors deeply impacted by the COVID-19 pandemic
- 2) Support funding for environmental remediation at the Pacific Steel site and other toxic sites throughout the City
- 3) Support funding for the seismic retrofit and renovation public landmark buildings (Civic Center, Veterans Building and Civic Center Plaza revitalization)
- 4) Loan access for minority- and women-owned businesses who experience difficulties in accessing loans from private banks

## Infrastructure

### Policy Priorities:

- 1) Support developing climate smart, resilient infrastructure to address growing climate threats and address deferred maintenance
- 2) Funding for programmatic implementation of hardware and software to ensure security
- 3) Funding for programmatic initiatives to advance use of technology in partnership with delivering cutting edge and strategic programs
- 4) Funding for upgrading and updating outdated technological infrastructure
- 5) Measures affecting funding for roads, transit, “last mile” projects and goods movement as well as alternative modes of transportation (bikes, ebikes, scooters, etc.), and support the needs of the disabled community
- 6) Support efforts to help commuters and increase public transportation and last mile expansion
- 7) Measures that tax ride sharing networks and help reduce vehicle congestion
- 8) Measures that support data sharing of TNCs with local government
- 9) Support regional transportation projects that would provide a benefit to the City and surrounding communities
- 10) Support for public infrastructure projects including the Ashby/North Berkeley BART Development, Berkeley Pier/Ferry Terminal Project, Maudelle Shirek (Old City Hall), Veterans Building, Civic Center Park, Santa Fe Right of Way, and San Pablo Park and Pool
- 11) Increasing resiliency of public infrastructure from threats of climate change
- 12) Support for public infrastructure that supports ADA access to all City facilities including buildings, Right of Way, and Parks
- 13) Support equity in infrastructure by improving City facilities and amenities in South and West Berkeley
- 14) Expand EIFD resources to include services for underserved communities

### Funding Priorities:

- 1) Increased funding for bicycle and pedestrian safety improvements
- 2) Increased funding for utility undergrounding
- 3) Increased funding to address the wildland urban interface and fire safety
- 4) Funding to electrify and add e-charging in public facilities and for the public fleet and to provide public e-charging stations
- 5) Funding for the Safe Routes to School program
- 6) Funding for improving, restoring, and enhancing public infrastructure including landmark sites (e.g., Maudelle Shirek)
- 7) Funding for lifting equity through an African American Holistic Resource Center
- 8) Funding to enhance and build recreation facilities to address neighborhood youth engagement and enrichment. (i.e., San Pablo Park and Pool)
- 9) Funding for cyber security and necessary, related technological improvements
- 10) Funding for riding transit especially when linked to housing

## Public Safety

### Policy Priorities:

- 1) Support automated speed enforcement legislation and to seek alternatives to sworn traffic/parking enforcement
- 2) Support efforts to have non-sworn staff to investigate and report taking
- 3) Support disaster preparedness, training, response, and resilience efforts
- 4) Criminal justice reform
- 5) Support additional efforts to help prevent violence such as mental health services, supporting street outreach teams, focusing on other individuals before they are at risk
- 6) Support efforts that reimagine public safety and incorporate community-based organizations to help address problems
- 7) Support efforts to increase peace officer accountability and provide a means of decertifying police officers who engage in serious misconduct
- 8) Support legislative efforts that seek to legalize safe crossings for pedestrian's aka 'jaywalking', allows cyclists to treat stop signs as yield signs, red lights as stop signs and yield at traffic light intersections if they're making a right-hand turn, and other related efforts
- 9) Support legislative modifications to the CalVIP program to help cities such as Berkeley
- 10) Support legislation and funding to improve fire safety, including undergrounding utilities

### Funding Priorities:

- 1) Support funding opportunities for alternative traffic enforcement efforts
- 2) Support funding opportunities for violence prevention services
- 3) Support funding opportunities for dispatch and service redesign or expansion
- 4) Support wildland fire mitigation grants to support home hardening, vegetation management and suppression and response such as low or no-interest loan/grant programs to assist homeowners in clearing hazardous vegetation and hardening homes in high fire hazard zones
- 5) Support funding opportunities for community paramedicine and alternative destination protocols
- 6) Support funding/resources for analysis, development and implementation of road network for wildfire evacuation programs
- 7) Support funding for park access and ADA amenities
- 8) Support funding for law enforcement engagement and community-centered collaborative approaches in support of reimagining public safety efforts (Specialized Care Unit)



## Sustainability and the Environment

### Policy Priorities:

- 1) Support legislative efforts to incentivize Low-Carbon Construction: ability to and tools for incentivizing lower-carbon construction with fees from higher-carbon construction projects.
- 2) Support legislative efforts relating to electric bicycles: legislation to subsidize electric bicycle purchase, in coordination with electric vehicle subsidies.
- 3) Support legislative efforts to expand transportation alternatives by water (ferry)
- 4) Support legislative efforts to expand funding for electric vehicle charging in the public right of way
- 5) Measures that provide new tools and potential revenue opportunities to address illegal dumping
- 6) Measures that support regional planning for a climate change strategy which includes sea level rise
- 7) Support efforts that enhance data sharing for utility companies
- 8) Support efforts for gray water capture
- 9) Remediation of open space to expand public green/open space
- 10) Support efforts to improve research on making desalination more cost effective and environmentally friendly

### Funding Priorities:

- 1) Support technological advancements that reduce our draw on paper and nonrenewable resources
- 2) Support development of software infrastructure to support current and emerging initiatives in the most sustainable way possible
- 3) Funding for enhancing capacity in Information Department to support ongoing movement towards sustainable systems that require forward thinking processes and modern technological systems
- 4) Support funding to address sea level rise along waterfront and Aquatic Park (inclusive of state lands)
- 5) Support funding for electrification and seismic retrofitting of care and shelter facilities
- 6) Support funding for low-income solar and battery installation
- 7) Support for reaching Climate Action Plan, Clean Water, and Resilience Plan goals
- 8) Support funding for Zero Waste efforts
- 9) Support funding for more EV charging stations at apartments and elsewhere

### Health

#### Policy Priorities:

- 1) Support legislative efforts to enhance greater access to hospitals and health care.
- 2) Support legislative efforts that will require counties to partner with cities relating to unspent Prop 63 mental health funds
- 3) Support legislative and other efforts to keep Alta Bates Hospital open and operating as an emergency and acute care hospital
- 4) Support legislative efforts that support and increase psychiatric care facilities and acute care facilities
- 5) Support legislative efforts to protect the rights of women and reproductive health
- 6) Support legislative efforts that increase services such as mental health, substance abuse, treatment beds and other services for people living in encampments and in unsheltered settings
- 7) Support legislative efforts that existing mental health and substance programming prioritize people who are referred by the homeless system
- 8) Support legislative efforts that soften data sharing constraints at the Federal level: HIPAA contains broad information-sharing allowances among “treatment providers” for the purposes of “care coordination”—issue guidance defining homeless encampment or homeless-serving teams as “treatment providers” and making it clear that information can be shared on a need-to-know basis
- 9) Support legislative efforts related to oversight of guardians, receivership, conservatorship and other forms of care

#### Funding Priorities:

- 1) Support funding and regulatory changes to advance for emergency readiness, particularly in relation to public health
- 2) Support funding efforts relating to mental health treatment, substance abuse treatment, and other related services
- 3) Focus on funding health services for underserved communities

### Miscellaneous

#### Policy Priorities:

- 1) Support legislative efforts to make changes to the Brown Act to help encourage greater public participation and further encourage online meetings and make changes to posting requirements and public access in private residences
- 2) Support legislative efforts to address the way ballot measures are formulated, worded, and advertised
- 3) Support funding for emergency readiness, particularly in relation to public health

### **One Time State and Federal Funding Priorities for “Member Request” Consideration**

As we have seen at both the Federal and State level, new initiatives and various funding opportunities have taken form over the last year. This also includes both legislative provisions that direct approved funds to be spent on specific projects, sometimes referred to as “Member Requests” or “Congressional Directed Spending”.

As it relates to state and federal “Member Requests”/ “Congressional Directed Spending”, our recommended strategy is for the adopted Legislative Platform to include a handful of funding buckets that capture various project themes. This provides the City with the highest amount of flexibility as it is important to not only reflect the priorities of the state and federal lawmakers who sponsor these requests, but also to ensure that the City’s projects fit the eligibility requirements of the various state and federal funding sources.

These buckets include:

- *Affordable Housing/Homelessness* which could include funding to reduce unsheltered homelessness including outreach and mental health services, non-congregate shelter, housing subsidies and gap funding for affordable housing projects including new construction and acquisition and rehabilitation of housing.
- *Infrastructure Improvements* which could include funding for enhancements to public infrastructure including landmark sites, active transportation enhancements which includes bicycle and pedestrian upgrades at various city locations such as the Telegraph Shared Street project.
- *Climate Resiliency* which could include funding for urban forestry interface, wildfire prevention, cooling centers, HVAC upgrades, and other related items.

### **Process for Reporting/Next Steps**

In addition to weekly legislative updates and other communications we send to the City Team, TPA suggests verbal reports to the City Council when the State Legislature is on recess. For example, we would report out in April while they are on Spring Recess, during July while they are on Summer Recess, and in November or December when Session has concluded.

Due to the ever-changing nature of legislation in Sacramento and Washington, TPA will provide monthly updates which can be shared with the City Council.



# Encampment Resolution Funding (ERF) Grant Application and Budget Match

---

BUDGET AND FINANCE POLICY COMMITTEE

JANUARY 25, 2024

# Noncongregate Shelter and Encampments

---

- Since the launch of the Homeless Response Team in Sept 2021, staff have made well over 500 offers of shelter to people living in encampments:
  - When congregate shelter is offered, acceptance rate = 43%
  - When noncongregate shelter is offered, acceptance = 84%
- Past examples of successful resolutions using noncongregate shelter (dedicated motels):
  - Harrison St corridor (Feb 2022) → Berkeley Inn; 83% uptake
  - People's Park (July/Aug 2022) → Rodeway Inn; 63% uptake (ERF-1)
  - Here/There (January 2023) → Super 8; 86% uptake
  - Harrison St corridor (Aug 2023 – present) → Super 8; 77% uptake (ERF-2)



# Current Situation

---

- Staff are seeking to apply to the State's ERF-3 grant to:
  - Master lease with the Howard Johnson Motel (1512 University Avenue) for 4 years
  - Contract with Dorothy Day House to operate noncongregate shelter at the motel
  - Resolve the encampments in along 2<sup>nd</sup> St in Northwest Berkeley
  - Partner with UCSF Benioff Homeless and Housing Initiative to perform formal academic research on the encampment and our efforts to resolve it (details TBD)
- Aggressive State timeline precluded
  - NOFA released November 27, 2023
  - First application window due Jan 31, 2024
  - Anticipated award date: April 1, 2024
  - Deadline to expend 50% of award amount: June 30, 2025
  - Deadline to fully expend award amount: June 30, 2027



# Proposed Lease terms

---

## ○ Timeline:

- 4 years beginning once funding is awarded, with either party reserving right to terminate, for any reason, with 180 days' notice after the first 12 months
- Option to extend to 5 years, and add another 5 years after that, contingent on funding availability
- 27 rooms plus access to all other facilities

## ○ Rent/Costs:

- Flat rate of \$119/room/month (vacant or occupied), with 3% annual escalator
- Covers utilities, trash, internet

## ○ Damages:

- \$2,200/room/yr repair costs paid by City at the start of each year (with 3% annual escalator)

# Program Details

---

- Program Operator: Insight Housing
- 4 P's:
  - Pets allowed
  - Privacy of own room
  - Possessions storage (details TBD)
  - Partners allowed
- 24/7 program with no curfews
- 3 meals/day
- On-site housing navigation

# Program costs

|                                                                                 | Howard Johnson<br>lease costs | Dorothy Day<br>House Program<br>Costs | UCSF Research*       | TOTAL               |
|---------------------------------------------------------------------------------|-------------------------------|---------------------------------------|----------------------|---------------------|
| Year 1                                                                          | \$1,232,145                   | \$1,450,000                           | \$150,000            | \$2,832,145         |
| Year 2                                                                          | \$1,269,109                   | \$1,300,000                           |                      | \$2,569,109         |
| Year 3                                                                          | \$1,307,183                   | \$1,300,000                           |                      | \$2,607,183         |
| Year 4                                                                          | \$1,346,398                   | \$1,300,000                           |                      | \$2,646,398         |
| <b>TOTAL</b>                                                                    | <b>\$5,154,835</b>            | <b>\$5,350,000</b>                    | <b>\$150,000</b>     | <b>\$10,654,835</b> |
|                                                                                 |                               |                                       | <b>4 YEAR TOTAL:</b> | <b>\$10,654,835</b> |
| <i>*This amount is a placeholder; we are awaiting actual estimate this week</i> |                               |                                       |                      |                     |

# Measure P Forecast

|                                                     | FY 2024<br>Estimated   | FY 2025<br>Estimate   | FY 2026<br>Estimate   | FY 2027<br>Estimate   | FY 2028<br>Estimate   | FY 2029<br>Estimate    |
|-----------------------------------------------------|------------------------|-----------------------|-----------------------|-----------------------|-----------------------|------------------------|
| <b><u>Revenues</u></b>                              |                        |                       |                       |                       |                       |                        |
| <i>Beginning Fund Balance</i>                       | \$ 19,887,422          | \$ 8,976,746          | \$ 5,282,839          | \$ (559,430)          | \$ (6,068,551)        | \$ (5,085,474)         |
| <i>Measure P Revenues*</i>                          | \$ 10,189,500          | \$ 10,698,975         | \$ 11,233,923         | \$ 11,795,619         | \$ 14,000,000         | \$ 7,500,000           |
| <b>Total Revenues and Balance of Funds</b>          | <b>\$ 30,076,922</b>   | <b>\$ 19,675,721</b>  | <b>\$ 16,516,762</b>  | <b>\$ 11,236,189</b>  | <b>\$ 7,931,449</b>   | <b>\$ 2,414,526</b>    |
| <b>LESS: Total Expenses</b>                         | \$ 21,100,176          | \$ 14,392,883         | \$ 17,076,192         | \$ 17,304,740         | \$ 13,016,923         | \$ 13,208,200          |
| <i><u>Personnel Costs (1)</u></i>                   | \$ 1,221,769           | \$ 1,319,511          | \$ 1,425,071          | \$ 1,539,077          | \$ 1,662,203          | \$ 1,795,179           |
| <i><u>Non-Personnel Costs/ Program Expenses</u></i> | \$ 19,878,407          | \$ 13,073,372         | \$ 15,651,121         | \$ 15,765,663         | \$ 11,354,720         | \$ 11,413,020          |
| <b>Fiscal Year Surplus (Shortfall)</b>              | <b>\$ (10,910,676)</b> | <b>\$ (3,693,908)</b> | <b>\$ (5,842,269)</b> | <b>\$ (5,509,121)</b> | <b>\$ 983,077</b>     | <b>\$ (5,708,200)</b>  |
| <b>Ending Fund Balance</b>                          | <b>\$ 8,976,746</b>    | <b>\$ 5,282,839</b>   | <b>\$ (559,430)</b>   | <b>\$ (6,068,551)</b> | <b>\$ (5,085,474)</b> | <b>\$ (10,793,674)</b> |

# Measure U1 Forecast

|                                                               | FY 2024<br>Estimate | FY 2025<br>Estimate | FY 2026<br>Estimate | FY 2027<br>Estimate | FY 2028<br>Estimate | FY 2029<br>Estimate |
|---------------------------------------------------------------|---------------------|---------------------|---------------------|---------------------|---------------------|---------------------|
| <b>Revenues</b>                                               |                     |                     |                     |                     |                     |                     |
| <b>Beginning Fund Balance</b>                                 | \$15,745,206        | 5,857,958           | \$6,304,264         | \$6,212,530         | \$5,929,457         | \$5,439,738         |
| <i>ADD: U1 Fund Balance transferred from the General Fund</i> |                     |                     |                     |                     |                     |                     |
| <i>ADD: Revenues</i>                                          | 5,900,000           | 5,900,000           | 5,900,000           | 5,900,000           | 5,900,000           | 5,900,000           |
| <b>Total Revenues and Available Fund Balance</b>              | <b>21,645,206</b>   | <b>11,757,958</b>   | <b>12,204,264</b>   | <b>12,112,530</b>   | <b>11,829,457</b>   | <b>11,339,738</b>   |
| <b>LESS: Total Expenses</b>                                   |                     |                     |                     |                     |                     |                     |
| <b>Personnel Costs <sup>(2)</sup></b>                         | 1,716,383           | 1,853,694           | 2,391,734           | 2,583,073           | 2,789,719           | 3,012,896           |
| <b>Non-Personnel and Other Program Costs</b>                  | 14,070,865          | 3,600,000           | 3,600,000           | 3,600,000           | 3,600,000           | 3,600,000           |
| <b>Small Sites/Community Land Trusts</b>                      |                     |                     |                     |                     |                     |                     |
| <b>Housing Trust Fund</b>                                     |                     |                     |                     |                     |                     |                     |
| Housing Trust Fund Program <sup>(7)</sup>                     | 4,870,865           | 2,500,000           | 2,500,000           | 2,500,000           | 2,500,000           | 2,500,000           |
| <b>Development of New Housing Programs</b>                    |                     |                     |                     |                     |                     |                     |
| Capacity Building for Emerging Developers                     | 200,000             | 200,000             | 200,000             | 200,000             | 200,000             | 200,000             |
| <b>Project Homekey Reservation (Round 3)</b>                  |                     |                     |                     |                     |                     |                     |
|                                                               | 8,000,000           |                     |                     |                     |                     |                     |
| <b>Anti-Displacement</b>                                      |                     |                     |                     |                     |                     |                     |
| Rent Board (EDC & EBCLC)                                      | -                   | -                   | -                   | -                   | -                   | -                   |
| East Bay Community Law Center (EBCLC)                         | -                   | 275,000             | 275,000             | 275,000             | 275,000             | 275,000             |
| Housing Retention Program (EBCLC)                             | -                   | 250,000             | 250,000             | 250,000             | 250,000             | 250,000             |
| Eviction Defense Center (EDC)                                 | 1,000,000           | 275,000             | 275,000             | 275,000             | 275,000             | 275,000             |
| Housing Retention Program / Eviction Defense                  | -                   | -                   | -                   | -                   | -                   | -                   |
| Flexible Housing Subsidy Pool (BACS)                          | -                   | 100,000             | 100,000             | 100,000             | 100,000             | 100,000             |
| <b>Fiscal Year Surplus (Shortfall)</b>                        | <b>(9,887,248)</b>  | <b>446,306</b>      | <b>(91,734)</b>     | <b>(283,073)</b>    | <b>(489,719)</b>    | <b>(712,896)</b>    |
| <b>Ending Fund Balance</b>                                    | <b>5,857,958</b>    | <b>6,304,264</b>    | <b>6,212,530</b>    | <b>5,929,457</b>    | <b>5,439,738</b>    | <b>4,726,842</b>    |

# Financial Impacts

---

- Measure P Fund Balance Projected to be Depleted in FY 27
  - Funded \$7M for Project HomeKey and \$4.5M to acquire Russell Street Residence
  - Preserve \$5M (\$2.5M in FY 25 & FY 26) for Awarded ERF Match Grant
  - Will require programmatic changes and/or use of General Fund to continue programs
- Measure U1 Projected Fund Balance Could Cover the Matching Grant
  - \$8M Project HomeKey Reservation in FY 24
  - Assumes only \$2.5M each fiscal year for Housing Trust Fund starting in FY 25
  - \$823,000 may also be available by shifting staffing costs to General Fund starting in FY 26

# Recommendation

---

- **Recommendation:**

- Support the City Manager's application to the Encampment Resolution Fund-3 grant program for \$5,327,418
- Support allocating \$5,327,418 in Measure U1 and/or other new revenue sources as 50% local match

- **Rationale for Recommendation:**

- Lack of local match is likely to render the grant noncompetitive (50% match was successful in ERF-2)
- Prioritizes Measure P and U1 spending on programs that leverage external funding
- Signals our commitment to our partners (Howard Johnson owners and Dorothy Day House)
- Creates a realistic opportunity to resolve the largest and most complex remaining encampment in Berkeley





# Update on Audit Recommendations

---

BERKELEY POLICE: IMPROVEMENTS NEEDED TO MANAGE OVERTIME  
AND SECURITY WORK FOR OUTSIDE ENTITIES

# Findings

---

1. Overtime is used to maintain minimum patrol staffing set by BPD. (2 recommendations)
2. Minimum staffing levels in BPD's Patrol Unit could cause unnecessary overtime if not regularly updated. (3 recommendations)
3. Officers work excessive overtime, increasing health and safety risks. (2 recommendations)
4. BPD does not have contracts for overtime security with outside entities. (5 recommendations)

# Implementation Status Overview

---

12 total recommendations



2 started



10 implemented

# Recommendation 1.1

---

Collect and monitor data on how often compensatory time leads to additional backfill overtime and develop a plan to monitor it.

- BPD now has a formal process to monitor how often compensatory time leads to backfill overtime with data from the electronic staffing software. The Police Technology Unit will create a biannual report on this data to be reviewed by the Captain of the Support Services Division and the Office of the Chief.
- We implemented this change in July 2023. The first biannual report to track this information data will be created in January 2024.



# Recommendation 1.2

---

Fill vacancies deemed necessary and/or reallocate staff pending the reimagining process and a determination of appropriate staffing levels.

- BPD contracted with a consultant, Citygate Associates, to conduct an assessment of staffing and allocation of resources. CityGate will provide a final report documenting the results of the staffing assessment along with the assessment criteria.
- Citygate has been conducting data collection, interviewing staff and is assessing current deployments. An internal survey and a series of focus groups with key stakeholders are being prepared. The work with Citygate is on schedule and expected to be completed before June 2024. Once complete, BPD will determine next steps for implementation.
- This recommendation is interconnected with 2.3



# Recommendation 2.1

---

Establish a procedure to regularly assess minimum staffing and overall staffing needs of the department. This process should document and incorporate criteria to assess staffing levels, such as calls for service, other workload, community input, and other relevant factors. As BPD prepares for the rollout of a new software system, BPD should consider how to best align the program's capabilities with this assessment process.

- BPD has created a written protocol to assess minimum staffing and department staffing needs biannually. The protocol incorporates criteria such as calls for service and shift availability. The protocol also considers allocation of police resources geographically, i.e. beat alignment.

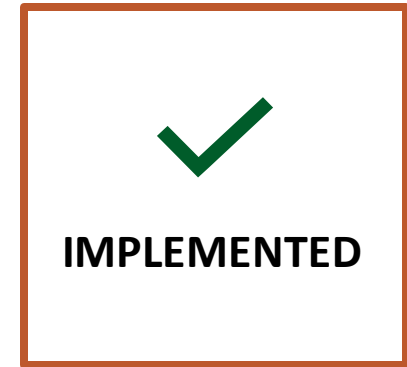


# Recommendation 2.2

---

Document and define the Patrol Unit's minimum staffing levels in a publicly assessable format.

- This information has been placed on the BPD webpage. The button "current officer shift assignments" links to a timesheet with officer assignments. Information can be viewed at: <https://berkeleyca.gov/safety-health/police/community-liaisons>



## Recommendation 2.3

---

Document the results of staffing assessments along with the assessment criteria. Incorporate results into staffing projections for budgetary decision making, including establishing a sufficient and appropriate overtime budget.

- BPD contracted with a consultant, Citygate Associates, to conduct an assessment of staffing and allocation of resources. CityGate will provide a final report documenting the results of the staffing assessment along with the assessment criteria.
- Citygate has been conducting data collection, interviewing staff and is assessing current deployments. An internal survey and a series of focus groups with key stakeholders are being prepared. The work with Citygate is on schedule and expected to be completed before June 2024. Once complete, BPD will determine next steps for implementation.
- This recommendation is interconnected with 1.2



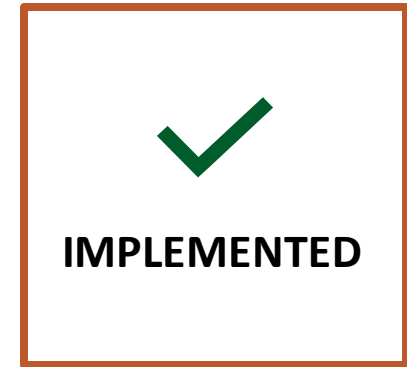


# Recommendation 3.1

---

Update the department overtime policy to address the fact that there currently is no limit to the number of consecutive days worked and determine the appropriate limit for overtime that is enforceable with the goal of avoiding officer fatigue. The department may examine other jurisdictions' overtime limits as possible criteria.

- BPD policy 1015 has been updated to include a limit on the number of consecutive days worked. The policy also includes limitations on hours worked. This updated policy was issued on 8/23/23.



## Recommendation 3.2

---

Work to implement a staffing software solution that integrates overtime management and scheduling software. Develop management reports that provide timely, accurate, and complete information on overtime usage. Develop a process for filling overtime shifts on a voluntary and mandatory basis, including supervisor approval. Build in warnings for when an individual is approaching overtime limits and an approval process for allowing individuals to exceed limits when deemed necessary according to the policy.

- The CareWare electronic staffing software solution has recently been implemented to monitor staffing, overtime and time off, plus shift trades/swaps. This includes a warning notice within the system that someone could be working more than the allowed number of hours. This warning requires acknowledgement by the supervisor allowing the hours.



# Recommendation 4.1

---

Update A.R. 2.10 and other department policies to explicitly include guidance around department agreements for work for outside entities, which is paid for by reimbursements to the City from the outside entities. Internal procedures should include appropriate criteria to identify and document the benefit to the City gained by work for outside entity agreements, and to allocate resources in a way that does not negatively impact City operations. Additionally, BPD should document their criteria for when officers are not available or eligible for work for outside entities.

- BPD has finalized Policy 1043 and has begun using the newly created contracts with outside entities including UC Berkeley, the Bearathlon and the Berkeley Half Marathon.



# Recommendation 4.2

---

In consultation with the City Attorney, create contracts with outside entities in compliance with City policies and applicable laws.

- A template service agreement for work with outside entities is available on the Police Department's website:  
<https://berkeleyca.gov/sites/default/files/documents/BPD%20Service%20Agreement-final.pdf>.
- Three (3) service agreements have already been executed. These have been with UC Berkeley, the Bearathlon and the Berkeley Half Marathon.



# Recommendation 4.3

---

Develop an application for BPD's services that is publicly available and accessible online to any interested party. Set pay uniformly according to rank and hourly rate and include a reasonable fee that covers the expenses of administering work for outside entities including workers compensation, fuel, use of equipment, and any other actual or potential costs to the City.

- The application and service agreement have been added to the BPD website on the Community Liaisons page under "Related Documents". BPD will be working with their web management team to add it to the main City of Berkeley website in the "Special Events" section. <https://berkeleyca.gov/safety-health/police/community-liaisons>
- A 10% fee was added on top of employee fees to offset costs associated with coordinating special events, including planning and staff time. 10% is a standard administrative fee at the state level and is standard administrative fee for grant funding we receive. We want to be consistent with department administrative fees throughout BPD. The police department will adjust the administrative fee in the future as needs dictate.



# Recommendation 4.4

---

BPD should reconcile invoices with the amounts received for work with outside entities at regular intervals. BPD should also implement procedures to check invoices for errors prior to billing outside entities.

- BPD's Admin & Fiscal Services Unit developed a written procedure for the "Outside Entity Billing Process". This will ensure consistency and accountability in billing and tracking.



# Recommendation 4.5

---

Explore ways to clearly account for different funds to track revenues and expenses.

- BPD has formalized a written protocol for an Outside Entity Billing Process. This document reflects eleven needed steps from billing through the depositing of funds with the Finance Department and clearly identifies a method to track revenues and expenses.



# Update on Audit Recommendations

---

BERKELEY POLICE: IMPROVEMENTS NEEDED TO MANAGE OVERTIME  
AND SECURITY WORK FOR OUTSIDE ENTITIES



# Findings

---

1. Overtime is used to maintain minimum patrol staffing set by BPD. (2 recommendations)
2. Minimum staffing levels in BPD's Patrol Unit could cause unnecessary overtime if not regularly updated. (3 recommendations)
3. Officers work excessive overtime, increasing health and safety risks. (2 recommendations)
4. BPD does not have contracts for overtime security with outside entities. (5 recommendations)

# Implementation Status Overview

---

12 total recommendations



6 started



1 partly implemented



5 implemented

# Recommendation 1.1

---

Collect and monitor data on how often compensatory time leads to additional backfill overtime and develop a plan to monitor it.

- The CareWare electronic staffing software solution has recently been implemented to monitor staffing, overtime and time off, plus shift trades/swaps. Now that the software is being utilized, we will be better able to work towards understanding the expense and impacts of compensatory time.
- Description of what is left to do and anticipated implementation date
- Consider including resources needed to implement (\$, staff, technology, attorney input, management review, etc.)



# Recommendation 1.2

---

Fill vacancies deemed necessary and/or reallocate staff pending the reimagining process and a determination of appropriate staffing levels.

- On 12-7-22, the City of Berkeley released an RFP for a "Berkeley Police Department Workload Organizational Study". The proposals are currently being reviewed as we work toward making a vendor selection.
- Description of what is left to do and anticipated implementation date
- Consider including resources needed to implement (\$, staff, technology, attorney input, management review, etc.)



# Recommendation 2.1

---

Establish a procedure to regularly assess minimum staffing and overall staffing needs of the department. This process should document and incorporate criteria to assess staffing levels, such as calls for service, other workload, community input, and other relevant factors. As BPD prepares for the rollout of a new software system, BPD should consider how to best align the program's capabilities with this assessment process.

- Annually, BPD will monitor and reassess workloads as we consider how to best allocate our resources. These internal tools were used at the March 2023 timesheet to help identify a new beat structure to ensure adequate coverage plus rebalancing minimum staffing levels.
- Description of what is left to do and anticipated implementation date
- Consider including resources needed to implement (\$, staff, technology, attorney input, management review, etc.)



# Recommendation 2.2

---

Document and define the Patrol Unit's minimum staffing levels in a publicly assessable format.

- This information has been placed on the BPD webpage. The button "current officer shift assignments" links to a timesheet with officer assignments. Information can be viewed at: <https://berkeleyca.gov/safety-health/police/community-liaisons>



## Recommendation 2.3

---

Document the results of staffing assessments along with the assessment criteria. Incorporate results into staffing projections for budgetary decision making, including establishing a sufficient and appropriate overtime budget.

- A vendor for the organizations workload study has been selected and BPD is entering into the contracting process.
- Description of what is left to do and anticipated implementation date
- Consider including resources needed to implement (\$, staff, technology, attorney input, management review, etc.)



# Recommendation 3.1

---

Update the department overtime policy to address the fact that there currently is no limit to the number of consecutive days worked and determine the appropriate limit for overtime that is enforceable with the goal of avoiding officer fatigue. The department may examine other jurisdictions' overtime limits as possible criteria.

- BPD has started looking into what other agencies do regarding limiting the number of consecutive days worked. BPD current policy clearly addresses the maximum number of work hours per week but does not address consecutive days worked. The recent implementation of the electronic staffing software solution and tracking abilities may also help guide any needed changes.
- Description of what is left to do and anticipated implementation date
- Consider including resources needed to implement (\$, staff, technology, attorney input, management review, etc.)





## Recommendation 3.2

---

Work to implement a staffing software solution that integrates overtime management and scheduling software. Develop management reports that provide timely, accurate, and complete information on overtime usage. Develop a process for filling overtime shifts on a voluntary and mandatory basis, including supervisor approval. Build in warnings for when an individual is approaching overtime limits and an approval process for allowing individuals to exceed limits when deemed necessary according to the policy.

- The CareWare electronic staffing software solution has recently been implemented to monitor staffing, overtime and time off, plus shift trades/swaps. This includes a warning notice within the system that someone could be working more than the allowed number of hours. This warning requires acknowledgement by the user allowing the hours.

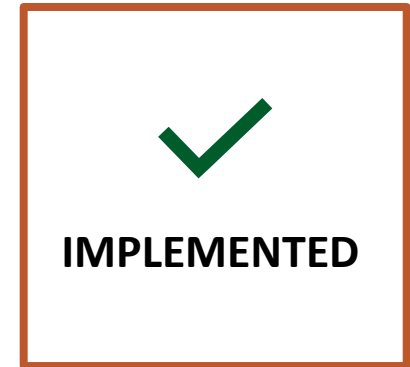


# Recommendation 4.1

---

Update A.R. 2.10 and other department policies to explicitly include guidance around department agreements for work for outside entities, which is paid for by reimbursements to the City from the outside entities. Internal procedures should include appropriate criteria to identify and document the benefit to the City gained by work for outside entity agreements, and to allocate resources in a way that does not negatively impact City operations. Additionally, BPD should document their criteria for when officers are not available or eligible for work for outside entities.

- BPD has finalized Policy 1043 and will begin using the newly created contracts with outside entities.



# Recommendation 4.2

---

In consultation with the City Attorney, create contracts with outside entities in compliance with City policies and applicable laws.

- Service agreements for work with outside entities are drafted and available on the Police Department's website:  
<https://berkeleyca.gov/sites/default/files/documents/BPD%20Service%20Agreement-final.pdf>. BPD's sergeant in special events will be doing outreach to all of the regular consumers/requesters as a next step.
- Description of what is left to do and anticipated implementation date
- Consider including resources needed to implement (\$, staff, technology, attorney input, management review, etc.)



# Recommendation 4.3

---

Develop an application for BPD's services that is publicly available and accessible online to any interested party. Set pay uniformly according to rank and hourly rate and include a reasonable fee that covers the expenses of administering work for outside entities including workers compensation, fuel, use of equipment, and any other actual or potential costs to the City.

- The application and service agreement have been added to the BPD website on the Community Liaisons page under "Related Documents". BPD will be working with their web management team to add it to the main City of Berkeley website in the "Special Events" section. <https://berkeleyca.gov/safety-health/police/community-liaisons>
- A 10% fee was added on top of employee fees to offset costs associated with coordinating special events, including planning and staff time. 10% is a standard administrative fee at the state level and is standard administrative fee for grant funding we receive. We want to be consistent with department administrative fees throughout BPD. The police department will adjust the administrative fee in the future as needs dictate.

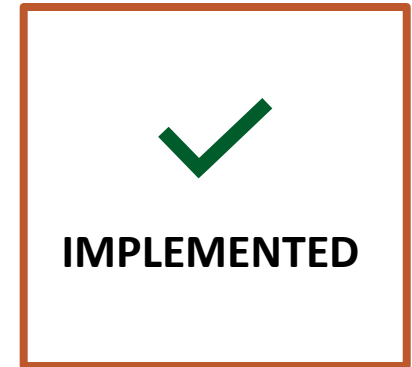


# Recommendation 4.4

---

BPD should reconcile invoices with the amounts received for work with outside entities at regular intervals. BPD should also implement procedures to check invoices for errors prior to billing outside entities.

- BPD's Admin & Fiscal Services Unit developed a written procedure for the "Outside Entity Billing Process". This will ensure consistency or accountability in billing and tracking.



# Recommendation 4.5

---

Explore ways to clearly account for different funds to track revenues and expenses.

- BPD is in the beginning stages of developing potential solutions to account for different funds. It may require collaboration with Finance, Budget, Payroll Audit, the ERMA Team, and other stakeholders.
- Description of what is left to do and anticipated implementation date
- Consider including resources needed to implement (\$, staff, technology, attorney input, management review, etc.)





Office of the City Manager

INFORMATION CALENDAR  
May 23, 2023

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Jennifer Louis, Interim Chief of Police

Subject: Audit Recommendation Status - Berkeley Police: Improvements Needed to Manage Overtime and Security Work for Outside Entities

CURRENT SITUATION AND ITS EFFECTS

The City Auditor's report included 12 recommendations. Five of the recommendations have been implemented, one has been partly implemented and six of the recommendations have been started. The next status update report will be in six months.

Included in the update is progress on two significant recommendations. We have recently implemented an electronic staffing software solution that will improve ability to monitor overtime and resources. The Department worked with the City Attorney's Office to develop Policy 1043 which describes the procedures and contractual agreement requirements for working with outside entities. That policy is attached to this item. Information about the process as well as the application itself are also available on the Police Department website at;

<https://berkeleyca.gov/safety-health/police/community-liaisons>

BACKGROUND

On March 3, 2022, the City Auditor's Office issued its audit, *Berkeley Police: Improvements Needed to Manage Overtime and Security Work for Outside Entities*<sup>1</sup>. This audit report included 12 recommendations. The purpose of this report is to update the City Council on the Police Department's progress on implementing the City Auditor's recommendations. This is the second status report for this audit, the first being in November 2022.

---

<sup>1</sup> City Auditor's Office Overtime Audit (3/3/2022)

<https://berkeleyca.gov/sites/default/files/2022-04/Berkeley%20Police%20-%20Improvements%20Needed%20to%20Manage%20Overtime%20and%20Security%20Work%20for%20Outside%20Entities.pdf>

### ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

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

### FISCAL IMPLICATIONS

Staff time in addition to the contract costs. The contract for CareWare, approved in 2022 is \$191,740 (5-year contract). This software is now being utilized throughout the whole Police Department.

### CONTACT PERSON

Captain Kevin Schofield, Police Department, (510) 981-5815

### ATTACHMENTS

1. Police Overtime Recommendation Table
2. Policy 1043 - Extra Duty Employment





| <b>Audit Title: Berkeley Police: Improvements Needed to Manage Overtime and Security Work for Outside Entities</b> |                       |                                                                                                                                                                                                                                                                                                                                                                                                                                            |                   |                                               |                                                                                                                                                                                                                                                                                                                       |                            |
|--------------------------------------------------------------------------------------------------------------------|-----------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------|-----------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------|
| <b>Finding</b>                                                                                                     | <b>Recommendation</b> |                                                                                                                                                                                                                                                                                                                                                                                                                                            | <b>Department</b> | <b>Expected or Actual Implementation Date</b> | <b>Status of Audit Recommendations, Corrective Plan, and Progress Summary</b>                                                                                                                                                                                                                                         | <b>Last Period: Status</b> |
| Overtime is used to maintain minimum patrol staffing set by BPD.                                                   | 1.1                   | Collect and monitor data on how often compensatory time leads to additional backfill overtime and develop a plan to monitor it.                                                                                                                                                                                                                                                                                                            | Police            | 9/1/2023                                      | <u>Started:</u><br>The CareWare electronic staffing software solution has recently been implemented to monitor staffing, overtime and time off, plus shift trades/swaps. Now that the software is being utilized, BPD will be better able to work towards understanding the expense and impacts of compensatory time. | Not Started                |
| Overtime is used to maintain minimum patrol staffing set by BPD.                                                   | 1.2                   | Fill vacancies deemed necessary and/or reallocate staff pending the reimagining process and a determination of appropriate staffing levels.                                                                                                                                                                                                                                                                                                | Police            | Ongoing                                       | <u>Started:</u><br>The City of Berkeley released an RFP for a "Berkeley Police Department Workload Organizational Study". A vendor for the organizational workload study has been selected and BPD is entering into the contracting process.                                                                          | Not Started                |
| Minimum staffing levels in BPD's Patrol Unit could cause unnecessary overtime if not regularly updated.            | 2.1                   | Establish a procedure to regularly assess minimum staffing and overall staffing needs of the department. This process should document and incorporate criteria to assess staffing levels, such as calls for service, other workload, community input, and other relevant factors. As BPD prepares for the rollout of a new software system, BPD should consider how to best align the program's capabilities with this assessment process. | Police            | 9/1/2023 - 3/1/2024                           | <u>Started:</u><br>Annually, BPD will monitor and reassess workloads as they consider how to best allocate resources. These internal tools were used with the March 2023 timesheet to help identify a new beat structure to ensure adequate coverage plus rebalancing minimum staffing levels.                        | Not Started                |

|                                                                                                         |     |                                                                                                                                                                                                                                    |        |                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |             |
|---------------------------------------------------------------------------------------------------------|-----|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------|---------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------|
| Minimum staffing levels in BPD's Patrol Unit could cause unnecessary overtime if not regularly updated. | 2.2 | Document and define the Patrol Unit's minimum staffing levels in a publicly assessable format.                                                                                                                                     | Police | 9/2/2022            | <u>Implemented:</u><br>This information has been placed on the BPD webpage. The button "current officer shift assignments" links to a timesheet with officer assignments. Information can be viewed at <a href="https://berkeleyca.gov/safety-health/police/community-liaisons">https://berkeleyca.gov/safety-health/police/community-liaisons</a> . The public-facing CoB website additionally includes the following language: "Note: The timesheet and minimum staffing levels are a starting point for each shift assessed every six months and commanders have a number of options to consider regularly. There are often daily assessments, as well. Overtime to backfill officers is typically triggered when a patrol team's staffing drops below 9 or 10, depending on which Patrol team, or as other needs may dictate (crimes, emergencies, protests, etc.). These numbers are always subject to change." | Implemented |
| Minimum staffing levels in BPD's Patrol Unit could cause unnecessary overtime if not regularly updated. | 2.3 | Document the results of staffing assessments along with the assessment criteria. Incorporate results into staffing projections for budgetary decision making, including establishing a sufficient and appropriate overtime budget. | Police | 9/1/2023 - 3/1/2024 | <u>Started:</u><br>A vendor for the organizational workload study has been selected and BPD is entering into the contracting process.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | Not Started |

|                                                                              |            |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |               |                 |                                                                                                                                                                                                                                                                                                                                                                                                     |                    |
|------------------------------------------------------------------------------|------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------|-----------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------|
| <p>Officers work excessive overtime, increasing health and safety risks.</p> | <p>3.1</p> | <p>Update the department overtime policy to address the fact that there currently is no limit to the number of consecutive days worked and determine the appropriate limit for overtime that is enforceable with the goal of avoiding officer fatigue. The department may examine other jurisdictions' overtime limits as possible criteria.</p>                                                                                                                                                                                   | <p>Police</p> | <p>3/1/2024</p> | <p><u>Started:</u><br/>BPD has started looking into what other agencies do regarding limiting the number of consecutive days worked. The current policy addresses the maximum number of work hours per week but does not address consecutive days worked. The recent implementation of the electronic staffing software solution and tracking abilities may also help guide any needed changes.</p> | <p>Not Started</p> |
| <p>Officers work excessive overtime, increasing health and safety risks.</p> | <p>3.2</p> | <p>Work to implement a staffing software solution that integrates overtime management and scheduling software. Develop management reports that provide timely, accurate, and complete information on overtime usage. Develop a process for filling overtime shifts on a voluntary and mandatory basis, including supervisor approval. Build in warnings for when an individual is approaching overtime limits and an approval process for allowing individuals to exceed limits when deemed necessary according to the policy.</p> | <p>Police</p> | <p>3/8/2023</p> | <p><u>Implemented:</u><br/>The CareWare electronic staffing software solution has recently been implemented to monitor staffing, overtime and time off, as well as shift trades/swaps. This includes a warning notice within the system that someone could be working more than the allowed number of hours. This warning requires acknowledgement by the user allowing the hours.</p>              | <p>Started</p>     |

|                                                                   |     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |        |         |                                                                                                                                                                                                                                                                  |         |
|-------------------------------------------------------------------|-----|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------|---------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------|
| BPD has no contracts for overtime security with outside entities. | 4.1 | Update A.R. 2.10 and other department policies to explicitly include guidance around department agreements for work for outside entities, which is paid for by reimbursements to the City from the outside entities. Internal procedures should include appropriate criteria to identify and document the benefit to the City gained by work for outside entity agreements, and to allocate resources in a way that does not negatively impact City operations. Additionally, BPD should document their criteria for when officers are not available or eligible for work for outside entities. | Police | Ongoing | <u>Implemented:</u><br>BPD finalized Policy 1043 and will begin using the newly created contracts with outside entities.                                                                                                                                         | Started |
| BPD has no contracts for overtime security with outside entities. | 4.2 | In consultation with the City Attorney, create contracts with outside entities in compliance with City policies and applicable laws.                                                                                                                                                                                                                                                                                                                                                                                                                                                            | Police | Ongoing | <u>Partly Implemented:</u><br>Service agreements for work with outside entities are drafted and available on the Police Department's website. BPD's sergeant in special events will be doing outreach to all of the regular consumers/requesters as a next step. | Started |

|                                                                   |     |                                                                                                                                                                                                                                                                                                                                                                                       |        |           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |         |
|-------------------------------------------------------------------|-----|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------|-----------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------|
| BPD has no contracts for overtime security with outside entities. | 4.3 | Develop an application for BPD's services that is publicly available and accessible online to any interested party. Set pay uniformly according to rank and hourly rate and include a reasonable fee that covers the expenses of administering work for outside entities including workers compensation, fuel, use of equipment, and any other actual or potential costs to the City. | Police | 3/30/2023 | <u>Implemented:</u><br>The application and service agreement have been added to the BPD website on the Community Liaisons page under 'Related Documents'. BPD will be working with their web management team to add it to the main City of Berkeley website in the 'Special Events' section. A 10% fee was added on top of employee fees to offset costs associated with coordinating special events, including planning and staff time. 10% is a standard administrative fee at the state level and is standard administrative fee for grant funding they receive. BPD wants to be consistent with department administrative fees throughout BPD. The police department will adjust the administrative fee in the future as needs dictate. | Started |
| BPD has no contracts for overtime security with outside entities. | 4.4 | BPD should reconcile invoices with the amounts received for work with outside entities at regular intervals. BPD should also implement procedures to check invoices for errors prior to billing outside entities.                                                                                                                                                                     | Police | 3/7/2023  | <u>Implemented:</u><br>BPD's Admin & Fiscal Services Unit developed a written procedure for the 'Outside Entity Billing Process'. This will ensure consistency and accountability in billing and tracking.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | Started |
| BPD has no contracts for overtime security with outside entities. | 4.5 | Explore ways to clearly account for different funds to track revenues and expenses.                                                                                                                                                                                                                                                                                                   | Police | Ongoing   | <u>Started:</u><br>BPD is in the beginning stages of developing potential solutions to account for different funds. It may require collaboration with Finance, Budget, Payroll Audit, the ERMA Team, and other stakeholders.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | Started |

## Extra Duty Employment

### 1043.1 PURPOSE AND SCOPE

This policy covers extra duty employment, which consists of officers working special details wherein the City of Berkeley has a contractual agreement to provide services for a fee to private third parties.

#### 1043.1.1 DEFINITIONS

**Extra Duty Employment-** Extra Duty Employment occurs when a member of this Department performs police services at the request of a private third party and receives overtime compensation or wages paid directly into their routine pay, the cost of which the City will recover pursuant to a Service Agreement between the private third party and the City. Approval shall be obtained from the Chief of Police prior to any overtime being posted for Extra Duty Employment.

### 1043.2 OBTAINING APPROVAL FOR EXTRA DUTY EMPLOYMENT

All requests for Extra Duty Employment will be offered only after a third party has signed a Service Agreement and completed an Application for Extra Duty Services prior to the officers being assigned.

The City is under no obligation to provide or approve Extra Duty Employment and all requests must consider the following criteria:

- The overall staffing needs of the Department, including Investigations and specialized patrols such as the Bike Force Team
- The impact of the request on officer wellness and fatigue mitigation
- The degree to which the extra duty employment supports overall public safety and builds connections with the community.
- The potential the extra duty employment has to cast discredit upon or create embarrassment for the Department or City Government.

In instances where the Department chooses not to staff an Extra Duty Employment opportunity, the private third party will not incur any charges.

The completion of a Service Agreement and Application for Extra Duty Services is required for all events in which the Berkeley Police Department will seek reimbursement. All police grant work is excluded from this policy. Mutual Aid response from the Berkeley Police Department may include incidents wherein reimbursement is expected, however it is explicitly excluded from the provisions of the Extra Duty Employment, and is covered under General Order M-02, and Policy 327 (upon its publication).

Any private third party seeking Extra Duty Employment shall complete the following:

- The private third party must complete the **Service Agreement** in order to request Extra Duty Employment. This form is available on the Police Department's website, and is attached to this policy.
- The **Service Agreement** may be entered into for a one-time event, for repeating events, or to cover continuous service. **Service Agreements** for Extra Duty Employment will span no longer than the duration of one calendar year, automatically resetting every January 1<sup>st</sup> for events that seek continuous services. In circumstances like the Berkeley Unified School District which may have different events spanning the year, the **Service Agreement** for Extra Duty Employment should identify what activities or events (i.e. sporting events, dances, graduation) are anticipated. Extra Duty Employment outside of these events will require an additional application. This allows for adjusted staffing consistent with the needs of each respective event.

## *Extra Duty Employment*

---

- City Manager approval must be obtained for all **Service Agreements**.
- The private third party must complete an **Application for Extra Duty Employment**. This form is available on the Police Department's website, and is attached to this policy.
- The private third party must submit the **Application for Extra Duty Employment** and any additional supporting documents to the Special Events Sergeant.
- Chief of Police approval must be obtained for all **Applications for Extra Duty Employment**
- The Special Events Sergeant will be the contact person between the Department and the private third party on the status of their respective application.
- The Special Events Sergeant will be responsible for posting the overtime.
- The Special Event Sergeant shall maintain records of all submitted Extra Duty Employment requests and shall be responsible for annual renewal of Service Agreements.

### **1043.3 EXTRA DUTY EMPLOYMENT- SWORN PERSONNEL**

Sworn personnel are subject to the following provisions regarding Extra Duty Employment while working in a law enforcement function representing the Berkeley Police Department:

- Officers will treat Extra Duty Employment overtime like regular patrol duty, and shall be dressed in full Police Uniform, and adhere to all policies and procedures of the Berkeley Police Department. Officers are permitted to use marked police vehicles as appropriate while working in this capacity.
- All officer conduct will be highly professional, and all law enforcement actions taken will be those authorized by the employee's status as a California police officer.
- In all Extra Duty Employment instances, the police personnel shall at all times be subject to the exclusive direction, supervision, and control of the Police Department.
- Equipment, including vehicles, may be assigned by the Police Department based on the nature and duration of the work to be performed.

[See attachment: BPD Service Agreement-final.pdf](#)

[See attachment: Application for Extra Duty Services.pdf](#)



## Attachments

## BPD Service Agreement-final.pdf

**CITY OF BERKELEY POLICE DEPARTMENT SERVICE AGREEMENT**

This agreement for services (“Agreement”) is by and between the City of Berkeley, a chartered California municipal corporation (“City”) and \_\_\_\_\_ (“Organization”). The City and the Organization may be referred to herein individually as a “Party”, or collectively as the “Parties”.

The Parties agree to the following terms and conditions:

1. DATES: Unless this paragraph is subsequently modified by a written amendment to this Agreement, the term of this Agreement shall begin on \_\_\_\_\_ and terminate on \_\_\_\_\_.
2. SERVICES; CONDITIONS; CITY EMPLOYEES: In exchange for the compensation from the Organization, as described in this Agreement, the City’s Police Department Peace Officer Personnel (“Personnel”) shall provide security services, crowd control, and/or traffic control (collectively, “Services”) as may be separately requested by the Organization and agreed upon by the City. In performing such Services, the Personnel shall be utilized only in their capacity as Peace Officers, as defined by California Government Code Section 50920 and Penal Code Sections 830 and 830.1.

The Personnel shall, at all times, be subject to the exclusive direction, supervision, and control of the City. The Personnel shall remain employees of the City when performing Services under this Agreement, and shall not be deemed employees of the Organization.

Services shall be provided only upon written request by the Organization via the completion of an Application for Extra Duty Services, attached hereto as Exhibit A. Any request shall include the date and time-period for which Services are required, the number of Personnel anticipated, and a description of the Services. The City may reject any request for any reason in its sole discretion.

The City’s ability to perform such Services is subject to the availability of its Personnel, as such availability may be determined by the City in its sole discretion. It is understood and agreed that the City assumes no liability for its rejection of any request for Services or its inability to provide Personnel for Services on any particular date and/or time.

3. BILLING: The Organization will be billed by the City for Services rendered by the Personnel at the overtime rate of the individual Personnel who provide the Services plus indirect costs of 10% of the hourly rate. The specific hourly rate for the individual Personnel shall be determined by the City and shall include a three-hour minimum charge per individual Personnel. Billing for Services shall begin from the time the officer leaves the police station to travel to the off-site work area and will continue until the officer has returned from the off-site work area to the police station.
4. INDEMNITY/HOLD HARMLESS: To the maximum extent permitted by law, and excluding the gross negligence or willful misconduct by the Personnel while providing the Services, the Organization shall defend, indemnify, and hold harmless, the City (including any City employee, officer, or agent), from any claim, injury, loss, or damage,

including all costs and reasonable attorney’s fees, in any way arising from the Services provided under this Agreement.

- 5. **LIABILITY INSURANCE/ADDITIONAL INSURED**S: The Organization shall provide and maintain certificates of insurance for a Commercial General Liability and Automotive Liability insurance policy (in a form acceptable to the City Attorney’s Office), which carries general policy coverage limits of at least one million dollars (\$1,000,000).

The Organization shall also provide an endorsement to such insurance policy providing coverage at least as broad as Insurance Services Office Endorsement CG 2010, 1985 Edition, which names the City of Berkeley and its employees, officers, and agents as additional insureds under said policy. Such insurance shall be primary and non-contributing, and shall include a waiver of any right of subrogation against the City. The Additional Insureds endorsement must include the following, or very similar, language: The City of Berkeley and its employees, officers, and agents are hereby added as additional insureds with respect to liability arising out of the paid services the City provides to the Organization under the terms of the Berkeley Police Department Service Agreement.

- 6. **WORKER’S COMPENSATION CLAIMS**

An employee’s worker’s compensation claim for an injury sustained while performing Services under this Agreement shall be primarily covered by the City’s Workers’ Compensation Insurance Plan.

- 7. **BINDING and NON-DELEGATION**: The City and Organization bind themselves to the terms and conditions of this Agreement, and except as otherwise set forth in this Agreement, no interest in this Agreement or any of the Services provided for in a request under this Agreement shall be assigned, delegated, or transferred, either voluntarily or by operation of law, without the prior written approval of the Parties.

- 8. **NOTICES**: All notices prescribed by this Agreement shall be in writing and shall be deemed effective once delivered and properly received by:

To City: Chief of Police  
Berkeley Police Department  
2100 Martin Luther King, Jr., Way  
Berkeley, CA 94704

To Organization: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

- 9. **GOVERNING LAW**: This Agreement shall be governed and construed in accordance with City of Berkeley Municipal Code and the laws and regulations of the State of California.

- 10. **AMENDMENTS:** The City or Organization may, from time to time, request changes in the terms and conditions of this Agreement. Such changes, which are mutually agreed upon in writing by the City and Organization shall be incorporated in amendments to this Agreement.
- 11. **COUNTERPARTS:** This Agreement may be executed in counterparts, each of which shall be deemed to be an original, but both of which shall constitute one and the same instrument; and, the Parties agree that signatures on this Agreement, including those transmitted by facsimile or scanned email attachment, shall be sufficient to bind the Parties.
- 12. **OTHER AGREEMENTS:** This Agreement shall not supersede, amend, or otherwise alter any other contract, memorandum of understanding, or any other written agreement between the Parties.
- 13. **UNDERSTANDING/AUTHORITY TO SIGN:** The Parties hereby certify that they have read the above terms and conditions, and agree to conform to them and all laws and regulations pertaining to the use of City Personnel for the purposes as set forth in this Agreement. The signatories below warrant and represent they have the authority to bind the Party to the terms of this Agreement.

CITY OF BERKELEY

Dated: \_\_\_\_\_

---

Office of the City Manager  
 City of Berkeley  
 2180 Milvia Street, 5<sup>th</sup> Floor  
 Berkeley, CA 94704

ORGANIZATION NAME: \_\_\_\_\_

Dated: \_\_\_\_\_

By: \_\_\_\_\_  
(Signature of Person authorized to bind the Organization)

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Address: \_\_\_\_\_

Email Address: \_\_\_\_\_

Telephone: ( ) \_\_\_\_\_

Fax: ( ) \_\_\_\_\_

## Application for Extra Duty Services.pdf



**BERKELEY POLICE DEPARTMENT**  
 2100 Martin Luther King Junior Way, Berkeley, CA 94704  
 TEL: (510) 981-5900, TDD (510) 981-5799, FAX: (510) 981-5744  
 EMAIL: [police@cityofberkeley.info](mailto:police@cityofberkeley.info)

### APPLICATION FOR EXTRA DUTY SERVICES

|                                                        |                                          |
|--------------------------------------------------------|------------------------------------------|
| <b>Applicant Information</b>                           |                                          |
| Name:                                                  | Address:                                 |
| Phone:                                                 | Alternate Phone:                         |
| Email:                                                 |                                          |
| <b>Reason for Request and Officer Responsibilities</b> |                                          |
| One Time Event <input type="checkbox"/>                | Annual Employer <input type="checkbox"/> |
| Reason for the Request:                                |                                          |
| List Responsibilities that Officer(s) will provide:    |                                          |
| Number of Officer(s) Requested:                        |                                          |
| <b>Event Information</b>                               |                                          |
| Date(s) of Event:                                      |                                          |
| Event Address:                                         |                                          |
| Company or Event Name:                                 |                                          |
| Company Address:                                       |                                          |
| Company Phone:                                         | Email:                                   |

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p><b>Insurance:</b><br/>                 A completed general liability endorsement for \$1,000,000 naming the prospective employee(s) as the insured for the period of Extra Duty Employment is required.<br/> <b>Insurance Agency Name:</b> _____ <b>Phone Number:</b> _____<br/> <b>Policy Number:</b> _____ <b>Expiration Date:</b> _____<br/> <b>A copy of the Insurance Policy Attached, If not explain:</b> _____</p> <p><b>Billing:</b><br/>                 The Organization will be billed by the City for Services rendered by the Personnel at the overtime rate of the individual Personnel who provide the Services plus indirect costs of 10% of the hourly rate. The specific hourly rate for the individual Personnel shall be determined by the City and shall include a three-hour minimum charge per individual Personnel. Billing for Services shall begin from the time the officer leaves the police station to travel to the off-site work area and will continue until the officer has returned from the off-site work area to the police station.<br/>                 The applicant's submission is an acknowledgement that any Police Services offered are subject to the City of Berkeley Police Department Service Agreement, and that Police Officers will adhere to all Berkeley Police Department policies, procedures, and all local, state, and federal laws. The applicant further acknowledges and agrees that in all instances, the police personnel shall at all times be subject to the exclusive direction, supervision, and control of the Police Department.</p> |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

|                                                                                                                          |                |
|--------------------------------------------------------------------------------------------------------------------------|----------------|
| <b>Applicant Signature</b> Applicant has declared that the information provided in this application is true and correct. |                |
| Signature:                                                                                                               | Date:          |
| <b>BPD USE  </b> Received By:                                                                                            | Date Received: |







Office of the City Manager

On May 23, 2023, the City Council adopted the recommendation outlined in this staff report, referring to the Budget and Finance Policy Committee to prioritize funding to the vehicle replacement fund to make up the shortfall over time in order to stabilize the fund.

## CONSENT CALENDAR

May 23, 2023

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Liam Garland, Director, Department of Public Works

Subject: Audit Status Reports: Fleet Replacement Fund Short Millions & Rocky Road: Berkeley Streets At Risk and Significantly Underfunded

### POLICY COMMITTEE RECOMMENDATION

On April 13, 2023, the Facilities, Infrastructure, Transportation, Environment & Sustainability Committee adopted the following action: M/S/C (Hahn/Robinson) to send the item to City Council with a positive recommendation that Council:

1. Refer to the City Manager to establish a policy that the Public Works Department will be responsible for reviewing, submitting, and approving all departmental requests to Council for adding new vehicles to the fleet to facilitate maximum cost recovery through the vehicle replacement fund, consistency with fleet rightsizing studies, oversight, and timely electrification of the fleet.
2. Refer to the Budget and Finance Committee to prioritize funding to the vehicle replacement fund to make up the shortfall over time in order to stabilize the fund.

Vote: All Ayes.

### INTRODUCTION

On November 19, 2020, the City Auditor published the Rocky Road: Berkeley Streets at Risk and Significantly Underfunded Audit Report<sup>1</sup>, reviewing the funding resources to sufficiently maintain City streets, and asking if Public Works has clear policies and processes to guide paving decisions. This is the first status report regarding this audit. On June 2, 2021, the City Auditor published the Fleet Replacement Fund Short Millions Audit Report<sup>2</sup>, reviewing the solvency of the fund to sufficiently replace vehicles and asking if Public Works has the key information necessary to manage the Fleet program. This is the first status report to City Council on the efforts made to implement the Audit Report's recommendations for Fleet.

### CURRENT SITUATION AND ITS EFFECTS

The Street Paving Audit Report noted two findings and five recommendations for the Public Works Department to review, implement and report to Council. As of this report,

<sup>1</sup> Rocky Road: Berkeley Streets at Risk and Significantly Underfunded <https://berkeleyca.gov/sites/default/files/2022-01/Rocky-Road-Berkeley-Streets-at-Risk-and-Significantly-Underfunded.pdf>

<sup>2</sup> Audit: Fleet Replacement Fund Short Millions: <https://berkeleyca.gov/sites/default/files/2022-01/Fleet-Replacement-Fund-Short-Millions.pdf>

three recommendations have been implemented and two recommendations have been partially implemented.

The Fleet Audit Report noted two findings and twelve recommendations for the Public Works Department to review, implement and report to Council. As of this report, there are updates to the status of all twelve recommendations. The first set of seven recommendations was related to the underfunding of the replacement fund. One recommendation has been partly implemented, the remaining six recommendations have been started. The second set of five recommendations focused on Public Works having critical information available to inform management and decision making. All five recommendations under this finding have been started.

The attachment provides a detailed table of audit report recommendations, steps towards corrective action, and implementation updates. The next status report will be in May.

#### BACKGROUND

Public Works' Engineering Division is responsible for capital projects to maintain over 216 centerline miles of streets in Berkeley, while the Streets & Utilities Division handles day-to-day maintenance of those streets. Public Works' Equipment Maintenance Division manages the maintenance, purchase, and replacement of the City's 730 fleet vehicles, heavy duty trucks and large equipment, including public safety, fire, and alternative fuel vehicles and equipment. Public Works' Administrative and Fiscal Services Division is responsible for the Department's budget and fiscal oversight, regulatory compliance and reporting, and analytical support for routine and special projects in all Public Works operating divisions.

#### ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

Public Works replaces vehicles with alternative fuel, hybrid and electric vehicles whenever possible given availability of fleet technology, available budget and charging infrastructure. Streets that are improved to benefit all users help encourage more bicycling and walking, which lowers greenhouse gas emissions. Streets that are improved to include green infrastructure help reduce pollution and clean stormwater before it reaches the Bay.

#### POSSIBLE FUTURE ACTION

Public Works will continue to address the remaining three partially implemented recommendations in the Streets Audit and the twelve started and partially implemented recommendations in Fleet Audit.

#### FISCAL IMPACTS OF POSSIBLE FUTURE ACTION

In the biennial budget adoption for FY 2023 and FY 2024, the City Council allocated an increase of \$5,000,000 (FY2023) and \$9,100,000 (FY2024) to street paving in the Capital Improvement Fund. The Council also passed a funding guideline to approve an \$8,000,000 increase in future fiscal years. This funding is intended to raise paving

funding to levels sufficient to maintain current pavement conditions. The Measure L Bond Measure, if approved by Berkeley voters on November 8, 2022, would raise \$300,000,000 towards street and traffic safety improvements, including improvements that advance bicycle and pedestrian use and safety. Project funding would be allocated over several years to raise the pavement condition index (PCI) to 70 or above, which is a "Good" status.

CONTACT PERSON

Sean O'Shea, Administrative & Fiscal Services Manager (510) 981-6306

Joe Enke, Manager of Engineering (510) 981-6411

Greg Ellington, Equipment Management Superintendent (510) 981-9469

Attachment:

1. Audit Findings and Recommendations Response Report – Streets
2. Audit Findings and Recommendations Response Report - Fleet

| <b>Audit Title: Rocky Road: Berkeley Streets at Risk and Significantly Underfunded</b>                                              |                       |                                                                                                                                                                                                                                                                                                                                                                                       |                        |                                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
|-------------------------------------------------------------------------------------------------------------------------------------|-----------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------|-----------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Finding</b>                                                                                                                      | <b>Recommendation</b> |                                                                                                                                                                                                                                                                                                                                                                                       | <b>Lead Department</b> | <b>Expected or Actual Implementation Date</b> | <b>Status of Audit Recommendations, Corrective Action Plan, and Progress Summary</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| Without significant additional funding, Berkeley streets will continue to deteriorate and deferred maintenance costs will increase. | 1.1                   | Annually, conduct a budget analysis, based on the deferred maintenance needs at that point in time, to determine what level of funding is necessary to achieve the desired goals of the Street Rehabilitation Program. Report findings to City Council. This information will be helpful during updates to the Five-Year Street Rehabilitation Plan and during the budgeting process. | Public Works           | Ongoing                                       | <u>Partly Implemented:</u><br>The City received a PTAP grant to fund a consultant (PEI) to survey the entire City's paving condition. The consultant's report is pending. The newly adopted Street Rehab policy says that the City will conduct funding sufficiency analysis based on existing deferred maintenance. This analysis will be included as part of the biannual Paving Plan adoption. Public Works will propose a budget as part of the biannual CIP adoption to address the paving needs, based on available resources, and will present any funding shortfalls to the Council. |
| Without significant additional funding, Berkeley streets will continue to deteriorate and deferred maintenance costs will increase. | 1.2                   | Identify funding sources to achieve and maintain the goals of the Street Rehabilitation Program.                                                                                                                                                                                                                                                                                      | Public Works           | Ongoing                                       | <u>Partly Implemented:</u><br>Funding sources for street improvement are identified in the Capital Improvement Program budget. The City Council also approved a ballot measure for the November 2022 ballot which if passed, will provide up to \$300,000,000 to improve Berkeley's streets, sidewalks and bike and ped infrastructure. Approximately \$230 million would be allocated to Street Rehabilitation and Repair.                                                                                                                                                                  |

|                                                                                                          |            |                                                                                                                                                                                                                         |                     |                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
|----------------------------------------------------------------------------------------------------------|------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------|---------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>The Streets Rehabilitation and Repair Policy is out-of-date and Public Works is not following it.</p> | <p>2.1</p> | <p>Update the Street Rehabilitation and Repair Policy annually and define who is responsible for ensuring the Policy is updated, as stated in the Policy.</p>                                                           | <p>Public Works</p> | <p>January 2022</p> | <p><u>Implemented:</u><br/>Public Works Commission approved a Street Rehabilitation and Repair Policy March, 2021, which was received and revised after consideration at the FITES Commission in May 2021, and ultimately adopted by City Council on January 25, 2022. The Policy and Five Year Paving Plan were considered and adopted on the same Council agenda. The Street and Maintenance Policy shall be adopted by City Council at a minimum interval of 5 years, after review by the Transportation and Infrastructure Commission.</p>                                                                                                                                                                                                        |
| <p>The Streets Rehabilitation and Repair Policy is out-of-date and Public Works is not following it.</p> | <p>2.2</p> | <p>When updating the Street Rehabilitation and Repair Policy, incorporate equity to align with Vision 2050 and clearly define how it will be applied to the street maintenance and rehabilitation planning process.</p> | <p>Public Works</p> | <p>January 2022</p> | <p><u>Implemented:</u><br/>The updated Street Rehabilitation and Repair Policy was adopted with clear language placing Equity as an objective: "The benefits of good infrastructure shall be distributed equally throughout the entire community regardless of income, political influence, or demographic characteristics of the residents in the area. Equity means that disadvantaged residents with more pressing needs experience benefits sooner than others, as defined by the City within the adopted Five Year Plan." The policy also calls for the designation of an Equity Zone, serving neighborhoods with historic underinvestment, which is to be prioritized to achieve the PCI goals of 70 sooner than the remainder of the City.</p> |

|                                                                                                          |            |                                                                                                                                                                                                                                                                                                                 |                     |                     |                                                                                                                                                                                                                                                                                                                                                                                                            |
|----------------------------------------------------------------------------------------------------------|------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------|---------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>The Streets Rehabilitation and Repair Policy is out-of-date and Public Works is not following it.</p> | <p>2.3</p> | <p>Define goals and performance measures to guide the Street Rehabilitation and Repair Policy and Street Rehabilitation Program that align with other plans and policies relevant to street paving (e.g., Complete Streets Policy, Vision 2050, etc.). Regularly report to Council on performance measures.</p> | <p>Public Works</p> | <p>January 2022</p> | <p><u>Implemented:</u><br/>Performance Metrics are included as a major part of the adopted Specific Policy. Key areas:<br/>1) The goal is to get to standard PCI of 70 for roadways: Arterials, Collectors, Bus Routes, Bikeway Network, and Equity Zone. 2) Funding should be prioritized with Equity in mind 3) Performance metrics reporting will be included with the biannual Paving Plan review.</p> |
|----------------------------------------------------------------------------------------------------------|------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------|---------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

| <b>Audit Title: Fleet Replacement Fund Short Millions</b>   |                       |                                                                                                                                                                                                                                                                                                                                            |                        |                                               |                                                                                                                                                                                                                                                                                     |
|-------------------------------------------------------------|-----------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------|-----------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Finding</b>                                              | <b>Recommendation</b> |                                                                                                                                                                                                                                                                                                                                            | <b>Lead Department</b> | <b>Expected or Actual Implementation Date</b> | <b>Status of Audit Recommendations, Corrective Action Plan, and Progress Summary</b>                                                                                                                                                                                                |
| The Replacement Fund is underfunded by millions of dollars. | 1.1                   | Calculate the dollar value of the City’s replacement needs. Use results from the recent rate study to adjust departments’ replacement fees to cover their share of the costs associated with vehicle replacement, including customization and personnel.                                                                                   | Public Works           | Ongoing                                       | <u>Partly Implemented:</u><br>The current fleet replacements costs have been updated in FUND\$ Fleet Management System to include all costs, and have been reflected in the FY 23 & FY 24 Operating budget and the five year replacement schedule communicated in the FY 23-27 CIP. |
| The Replacement Fund is underfunded by millions of dollars. | 1.2                   | Conduct an analysis of the City’s current fleet and determine the optimal fleet size to provide services efficiently and effectively. This analysis should include fleet units identified as reserve, backup, and “pool” vehicles. The outcome of the analysis should be a plan to achieve and provide funding for the optimal fleet size. | Public Works           | February - May 2023                           | <u>Started:</u><br>Staff issued an RFP to analyze its fleet and received two solicitations. Public Works has selected Mercury Associates to be the consultant to lead the study.                                                                                                    |

|                                                                    |            |                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                     |                |                                                                                                                                                                                                                                                                                                                                                                                                                         |
|--------------------------------------------------------------------|------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------|----------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>The Replacement Fund is underfunded by millions of dollars.</p> | <p>1.3</p> | <p>Work with the City Manager’s Office to adjust the funding model of the Equipment Replacement Fund or adopt a new one to ensure appropriate funding for timely fleet replacement, such as annually transferring money from the General Fund based on an assessment of the City’s overall fleet needs and priorities. Expand the current vehicle and equipment replacement policy to ensure transparency of key provisions of the new or updated model.</p> | <p>Public Works</p> | <p>Ongoing</p> | <p><u>Started:</u><br/>Public Works presented an Equipment Replacement Fund deficit reduction proposal in its departmental budget presentation to the Budget &amp; Finance Policy Committee and in submittals for General Fund consideration to the City Manager. While not funded in FY 23/24, the department will keep monitoring the fund health and make funding proposals in future budget development cycles.</p> |
| <p>The Replacement Fund is underfunded by millions of dollars.</p> | <p>1.4</p> | <p>Revise the vehicle and equipment replacement policy to include that Public Works should regularly assess the personnel expenditures related to vehicle and equipment replacement and ensure that they are appropriate and proportional to their duties.</p>                                                                                                                                                                                               | <p>Public Works</p> | <p>Ongoing</p> | <p><u>Started:</u><br/>Draft policy has been updated and is going through final departmental review.</p>                                                                                                                                                                                                                                                                                                                |
| <p>The Replacement Fund is underfunded by millions of dollars.</p> | <p>1.5</p> | <p>Revise the vehicle and equipment replacement policy to prevent replacing unfunded vehicles by ensuring that contributed funds are available for the purchase.</p>                                                                                                                                                                                                                                                                                         | <p>Public Works</p> | <p>Ongoing</p> | <p><u>Started:</u><br/>Draft policy has been updated and is going through final departmental review.</p>                                                                                                                                                                                                                                                                                                                |



|                                                                                                 |            |                                                                                                                                                                                                                                                                                                                                                                                                         |                     |                |                                                                                                                                                                 |
|-------------------------------------------------------------------------------------------------|------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------|----------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>The Replacement Fund is underfunded by millions of dollars.</p>                              | <p>1.6</p> | <p>Develop an Administrative Regulation that clarifies Public Works’ responsibilities to manage the fleet and maintain sufficient fleet replacement funding.</p>                                                                                                                                                                                                                                        | <p>Public Works</p> | <p>Ongoing</p> | <p><u>Started:</u><br/>The department has drafted a policy document use instead of an AR.</p>                                                                   |
| <p>The Replacement Fund is underfunded by millions of dollars.</p>                              | <p>1.7</p> | <p>To help secure the funding needed for transitioning to electric vehicles by 2030, work with the City Manager’s Office to develop a budgetary plan to purchase electric vehicles. The plan should align with the City’s fleet electrification goals and take into consideration the current economic downturn, funding availability, available infrastructure, and electric vehicle availability.</p> | <p>Public Works</p> | <p>Ongoing</p> | <p><u>Started:</u><br/>EV purchases for FY 23-24 have been outlined in the budget. A budgetary plan for transitioning to EVs by 2030 is not yet available.</p>  |
| <p>Public Works lacks information on vehicle and equipment replacement for decision making.</p> | <p>2.1</p> | <p>Conduct a needs assessment of vehicles overdue for replacement and create a plan that documents a timeline and cost for replacement. Report the findings to City Council.</p>                                                                                                                                                                                                                        | <p>Public Works</p> | <p>Ongoing</p> | <p><u>Started:</u><br/>Backlog vehicles to be purchased have been included in the FY 23-24 budget, though a formal needs assessment has not been completed.</p> |

|                                                                                                 |            |                                                                                                                                                                                                                                                                                                                                                                                                |                     |                |                                                                                      |
|-------------------------------------------------------------------------------------------------|------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------|----------------|--------------------------------------------------------------------------------------|
| <p>Public Works lacks information on vehicle and equipment replacement for decision making.</p> | <p>2.2</p> | <p>Update the vehicle and equipment replacement policy to include criteria for prioritizing fleet replacement. The policy should include a requirement to communicate a delay in replacement of their fleet to affected departments. In Administrative Regulation described in recommendation 1.6, specify that the vehicle and equipment replacement policy should include such criteria.</p> | <p>Public Works</p> | <p>Ongoing</p> | <p><u>Started:</u><br/>Policy update is in draft form and awaits final approval.</p> |
|-------------------------------------------------------------------------------------------------|------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------|----------------|--------------------------------------------------------------------------------------|

|                                                                                          |     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |              |               |                                                                                                                                                              |
|------------------------------------------------------------------------------------------|-----|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------|---------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Public Works lacks information on vehicle and equipment replacement for decision making. | 2.3 | <p>Work with the vendor of the new fleet management system to configure it to address the data issues identified in this report, including:</p> <ul style="list-style-type: none"> <li>• Tracking Replacement Funds collected and leftover funds by department;</li> <li>• Zeroing out the balance after a vehicle is replaced;</li> <li>• Adjusting the replacement date and reporting the rationale if a replacement is deferred;</li> </ul> <p>and</p> <ul style="list-style-type: none"> <li>• Displaying any information needed to prioritize replacements based on specified criteria.</li> </ul> | Public Works | December 2022 | <p><u>Started:</u><br/>Data issues have been presented to the vendor/project management team, though the new data system has not yet been implemented.</p>   |
| Public Works lacks information on vehicle and equipment replacement for decision making. | 2.4 | Clean and update the vehicle and equipment database before migrating it to the new fleet management system to ensure accuracy and data integrity.                                                                                                                                                                                                                                                                                                                                                                                                                                                       | Public Works | December 2022 | <p><u>Started:</u><br/>Data cleanup is underway however the Assetworks implementation is behind schedule and the go-live date is planned for the future.</p> |

|                                                                                                 |            |                                                                                                                                                                                                                        |                     |                |                                                                                      |
|-------------------------------------------------------------------------------------------------|------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------|----------------|--------------------------------------------------------------------------------------|
| <p>Public Works lacks information on vehicle and equipment replacement for decision making.</p> | <p>2.5</p> | <p>Update the vehicle and equipment replacement policy or develop a separate policy to require staff manage the City's data appropriately to ensure accurate complete information to support management decisions.</p> | <p>Public Works</p> | <p>Ongoing</p> | <p><u>Started:</u><br/>Policy update is in draft form and awaits final approval.</p> |
|-------------------------------------------------------------------------------------------------|------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------|----------------|--------------------------------------------------------------------------------------|

# Risk Analysis for Long-Term Debt (Bonding Capacity) Report

Budget and Finance Policy Committee  
14 September 2023

- Council received report on 4/26/22: “Risk-Based Analysis and Stress Test of Long-Term Debt Affordability”
- Report produced by GFOA based on research and development of a risk-modeling tool to address issuing long-term debt related to City of Berkeley Vision 2050
- Report referred to Budget and Finance Policy Committee

# STATUS UPDATE

Page 3 of 34

| Recommended Item                                                                                            | Status                                                                                                                                                                                                                                                                                                                          |
|-------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Consideration of reserves policies for operational funds other than the General Fund                        | Ongoing. CMO working with GFOA on a risk-based probability model to assess General Fund reserves. The outcome of this model will be used to help establish reserve policies for other citywide funds. Draft policies will be presented to the Budget and Finance Policy Committee and then Council for adoption once completed. |
| Potential reduction of the maximum indebtedness rate from 15% of assessed property value down to 4-8% range | Completed. Council adoption of revisions to Debt Management and Disclosure Policy on 6/27/23 changed debt capacity from 15% to 6%. Revised language: "The City is subject to debt capacity limit for its general obligation bonds: 6% of assessed value".                                                                       |

# STATUS UPDATE

Page 4 of 34

| Recommended Item                                                                                         | Status                                                                                                                                                                          |
|----------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| A new policy to not incur indebtedness when interest rates go above 5% or a different specific threshold | Ongoing. This scope is under review, especially with the current interest rate of the Federal Reserve Board and markets.                                                        |
| Tools for increased transparency for taxpayers                                                           | Ongoing. CMO researching cloud-based budgeting software and other tools to increase transparency.                                                                               |
| Updated report and discussion of pension and healthcare costs                                            | Completed. Council received Unfunded Liability Obligations and Unfunded Infrastructure Needs report; held a special meeting on 5/23/23 on pension and retiree healthcare costs. |
| Refer the full Report to the Budget & Finance Committee for consideration                                | Discussion of item on 9/14/23.                                                                                                                                                  |





Office of the City Manager

Date: April 25, 2023  
To: Budget & Finance Policy Committee  
From: Dee Williams-Ridley, City Manager  
Submitted by: Sharon Friedrichsen, Budget Manager  
Henry Oyekanmi, Finance Director  
Subject: Risk Analysis for Long-Term Debt (Bonding Capacity) Report

### RECOMMENDATION

Receive a status update on recommendations and analysis related to the Risk Analysis for Long-Term Debt (Bonding Capacity) Report and provide direction to staff.

### BACKGROUND

On April 26, 2022, the City Council considered accepting a report titled 'Risk-Based Analysis and Stress Test of Long-Term Debt Affordability' as provided by the Government Finance Officers Association (GFOA). Upon receiving the report, City Council referred this item to the City Manager and Budget & Finance Policy Committee to return to Council with recommendations or analysis on as many of the following items as possible by October 2022, if feasible. The purpose of this action item is to receive an update on the status of these items.

1. Consideration of reserves policies for operational funds other than the General Fund  
**Status:** The City Manager's Office is working with the GFOA on a risk-based probability model to assess the appropriate level of General Fund reserves. The outcome of this model will be used to help establish reserve policies for other citywide funds. An internal working group comprised of the City Manager's Office, Finance, Planning, PRW and Public Works has been formed to develop reserve policies for enterprise funds. The draft policies will be presented to the Budget and Finance Policy Committee and then Council for adoption once completed.
2. Potential reduction of the maximum indebtedness rate from 15% of assessed property value down to 4-8% range  
**Status:** The analysis is currently being conducted and completion is targeted for the June 27, 2023 Council date in conjunction with the statutory Annual GAAN Limit and Investment policy changes.

3. A new policy to not incur indebtedness when interest rates go above 5% or a different specific threshold

**Status:** This scope is also being reviewed especially with the current interest rate regime of the Federal Reserve Board and the markets. The target of completion is June 27, 2023.

4. Tools for increased transparency for taxpayers

**Status:** The City Manager's Office has begun research on cloud-based budget and performance management software systems that would allow a more interactive interface and transparency regarding the City's budget. However, additional time is needed to continue to explore these systems as well as other tools for increased transparency.

5. Updated report and discussion of pension and healthcare costs

**Status:** The Unfunded Liability Obligations and Unfunded Infrastructure Needs report, which includes a discussion on pension and other-post employment benefits, including retiree healthcare costs, was placed on the April 11, 2023 Council agenda. The item is being rescheduled for a future meeting date.

6. Refer the full Report to the Budget & Finance Committee for consideration

**Status:** The report has been submitted to the Committee for consideration.

#### ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

There are no identifiable environmental effects or opportunities associated with receiving an update on the bonding capacity report.

#### CONTACT PERSON

Sharon Friedrichsen, Budget Manager, City Manager's Office, 981-7000  
Henry Oyekanmi, Finance Director, 981-7200



Office of the City Manager

ACTION CALENDAR  
April 26, 2022

To: Honorable Mayor and Members of the City Council  
From: Dee Williams-Ridley, City Manager  
Submitted by: Henry Oyekanmi, Director, Finance  
Subject: Accept the Risk Analysis for Long-Term Debt (Bonding Capacity) Report provided by Government Finance Officers Association

RECOMMENDATION

Accept the report titled 'Risk-Based Analysis and Stress Test of Long-Term Debt Affordability' as provided by the Government Finance Officers Association (GFOA). This report is based on their research and development of a risk-modeling tool to address issuing long-term debt related to City of Berkeley Vision 2050.

FISCAL IMPACTS OF RECOMMENDATION

There are no fiscal impacts of accepting the report

CURRENT SITUATION AND ITS EFFECTS

The Risk-Based Analysis and Stress Test of Long-Term Debt Affordability (Bonding Capacity) report is a Strategic Plan Priority Project, advancing our goal to:

- Provide an efficient and financially-healthy City government

The City engaged GFOA to conduct this analysis of the City's bonding capacity through their risk-modeling approach. This analysis will support the City's later development of a thirty-year borrowing plan, which will enable the City to replace its aging infrastructure assets, maintain its General Obligation Bond rating at AA+ at S & P Global and Aa1 at Moody's, and keep the bond property tax rate at an affordable level (which was .0540% at June 30, 2020). The GFOA's risk model and report look at a comprehensive financial analysis with particular focus on options to maintain the City's debt affordability within the framework of the City's huge unfunded pensions and other post-employment benefits (OPEB) and overall City operations.

The study and report are intended to help develop recommendations for a combination of infrastructure-focused revenue measures slated for November 2022 and beyond.

The context provided for GFOA to build the risk model and draft the subsequent report was framed through initially providing these items to GFOA:

1. Vision 2050
2. Unfunded Liabilities Report
3. Capital Improvement Plan in the most recent biennial budget and five-year planning horizon
4. Annual Comprehensive Financial Reports (ACFR)
5. GO Bonds, Revenue Bonds, and Certificates of Participation Debt Repayment Schedules
6. Current Bond Authority and Outstanding Amounts (GO Bonds for the past 20 years as of 7/12/21)
7. City's Debt Policy
8. S and P Global Ratings Letter Re: GO Bonds
9. S and P Global Ratings Letter Re: Lease Revenue Bonds
10. Analysis of City's Debt and Contingent Liability Profile
11. GO Rating Report – April 2021
12. GO Rating Report – February 2020

The GFOA report details these and additional factors that GFOA researched and incorporated into their construction of the risk model and their drafting of the final report.

### BACKGROUND

The City has an extensive portfolio of capital assets and infrastructure, including 95 public buildings; 254 miles of public sanitary sewer mains and 130 miles of public sewer laterals; 52 parks, two pools; three camps; and 42 different facilities served by the City's IT systems. Maintaining these assets is costly and requires significant resources and constant attention. As an older city, 50% of Berkeley's \$837 million of capital assets have exceeded their useful life.

The City's FY 2021 Capital Plan called for spending of \$57 million/year on capital and maintenance needs. Even at this increased level of funding, Berkeley's infrastructure will deteriorate faster than it is being repaired and replaced, and construction cost escalation at four (4) percent/year will significantly increase replacement costs.

To modernize these old physical structures with resilient, durable, and climate-smart infrastructure will require substantial new investments. To adequately address the \$882 million in unfunded infrastructure liabilities, the City needs to double its annual capital spending over the next decade to \$80 million/year. Capital expenditures are typically funded through a combination of debt financing (pay-as-you-use) and cash (pay-as-you-go). Paying in cash avoids the cost of interest, but requires the City to accumulate sufficient cash to fund the project, while construction costs escalate. Using debt to finance capital projects incurs interest expense but allows the project to start earlier, thereby avoiding escalation costs.

The City has an infrastructure system that has allowed it to thrive for over 100 years. Now, the City wants to incorporate new technologies and be able to adapt to meet environmental trends so that the infrastructure systems can continue to support the City for another 100 years. The risk analysis report shows the potential impact of multiple factors on the City's capacity to issue debt during the next thirty years.

#### ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

There are no identifiable effects or opportunities associates with this item.

#### RATIONALE FOR RECOMMENDATION

The City administered Request for Proposals #21-11459-C for consulting services to determine the City's bonding capacity. The RFP was published twice with neither publication generating responses from the market. In the course of staff researching why no responses were received, staff met with GFOA. GFOA provided their relatively new risk-modeling approach to the bonding capacity topic. Thus, it was determined, since a traditional RFP was not generating market response, that it would be advantageous to contract with GFOA for their services to research and develop the risk-model for City of Berkeley to evaluate its capacity for issuance of long-term debt.

#### ALTERNATIVE ACTIONS CONSIDERED

Not conducting the study

#### CONTACT PERSON

Henry Oyekanmi, Director, Finance, 981-7326

#### Attachments:

1: Report: Risk-Based Analysis and Stress Test of Long-Term Debt Affordability (from GFOA, 2022)

# A Risk-Based Analysis and Stress Test of Long-Term Debt Affordability for the City of Berkeley, California

**April 2022**

**Produced by:**

**The Government Finance Officers Association**



# Table of Contents

|                                                               |    |
|---------------------------------------------------------------|----|
| Section 1 – Introduction.....                                 | 3  |
| Section 2 – Defining What is “Affordable” Debt.....           | 5  |
| Section 3 – Key Financial Indicators and Assumptions.....     | 6  |
| Section 4 – Results of the Analysis and Recommendations ..... | 15 |
| Section 5 – Conclusion and Summary.....                       | 23 |
| Appendix 1 – Limitations of GFOA’s Analysis.....              | 25 |

## Section 1 – Introduction

Long-term debt is an important tool for municipal governments to invest in long-term assets that serve their community. The City of Berkeley, California (City) is considering seeking authorization from its voters on a large amount of long-term debt, perhaps up to \$600 million, to support the City of Berkeley’s infrastructure needs included in its Vision 2050 plan. The debt would be used to fund assets like streets, public buildings, and more. This would be the largest amount of debt the City has sought to authorize in at least the last 20 years.<sup>1</sup> Therefore, the City has, prudently, decided to analyze the long-term affordability of this debt and has engaged the Government Finance Officers Association (GFOA) to perform this analysis.

GFOA is a non-profit association of more than 21,000 state and local government finance professionals and elected officials from across the United States and Canada. A key part of GFOA’s mission is to promote best practices in public finance, including analyzing important financial risks like the affordability of long-term debt. GFOA’s approach to risk analysis is distinctive because we use the same basic methods used by insurance companies and climate scientists to evaluate risk. We use computer simulation to build hundreds, if not thousands, of scenarios of how the City’s financial situation could play out over 30 years. Each scenario changes important variables that influence how affordable the City’s debt might be. For example, each scenario features a different interest rate environment. The variation in these variables is governed by parameters we set, where the parameters keep the variation within the realm of possibility. To continue our interest rate example, we gathered data on the rate of change in bond interest rates since 1970. This information was used to create the parameters for the interest rate environments generated for each scenario. We then see how often the City’s debt remains affordable over those thousands of scenarios. If the debt is shown to be affordable under a high proportion of those scenarios, then that suggests there is a good chance that the debt will ultimately be affordable in the real world. Conversely, if the debt is not affordable under a high portion of the scenarios that suggests the debt is unlikely to be affordable in the real world. This computer simulation is built in Microsoft Excel using open standards for the data.<sup>2</sup> We’ll refer to this computer simulation as the GFOA “Risk Model”. The Risk Model is completely available to the City to use as it sees fit, including the ability to adjust many of the assumptions utilized for the simulations.

The rest of this report is divided into the following sections:

- **Defining What is “Affordable” Debt.** This section describes our rationale for using a typical bond ratings analysis as the basis for determining what is “affordable” for the City government.
- **Key Financial Indicators and Assumptions.** This section examines the key indicators of debt affordability that are taken into consideration by bond ratings companies and our method of approximating how the indicators suggest debt affordability in our simulation of the City government’s future.

---

<sup>1</sup> History of the City’s bond issuances compiled with the help of the City Clerk.

<sup>2</sup> Visit [probabilitymanagement.org](http://probabilitymanagement.org) for more information on the standards we use.



- **Results of the Analysis and Recommendations.** In this section, we will address the findings from our analysis, including recommendations to help the City retain its credit rating.

## Section 2 – Defining What is “Affordable” Debt

The definition of what is “affordable” debt is at the foundation of this analysis.

The first step to defining what is affordable is defining the type of debt the City is considering. The City is considering “general obligation (GO) debt”. This debt is paid for by a dedicated property tax levy. Thus, the City **does not** have to pay for this debt out of its existing revenue streams. This means that taking on more general obligation debt **will not** have a **direct** impact on the City’s operating budget. There is **indirect** impact – for example, perhaps the higher tax bills faced by taxpayers would cause them to vote against future tax measures intended to support the operating budget. Or, maybe residents or businesses feel the impact of higher taxes in their businesses or personal finances and decide to move. These are important considerations, but are outside the scope of this analysis, which is focused on the **direct** impacts to City government. That said, the financial indicators we will examine do include measures of personal income and the size of the tax base relative to the size of the population, which do provide some insight into affordability to taxpayers. It is also worth remembering that, according to California law, debt like the City is considering must be approved by two-thirds of voters in an election. If approval is not obtained, the debt cannot be issued. Thus, taxpayers evaluate the affordability of the proposed debt themselves by choosing to approve it or not. However, affordability to the taxpayers might not be that simple. We’ll have more to say on this topic later in the report.

The impact of general obligation debt on the City government’s finances is to add to the City’s total debt burden. Generally, the more debt a City takes on the less attractive its debt becomes to investors, all else being equal.<sup>3</sup> This is because, in theory, the more debt a City has, the less likely it is that it will be able to pay it all back. This is important because if the City’s debt becomes too unattractive, it will need to offer higher interest rates to investors. That would make it more expensive to borrow and, thus, more expensive for the City to make future investments in long-term assets. **Thus, we will define debt affordability as the extent to which issuing more debt in support of any City Council program might cause the City’s debt to cross a threshold point where the City has to offer a higher interest rate to attract investors.**

Threshold points where higher interest rates must be offered are known as bond ratings. There are three major agencies that issue bond ratings: Moody’s Investors Service, Standard and Poor’s, and Fitch Ratings. Each rating agency has its own approach, but there are broad similarities between all three. For purposes of this analysis, we will focus on Moody’s approach. This is because Moody’s method is: A) well documented; and B) makes use of quantitative financial information to help standardize the approach to issuing ratings. This means we can collect the same financial information Moody’s would collect and evaluate it in a similar, albeit much simplified, manner. By doing this, our Risk Model was able to essentially duplicate the City’s current rating, which is “Aa”, according to Moody’s. Aa is the second best rating on Moody’s scale (which is similar to the scales used by the other rating agencies). The complete scale is shown in the accompanying table. The reader should note that rating agencies also make finer grained distinctions within the rating tiers. For example, technically, the City’s rating is “Aa1”, which

---

<sup>3</sup> Municipal governments might issue more debt, but their tax base and revenues might also continue to grow. In this case, all else has not remained equal so the debt of that municipality may not become less attractive.

indicates the City is a strong Aa or at the upper end of what is considered Aa. An Aa2 would be in the middle and Aa3 would be considered a weak Aa. For the majority of this report we will not refer to these finer grained distinctions. This is, first, in the interest of simplicity. Using just the ratings scale showing in our accompanying table, the reader will be required to track six different categories of ratings. Multiplying the number of categories by three might make this analysis much more difficult to follow. Second, we do not have access to reliable historical data on how big a difference these finer distinctions would make on the interest rate the City could obtain for its bonds. We have data back to 1970 for the differences between the tiers shown in our table. Therefore, most the analysis will take place at the level of these six tiers. Occasionally, though, we will refer to the finer distinctions (e.g., Aa1 vs. Aa2 vs. Aa3) to discuss how the City's credit rating could change in response to different conditions.

If the City's debt were to be downgraded to an "A" we would expect the City to have to pay a higher interest rate on future debt. How much more would depend on the interest rate environment at the time. Historically, the difference between the interest rate of Aa and A has ranged from 1.05 to 0.08 percentage points, with an average of 0.26 percentage points. If, for example, a \$100 million 30-year bond sold at 2.26% interest rather than 2.00% interest, this would translate to \$5 million more in total interest cost over the life of the bond.

| Moody's Rating Scale |            |
|----------------------|------------|
| The best->           | Aaa        |
|                      | Aa         |
|                      | A          |
|                      | Baa        |
|                      | Ba         |
| The worst->          | B or below |

To evaluate the affordability of the City of Berkeley's borrowing plan including its Vision 2050 debt issuance plan we can do the following:

1. Update the key financial indicators used within the Moody's rating system to reflect what the indicators would look like with the additional debt over the 30-year analysis period covered by our Risk Model.
2. Use computer simulation to vary key variables that impact the financial indicators over the 30-year analysis period. We'll describe what these variables are and the assumptions our analysis makes in the next section.

### Section 3 – Key Financial Indicators and Assumptions

The purpose of this section is to summarize the key financial indicators used to help frame bond ratings and to describe key assumptions we have made with respect to future values of the important variables that go into the analysis. Our analysis considers the next 30 years, so we had to make assumptions about how key variables would behave. Before we delve into these topics, we'd like to bring five important points to the attention of the reader:

1. The amount of debt the City takes on is not the only, or even primary, factor that determines bond ratings. Bond ratings take into account a number of factors besides debt. Therefore, our analysis include other factors that impact bond ratings, such as pensions, fund balance and tax base, along with debt.
2. Bond ratings are intended, primarily, to help investors decide how risky it is to invest in a municipality's debt. Though many of the factors bond ratings take into account are reflective of

the general financial health of a municipality, the ratings are not a perfect measure of financial health. This is because ratings are intended to judge the ability of the City to pay back its bondholders and nothing more. This is a limited perspective on financial health.<sup>4</sup>

3. Bond ratings method are not a purely mechanical exercise where a given value for the financial indicators leads to a perfectly predictable bond rating. For example, Moody's rating method includes "notching factors", which are essentially the wiggle room to adjust a municipality's rating up or down, based on local circumstances and the judgment of bond rating analysts. Nevertheless, given that our approximation of the financial indicators that Moody's uses did produce the City's current rating in our Risk Model, we can assume that the financial indicators will produce useful insights into what the City's rating might be under different circumstances.
4. Our analysis is based largely on the future looking a lot like the past in many important respects. For example, we will see that the size of the City's tax base is regarded as a big strength by the Moody's evaluation method. We will assume it will continue to be. Of course, it is plausible that that a large natural disaster, like an earthquake, could severely damage property stock in Berkeley to the point where the tax base is seriously impaired and is no longer the strength it once was. These kinds of extreme scenarios (e.g., natural catastrophes) are not within the scope of our analysis. This is not to say such scenarios are not important. In fact, GFOA analyzes the impact of catastrophic scenarios on municipal financial health on a regular basis. However, given the scope for this project we focused on the key financial indicators of the City's financial health that are described in the following pages and not on catastrophe events. The Risk Model is not intended as a perfect representation of reality. It has been said "all models are wrong, but some are useful". We would suggest that focusing on the trajectory of key financial indicators given the decisions that City makes is a useful perspective on the affordability of its debt plan.
5. Readers who are not interested in the details of the Moody's methods and the assumptions we made about the future of the City's finances are invited to skip the rest of this section and go directly to the next section for our findings and recommendations.

The rest of this section will delve into key financial indicators that are salient to bond ratings and which underlies how we are defining "debt affordability" for this study.

The key financial indicators Moody's considers are described by what Moody's calls its "scorecard". Moody's has four broad factors for its bond rating scorecard and a number of sub-factors, which are shown in Exhibit 3.1.<sup>5</sup> We will summarize each immediately following. With respect to the overview provided by Exhibit 3.1, the reader should note the factor weightings. We see that measures of the City's debt constitute only 10% of the total scorecard. Thus, the City's plan to issue more debt, by itself, can only have a marginal impact on the score. The City's actions with respect to its financial position, in whole, will be what really matters for debt affordability.

---

<sup>4</sup> A comprehensive approach can be found in GFOA's Financial Foundations for Thriving Communities.

<sup>5</sup> Our primary source on Moody's methods is "US Local Government General Obligation Debt" dated January 26, 2021, published by Moody's Investors Service.

**Exhibit 3.1 – Moody’s Scorecard Factors and Weights (for Local Governments)**

| Broad Scorecard Factors | Factor Weighting | Sub-factors                                                           | Sub-factor Weighting |
|-------------------------|------------------|-----------------------------------------------------------------------|----------------------|
| Economy/Tax Base        | 30%              | Tax Base Size (full value)                                            | 10%                  |
|                         |                  | Full Value Per Capita                                                 | 10%                  |
|                         |                  | Wealth (median family income)                                         | 10%                  |
| Finances                | 30%              | Fund Balance (% of revenues)                                          | 10%                  |
|                         |                  | Fund Balance Trend (5-year change)                                    | 5%                   |
|                         |                  | Cash Balance (% of revenues)                                          | 10%                  |
|                         |                  | Cash Balance Trend (5-year change)                                    | 5%                   |
| Management              | 20%              | Institutional Framework                                               | 10%                  |
|                         |                  | Operating History                                                     | 10%                  |
| Debt/Pensions           | 20%              | Debt to Full Value                                                    | 5%                   |
|                         |                  | Debt to Revenue                                                       | 5%                   |
|                         |                  | Moody's-adjusted Net Pension Liability (3-year average) to Full Value | 5%                   |
|                         |                  | Moody's-adjusted Net Pension Liability (3-year average) to Revenue    | 5%                   |

Source: Moody's Investor Service

### Economy / Tax Base

The tax base ultimately determines if a city can pay back its debt. There are three sub-factors considered:

**Tax-base size:** The size of the property tax base is where a municipality draws its revenue from. Currently, full value of the property in the City’s tax base is almost double what is necessary to receive the highest possible score on Moody’s scorecard. We did not find a reason to think that a radical decline in the value of property in the tax base was a probable risk. Of course, events like the 2008 recession and bursting of the housing bubble can cause a temporary decline. These kinds of variations are captured in the Risk Model. The Risk Model assumes that tax base will grow (and occasionally shrink) at rate that is broadly consistent with historical patterns, but the Risk Model does not assume a constant rate of growth. For example, the Risk Model simulates market pullbacks like the Great Recession (and worse). However, we did not find a reason to think that a dramatic, long-term decline in the City’s property values was a high-probability risk. The Risk Model does provide the user with the ability to easily change growth rate assumptions in order to see the effect of more optimistic or pessimistic outlooks.

**Full-value per capita:** This indicator adds in population size to the size of the tax base. The per resident property wealth shows the availability of tax-generating resources relative to the users of public services. This measure is almost 1/3 above what is necessary to receive the highest score on Moody’s scorecard. We did not find reason to believe that the City’s population would outpace the growth in property values to the point where it would risk the City falling below the Moody’s threshold for the best score. In fact, a long-term forecast sourced from Association of Bay Area Governments (ABAG) shows the City’s population forecasted to grow just over 1% per year over the next 30 years. This growth does not seem to be so great that it puts a strain on City finances and, thus, pose a risk to the City’s bond ratings.

**Median Family Income:** A community with high-income taxpayers may have greater ability to cover the cost of debt. The City is almost exactly in the middle of the two threshold values that bound the second highest score on Moody's scale. Presumably, the large number of college students in Berkeley exert downward pressure on this measure. That said, we did not uncover a high probability risk that the City would fall out of the second-highest category over the next 30 years.

## Finances

This factor considers a local government's cushion against the unexpected, the City's ability to meet existing financial obligations, and its flexibility to adjust to new ones. There are four sub-factors considered:

**Fund Balance:** Fund balance describes the net financial resources available to a municipality in the short term. It is essentially the "rainy day fund" or "self-insurance" to react to unplanned, unavoidable costs (like natural disasters). More fund balance would presumably reduce the risk of a local government failing to repay debt because of a natural disaster or other catastrophe. For the City, this measure is currently almost 2/3 above what is necessary to receive the highest score on Moody's scorecard (Aaa). That said, fund balance is not nearly as stable a quantity as the economic forces we reviewed above. For example, in the years 2007 to 2013 the City's annually available reserves were less than half of what they've been in the last few years. In fact, the City would have been in the Aa, rather than Aaa, equivalent tier for six of the last 15 years (though not too far below the Aaa tier, at least). This means that we shouldn't take for granted that the City will continue to maintain reserves high enough to receive Moody's highest scores for the entire 30-year analysis period. The Risk Model assumes the City has a chance of falling out of the Aaa equivalent tier for fund balance. That chance is determined by the City's historical experience. Over the last 15 years the City was below the Aaa threshold six times. So, the Risk Model assumes a six in 15 chance (or two in five chance) per year that the City falls below the Aaa tier.

**Five-Year Dollar Change in Fund Balance as % of Revenues:** The reason for this measure is much the same as stated above, except this takes longer-term perspective on fund balance. Fund balance can change fairly rapidly, year to year, compared to some of the other indicators in the Moody's scorecard. So, this measure checks to see if fund balance is growing or shrinking and by how much. Currently, the City is just above the threshold required for the highest score. However, this is an example of a measure that is highly relevant to the interest of bondholders, but not as well aligned with the interests of the people who live in Berkeley. From the perspective of bondholders, it would not be a bad thing if the City continued to build its fund balance indefinitely. That continues to reduce the risk of a default. However, from the citizens' perspective there is a clear upper limit on the amount of fund balance a local government should hold. At some point the opportunity cost (in terms of higher taxes or foregone services) is not worth the benefit the public receives from the City having a larger fund balance. Thus, given that the City already, by Moody's own standards, has a large fund balance, it is questionable whether the City would continue to grow the fund balance in the future at the same rate it has in the past. Thus, it seems unlikely the City would continue to achieve the highest score under the Moody's rating system. However, that said, Moody's documentation does imply that local governments with a strong fund balance might be given consideration for maintaining that fund balance rather than continuing to grow it - Moody's might adjust ratings upwards to reward maintaining stability of a high level of fund balance. This means that the City

may not enjoy the top-rated scores it had gotten in the past on this measure, but if it maintains a high level of fund balance, it might only drop to the second highest score. The Risk Model gives the user the option to choose the growth rate, from maintaining a rate of growth equivalent to Aaa to remaining flat (equivalent to an A rating). For the purposes of this report, we chose to make this indicator equivalent to an Aa rating. The rationale is that the City probably can't keep historic levels of growth indefinitely, but the high amount of fund balance the City usually carries would, hopefully, be enough to avoid falling down to an A rating.

**Cash Balance:** Cash is a similar measure to fund balance – but focuses on “money in the bank”, whereas fund balance can include some non-liquid resources. For the City, this measure is currently almost three times above what is necessary to receive the highest score on Moody's scorecard. At the City, cash balances and fund balance levels tend to mirror each other. So, just as the City did not have nearly the same level of fund balance in the past as it does today, it did not have the same level of cash either. Thus, like fund balance, this means that we shouldn't take for granted that the City will continue to maintain cash high enough to receive Moody's highest scores for the entire 30-year analysis period. That said, given that cash appears to be so far above what Moody's is looking for that it would take much more extraordinary circumstances for the City's cash to fall below Aaa equivalence. The Risk Model assumes that the City has a 2 in 15 chance of falling to the Aa tier, each year. This chance is smaller than fund balances falling to the Aa tier. The rationale is the City's cash amounts are very high above the Aaa threshold, so would have a long way to fall to reach Aa territory.

**Five-Year Dollar Change in Cash Balance as % of Revenues:** The rationale and issues related to this measure are much the same as discussed above. Cash is a more liquid resource for dealing with unplanned, unavoidable expenditures and this measure shows the rate and direction of growth. The City is currently well above the amount required for Moody's highest score, but, again, the same rate of growth probably cannot keep up indefinitely. Like fund balance, though, it seems possible that Moody's might not penalize the City for mere stability in its amounts of cash on hand, if the amounts on hand were kept high. The Risk Model uses identical assumptions for this measure as for the fund balance trend, described above.

## Management

The legal structure of a local government and management under which it operates influence the government's ability to maintain a balanced budget, fund services, and continue to derive resources from the local economy. There are two measures in this category.

**Institutional Framework:** This factor measures the municipality's legal ability to match revenues with expenditures based on its constitutionally and legislatively conferred powers and responsibilities. For example, a local government with many mandated responsibilities, but with little ability to raise revenues would score poorly on this measure. Our examination of the City's prior Moody's bond ratings suggest that the City, for this measure, was rated consistently with its overall rating: Aa. In other words, the second best possible score. We found no high probability risk that the City's legal powers and responsibilities would change dramatically in the coming years, so we assume the City's score on this measure will remain constant throughout the analysis period.

**Operating History:** Operating history is essentially the extent to which the City runs annual surpluses or deficits. The City's current measure is well above what is required for Moody's highest score. However, because surpluses and deficits are determined annually, we shouldn't assume stability in this measure over a long-term period. We looked at the last 15 years of the City's history to see the size of surpluses (there were no deficits) and used those to simulate what surpluses will be in the future. This results in a more conservative assumption than simply continuing the most recent trends indefinitely into the future.

## Debt / Pensions

Debt and pension burdens are measures of the financial leverage of a community. The more leveraged a tax base is, the more difficult it is to service existing debt and to afford additional debt, and the greater the likelihood there will be difficulties funding debt service. There are four measures in this category.

We gave this category the most analytical attention for a number of reasons. First, debt was the primary focus of the City in commissioning this study. The amount of debt the City is considering issuing will have a direct impact on some of the measures in this category. Second, as we will see, the City's current performance on debt indicators is already weak compared to the other indicators we have reviewed. Third, this section includes pensions, which, as we will see, are the weak spot in the City's performance on the Moody's scorecard.

We will first briefly overview the four measures in this category and then go into details on the assumptions made for future values of these indicators.

**Debt to Full Value:** This evaluates net direct debt relative to full value of the property in the City's tax base. This metric tells us how onerous future debt service payments could be to the tax base. Currently, the City is in the second best category for scoring on this measure.

**Debt to Revenues:** This compares debt to the City's regular revenue stream. Moody's does not subtract from the calculation any debt whose principal and interest is paid by taxes, even if those costs are external to the General Fund. Under this definition, the City gets a score on the Moody's scorecard equivalent to an "A" rating.

**Three-year Average of Moody's-Adjusted Net Pension Liability to Full Value.** This measures the magnitude of a local government's pension obligations relative to its tax base.<sup>6</sup> Similar to the debt burden evaluation, the tax base serves as a proxy for future revenue-generating capacity to amortize accrued pension obligations. The City's score here is equivalent to a "Baa" bond rating.

**Three-year Average of Moody's-Adjusted Net Pension Liability to Operating Revenues.** This metric seeks to measure pension obligations relative to the size of the local government's budget. The metric attempts to reflect that amortization of accrued net pension obligations could divert revenues out of future budgets and lead to funding shortfalls. The City's score here is equivalent to a "Ba" bond rating (the second worst rating).

---

<sup>6</sup> Note that Moody's adjusts the standard net pension liability measure found in government financial reports to include less favorable assumptions on the discount rate for pension investments. The details behind these calculations are available in the Risk Model supplied to the City by GFOA.



### Assumptions for Future Indebtedness:

- The Risk Model includes all repayment schedules for the City’s existing debt and assumes debt will be repaid in the times and amounts currently scheduled.
- The Risk Model includes three categories of “new” debt. The detailed assumptions behind the new debt are described in more detail later, but the general categories of new debt are:
  - Debt that the voters have previously authorized, but which the City has not issued. This is in the amount of \$117 million in principal.
  - Debt issued to support Vision 2050 or other programs. The user defines the amount of principal in the Risk Model. The Risk Model assumes that the number entered by the user will be approved by the voters.
  - Debt issued in the far future. Given we are taking a long-term (30 years) perspective, we should not assume that future City Councils will not issue any more debt. The amounts and timings of these simulate future debt issues are described as part of the following bullets.
- For all new debt, the user can choose the length of the repayment schedule. For the purposes of this report, we assumed 30 years. This is consistent with the City’s past practices and current plans. We assume level repayment schedules (i.e., no front or back loading of repayment schedules). We assume no debt refunding, refinancing, etc.
- For all new debt, we simulate the interest rate, where historical rates are used as a model. Here are some key points:
  - We use forecasts of the yield on ten-year US Treasuries for the next two years to simulate the interest rate environment for the next two years. We do this so that the Risk Model does not generate short-term results that are divergent from short-term expectations.
  - After two years, the Risk Model randomly generates future interest rates, where the rate of change in the rates is entirely consistent with the rate of change in the interest rates for Aaa-rated GO bonds and US Treasuries since 1977. We used the historical rate of change to simulate downward, upward, and stable trajectories for long-term interest rates.
  - The Risk Model assumes bond interest rates will not go below zero. The user has the option to adjust this rate floor.
  - The Risk Model includes the City’s informal policy that the City will not borrow if rates are above 5%. If rates are simulated to go above 5% in any year any simulated, then borrowing is deferred until rates go back below 5%.
  - For the purpose of this report, the Risk Model assumes that rates are just as likely to go up in the future as they are to go down, with the exception of the first two years. As discussed above, the next first years are determined by the 10-year US Treasury forecasts produced by other organizations. For the years after that, the user is able to adjust how likely rates are to go up or down to explore assumptions other than what we assumed for this report. So, if the user wanted the Risk Model to simulate an interest environment where it is twice as likely rates would go up, then that assumption could be entered. In no case will the rates rise at a greater rate of change than has been observed historically.

- The Risk Model assumes that the City will issue new debt that has been previously authorized by voters, but which have not yet been issued. This amounts to \$117 million in additional principal that is added to the City's debt burden over the next five years. The debt is issued according to a user-defined schedule.
- For the debt to support more borrowing, including the City of Berkeley Vision 2050, in the Risk Model, the user can choose the amount of debt the City will issue. The Risk Model allows the user to choose between the options below. The options are completely user definable so the City can add, change, or delete options as it likes:
  - An option for \$300 million in debt, which represents the lower end of what the City Council has discussed. Note that the City Council has discussed supplementing this amount of debt with a parcel tax. The parcel tax would not impact the City government's performance on the key indicators in the Moody's scorecard other than requiring the City issue less debt. Hence, the parcel tax is not included in the Risk Model.
  - An option for \$600 million in debt, which represents the upper end of what the City Council has discussed.
  - An option for \$900 million in debt. This is included just for demonstration purposes, so the user can see what a larger amount of debt would do to the model results.
- Debt issued to support more borrowing for the 2050 Vision Plan are assumed to be issued in increments evenly throughout the 30-year analysis period. The user can change this assumption and make the debt issued on any schedule they would like.
- We should not assume that the debt issued to support the City of Berkeley Vision 2050 will be the last debt the City issues for 30 years. Since 2000, the City has tried to gain voters' approval to issue new debt in seven of ten election years. Thus, we must assume that future City Councils will have plans to issue debt to support future projects. The model simulates this under the following assumptions:
  - The City will not try to issue new debt again until 2028. This assumption can be easily changed by the user.
  - For any election year after 2028, there is a 70% chance that the City will try to gain approval to issue new debt. This is based on the fact the City has historically tried in 70% of election years, though this assumption can be adjusted by users.
  - The amount of debt the City attempts to issue in any given election year varies between \$13 million and \$150 million. This is based on the inflation adjusted amounts the City has tried to issue in the past. The Risk Model adjusts this amount upwards in future years to account for the effects of inflation.
  - The public approves proposed new issues at the same rate it has in the past, including partial approvals.

### **Assumptions for Future Pension Liabilities**

For pension liabilities, we developed a single alternative pension assumption, based on the work of the City's CPA firm. This assumption assumes a negative 1 percentage point adjustment to the discount rate applied to pension investments. So, if the baseline, status quo assumption is 7.15%, then the alternative would be 6.15%. The user can activate or deactivate the alternative assumption on the Risk Model

dashboard. If activated, the alternative assumption is applied across all of the thousands of scenarios the risk model produces. If is not activated, it is not applied to any of the scenarios.

The Risk Model also includes an assumption for annual increase in pension liability and the current annual rate of 3.96%. GFOA would like to acknowledge the assistance of Dan Matusiewicz, Senior Finance Consultant, at GovInvest for providing assistance on formulating this assumption, which is based on a 6.8% discount rate and wage growth of 2.5%.

## Section 4 – Results of the Analysis and Recommendations

In this section, we will address the finding from our analysis, including recommendations to help the City retain its credit rating.

### Let's Put Debt in Context of the Financial Indicators Used to Estimate Debt Affordability

The City's level of debt only impacts the financial indicators that comprise a total of 10% of the Moody's scorecard. Put another way, 90% of the scorecard result is determined by factors other than the City's debt! That means that long-term affordability of the City's debt will be influenced by things like how the City manages its tax base, fund balance, its pensions, and its budget. Exhibit 3.1 provided details on the relative importance of the different factors in the Moody's scorecard. To recap some of the more notable items:

- Pensions are equal to 10% of the scorecard result, or the same as debt.
- Fund balance and cash are equal to 30% or are three times the importance of debt.
- A balanced budget is equal to 10% of the scorecard result.
- Economic factors, like full value and median family income, are equal to 30% of the scorecard result.

According to our re-creation of the Moody's scoring method, today, the City is just short of a score that would be consistent with an Aaa rating. The City's pension liabilities are the main culprit for keeping the City from that score. This conclusion seems consistent with what bond analysts have conveyed to the City: that the City would have an Aaa rating if not for its pension situation. This means that the City has some "distance to fall" in order to get down to an A rating, at least according to the quantified scoring system and the assumptions we described in this report.

All this means that the City's decision to issue debt must be done in the context of the other factors that impact affordability when trying to determine the chance that additional debt will reduce the City's bond rating.

So, to review, the City's strengths are:

- The City's economic base is firmly in Aaa territory and there does not seem to be a plausible risk of it falling out of that tier. The economic base accounts for almost 1/3 of the rating.
- The City's fund balance and cash are firmly in Aaa territory as well. Even though these measures are, by nature, more volatile than the measures of the economic base there seems to be low risk that they would fall completely out of Aaa territory much less all the way down to an A-rating territory (assuming the City maintains a strong reserve policy, as further described in our recommendations). Fund balance and cash measures also constitute almost one-third of the rating.
- The City has also consistently maintained a balanced budget.

And, the City's weaknesses are:

- The City's pensions are in Baa territory currently. Some observers believe there is a case for a lower discount rate to estimate the City's pension liability. A lower discount rate would make the liability to go up substantially. The City's CPA firm produced the calculation for a 1 percentage point reduction and we included it in the Risk Model as an option for the user to activate, if they wish. If this scenario came to fruition, pensions would become an even greater drag on the City. In fact, the Risk Model shows a good chance that pensions reach B territory (the worst rating) well before the end of the 30-year analysis period. Finally, it is worth noting that the Risk Model shows that one of the pension measures in the scorecard (pension liabilities compared to revenues) is at risk of slipping down to a score equivalent to the next lower rating tier (Ba) within in the next five years. As we will discuss more later, a continued downward trajectory on pensions could influence bond ratings analysts to give the City a lower rating.
- Though the City's current indebtedness is not nearly the problem that pensions are, it is not helping the City's bond rating either. Currently, debt measures sit between Aa and A territory.

More debt reduces the City's score on the indicators. We can illustrate with the table below. The table shows the City's scores under different simulations, starting with the City's current score and ending with the City's simulated score at the end of 30 years. The simulation does not produce a single score for the end of 30 years, but rather produces a range of possible scores. For this reason, we show the average, optimistic, and pessimistic outcomes.<sup>7</sup> The table uses assumptions identical to that described earlier in this report and assumes \$600 million of new debt in support of the City's programs, including Vision 2050, plus debt issued by future City Councils, as described earlier. We can see that the score at the end of the 30 years is worse than the City's current score under all three perspectives in the table (average, optimistic, pessimistic). The good news is that when we consider just debt, at least the scores do remain broadly consistent with an Aa rating. But, what about if we consider more than just debt? Other factors do enter into the final bond rating of course.

**Exhibit 4.1 – Simulated Results on Moody's Scorecard under the Assumptions Described Earlier in the Report**

| Rating     | Score for Each Rating |     | City's Current Score | Average Score at end of 30 years | Optimistic Score at end of 30 years | Pessimistic Score at end of 30 years |
|------------|-----------------------|-----|----------------------|----------------------------------|-------------------------------------|--------------------------------------|
|            | Min                   | Max |                      |                                  |                                     |                                      |
| Aaa        | 0.05                  | 1.5 |                      |                                  |                                     |                                      |
| Aa         | 1.5                   | 2.5 | <b>1.65</b>          | <b>2.14</b>                      | <b>2.00</b>                         | <b>2.30</b>                          |
| A          | 2.5                   | 3.5 |                      |                                  |                                     |                                      |
| Baa        | 3.5                   | 4.5 |                      |                                  |                                     |                                      |
| Ba         | 4.5                   | 5.5 |                      |                                  |                                     |                                      |
| B or below | 5.5                   | 6.5 |                      |                                  |                                     |                                      |

<sup>7</sup> Optimistic and pessimistic are defined as the points at which 5% of the outcomes produced by the model are above or below the point indicated on the table.

To examine the other considerations that go into a rating, Exhibit 4.2 changes the assumptions in the Risk Model to be less favorable for the City, including: a lower discount rate on pensions (1 percentage point) and performance equivalent to an Aa rating for fund balances, cash balances, and operating history (which would be less favorable than the City's recent history would suggest). We can see that the City's scores now deteriorate enough that the pessimistic outcome places the City in the "A" rating equivalent scoring tier. What the table does not show is how the scores change for periods less than 30 years. The Risk Model tells us that the risk of a downgrade is present in the near-term future, not just the long-term future. This is because the City is close enough to the next lower tier of scoring for its debt and pension measures that it is plausible that the City will reach these lower tiers in five to ten years. We'll discuss this more detail in the next section. Over the long-term, the City's strong property tax base (and growth in that base) can balance out some of the nearer-term challenges (assuming the challenges don't also get worse).

#### Exhibit 4.2 – Simulated Results on Moody's Scorecard under Less Favorable Assumptions

| Rating     | Score for Each Rating |     | City's Current Score | Average Score at end of 30 years | Optimistic Score at end of 30 years | Pessimistic Score at end of 30 years |
|------------|-----------------------|-----|----------------------|----------------------------------|-------------------------------------|--------------------------------------|
|            | Min                   | Max |                      |                                  |                                     |                                      |
| Aaa        | 0.05                  | 1.5 |                      |                                  |                                     |                                      |
| Aa         | 1.5                   | 2.5 | 1.65                 | 2.39                             | 2.30                                |                                      |
| A          | 2.5                   | 3.5 |                      |                                  |                                     | 2.50                                 |
| Baa        | 3.5                   | 4.5 |                      |                                  |                                     |                                      |
| Ba         | 4.5                   | 5.5 |                      |                                  |                                     |                                      |
| B or below | 5.5                   | 6.5 |                      |                                  |                                     |                                      |

The reader will notice that even on this second table, the scores are certainly not disastrous, by any means: the average score is still within the Aa equivalent tier. That said, we must remember that the final bond rating a municipality receives is not a purely mechanical exercise, where the key financial indicators dictate the bond rating. According to Moody's: "The scorecard is not a calculator. Its purpose is not to determine the final rating, but rather to provide a standard platform from which to begin viewing and comparing local government credits. It therefore acts as a starting point for a more thorough and individualistic analysis." Put another way, the rest of the rating is subject to a human element: the rating analyst. In a real-life scenario characterized by unfavorable performance across the indicators that Moody's looks at we can't discount the possibility that the analyst might decide to "put a thumb on the scale" and raise the chance of a downgrade. For example, perhaps a significant amount of new debt along with further deterioration in the City's pension situation dampens the rating analyst's enthusiasm for the City of Berkeley's debt even more than the Moody's scorecard suggests. Finally, it could be possible that rating agencies could change the weightings of the indicators they consider. GFOA has observed that the measures favored by rating agencies and the relative weight placed on them has evolved over time. It seems unlikely that debt and pensions would come to occupy a less important place in rating considerations given that they currently constitute a relatively small consideration compared to fund balance / cash and tax base. Given that pensions and debt are biggest risk to future debt affordability, we'll examine this risk more in the next subsection.

Finally, the model can address different interest rate environments and property markets. Some observers believe that sustained higher interest rates may result from efforts to combat inflation. This would result in economic stagnation and impact on the housing market. In fact, the Federal Reserve Bank of Dallas recently stated that the property market is showing "signs of a brewing U.S. housing bubble". The implication is that bubbles pop, with the types of consequences we saw in the 2008. To explore these concerns further, we adjusted the model assumptions to give more weight to a rising interest rate environment and to reduce, by half, the chances of growth in the City's revenue and property values. Note that the baseline assumptions in the Risk Model **did not** assume uninterrupted growth in property values, but did assume a good chance of a long-term upward trajectory. These new assumptions result in a good chance of long-term stagnation. Under these assumptions, unsurprisingly, the City's is at significantly greater risk of slipping below an Aa equivalent score. Interestingly, the City's informal policy of not borrowing at rates above 5% makes a noticeable difference in the high interest rate environment: the City stops borrowing at a certain point and pays back existing debt, which helps its score. The take-away is that unfavorable turns in the economic environment will have a noticeable impact on the financial indicators and increase the risk of a ratings downgrade.

### Pension, Debt and the Risk Posed to the City's Bond Rating

Though pension and debt do not dominate the Moody's scorecard and are not the most important consideration in bond ratings, they still can influence bond ratings. For example, especially poor performance or notable deterioration from previous performance might capture the attention of the bond ratings analyst. To illustrate, the table below displays results from one of thousands of simulations the Risk Model produced, using the more unfavorable assumptions described in the previous section. We chose to illustrate using the more unfavorable assumptions because it helps make the point we wish to make more clearly. Also, keep in mind this is just one of the thousands of simulations we developed, so it's not intended to show generalizable results (unlike the tables in the last section which summarized results from across the thousands of simulations).

The top set of rows in the table shows the City's current values for the key financial indicators associated with debt and pension in the Moody's scorecard. The next set of rows shows the scores the indicators receive under the Moody's methodology. The scores can range from 1 to 6, where 1 is the best (Aaa equivalent) and 6 is the worst (equivalent to B or below). The final row is the average of all indicators in the Moody's scorecard, which includes indicators not shown in the rows above (e.g., tax base, fund balance, etc.). Remember that the average is weighted towards the indicators Moody's deems most important (see Exhibit 3.1).

We see that the City's current score across all indicators is a 1.65 (bottom left corner), consistent with a strong Aa rating. However, as we move to right and further into the future, we see City's score on debt and pensions deteriorate (the numbers on the 1 through 6 scale get higher). We can also see the average score move upwards. The movement upwards is not as dramatic because debt and pensions only account for 20% of the total score. The measures that account for the other 80% perform well, often in Aaa territory. Nevertheless, we see that although the City's score remains consistent with an Aa rating, it has become consistent with a weak Aa (or Aa3 in Moody's terminology). It should be noted that the cutoff

points used in the table to differentiate strong from weak come directly from Moody's documentation.<sup>8</sup> With this in mind, it becomes more understandable why an analyst might decide to downgrade the City to an A rating, if they observe the City's scorecard result fall from a strong to a weak Aa. They might conclude that the possibility of continued decline, for example, merits a lower rating.

#### Exhibit 4.3 – Example Results from a Simulation the Risk Model Produced

|                                                                   | Now    | Years into the Future |       |       |       |       |       |       |       |       |       |
|-------------------------------------------------------------------|--------|-----------------------|-------|-------|-------|-------|-------|-------|-------|-------|-------|
|                                                                   |        | 3                     | 4     | 5     | 6     | 7     | 8     | 9     | 10    | 11    | 12    |
| <b>VALUES FOR INDICATORS</b>                                      |        |                       |       |       |       |       |       |       |       |       |       |
| Net Direct Debt / Full Value                                      | 1.3%   | 2.2%                  | 2.3%  | 2.2%  | 3.0%  | 2.9%  | 2.7%  | 3.5%  | 3.8%  | 3.8%  | 3.8%  |
| Net Direct Debt / Operating revenues (x)                          | 0.76   | 1.29                  | 1.34  | 1.86  | 1.78  | 1.69  | 2.08  | 2.28  | 2.20  | 2.10  | 2.01  |
| Adjusted Net Pension Liability (3-Year Average) to Full Value (%) | 8.7%   | 13.7%                 | 13.7% | 13.8% | 14.0% | 14.1% | 14.7% | 15.2% | 16.4% | 17.7% | 18.8% |
| Adjusted Net Pension Liability (3-Year Average) to Revenues (x)   | 5.24   | 7.73                  | 8.26  | 8.49  | 8.72  | 8.90  | 8.80  | 9.17  | 9.44  | 9.67  | 9.93  |
| <b>SCORE FOR DEBT &amp; PENSION INDICATORS (1 THRU 6 SCALE)</b>   |        |                       |       |       |       |       |       |       |       |       |       |
| Net Direct Debt / Full Value                                      | 2      | 3                     | 3     | 3     | 3     | 3     | 3     | 3     | 3     | 3     | 3     |
| Net Direct Debt / Operating revenues (x)                          | 3      | 3                     | 3     | 3     | 3     | 3     | 3     | 3     | 3     | 3     | 3     |
| Adjusted Net Pension Liability (3-Year Average) to Full Value (%) | 4      | 5                     | 5     | 5     | 5     | 5     | 5     | 5     | 5     | 5     | 6     |
| Adjusted Net Pension Liability (3-Year Average) to Revenues (x)   | 4      | 5                     | 5     | 6     | 6     | 6     | 6     | 6     | 6     | 6     | 6     |
| <b>SCORE FOR TOTAL OF ALL INDICATORS (1 THRU 6 SCALE)</b>         |        |                       |       |       |       |       |       |       |       |       |       |
|                                                                   | 1.65   | 2.2                   | 2.2   | 2.25  | 2.25  | 2.25  | 2.25  | 2.25  | 2.25  | 2.25  | 2.3   |
|                                                                   | ^      | ^                     | ^     | ^     | ^     | ^     | ^     | ^     | ^     | ^     | ^     |
|                                                                   | Strong | Weak                  | Weak  | Weak  | Weak  | Weak  | Weak  | Weak  | Weak  | Weak  | Weak  |
|                                                                   | Aa     | Aa                    | Aa    | Aa    | Aa    | Aa    | Aa    | Aa    | Aa    | Aa    | Aa    |

Finally, the Risk Model can be used to explore different weightings on financial indicators. For instance, we could give greater weight to pensions and debt and less to cash and fund balances (perhaps because cash and fund balance measures are very similar, so weighting both heavily in the analysis could be seen as "double counting"). This feature of the Risk Model could be used to mimic how a ratings analyst might decide to weigh the indicators differently than Moody's standard documentation suggests. Unsurprisingly, weighting debt and pensions more puts downward pressure on the City's scores.

#### Develop and Maintain Strong Financial Policies

Financial policies can help the City maintain its good bond rating. An example is the City's General Fund Reserve Policy. GFOA's review of the City's policy finds that it includes all the critical features of a good policy and calls for a reserve equal to Moody's Aaa equivalent threshold. That said, it is important to recall that Moody's looks across all "operating funds", which includes more than the General Fund. **Hence, there could be an argument for defining reserve policies for other critical operating funds.**

The City also has a debt policy. The policy has many of the features of a good policy, but there may be some opportunities for improvement. Particularly salient to our discussion of bond ratings is debt affordability. The City's debt policy notes that "the City is subject to debt capacity limit for its general obligation bonds: 15% of assessed value." This amount of debt would be equivalent to the second lowest rating, Ba, under Moody's scoring. **Hence, there may be a case for defining a more locally appropriate debt affordability policy.** For example, even under the most aggressive assumptions of how much debt the City might issue, the Risk Model did not show that there was a high chance that debt issued in support of the Vision 2050 would bring the City's scorecard result below an "A" equivalent score on the measure

<sup>8</sup> Note that Moody's doesn't use the terms "strong" and "weak", but rather a numeric code. We elected to use the more descriptive terms of "strong" and "weak" in order to make the table more understandable.



comparing debt to property value of the tax base. The A rating is defined as debt equal to between 1.75% and 4% of property value. This might be a good starting point for defining a locally affordable limit. The City could “stress test” affordability by simulating larger issues to see how much pressure is placed on the scorecard result by increasing the amount of debt. It could be that the City’s strong tax base and fund balance / cash practices would make it practical to incur debt beyond 4% of property value without putting the score at too much risk, but perhaps 15% is still too much. Of course, we must remind ourselves that bond ratings consider only the interest of the City’s creditors. Just because creditors are willing to lend does not mean the City should borrow. More debt also places more of a burden on taxpayers. Taxpayer burden should be analyzed as part of developing a debt affordability policy. We’ll discuss this more in one of our other recommendations, later in this report.

Another opportunity for improvement of the City’s debt policy might be to define interest rate ceilings for issuing debt. GFOA understands that the City has an informal policy that considers “5%” the interest rate ceiling beyond which the City will not issue debt. Formalizing this policy, or something like it, could help make a positive impression on rating analysts. The GFOA Risk Model can be used to help the City stress test different policy choices because the user can customize the interest rate ceiling the Risk Model uses and adjust assumed behavior of the interest rate environment.

Finally, **a structurally balanced budget policy could be helpful.** The City has a good history of running budget surpluses. A municipal government is subject to legislative requirements to pass a balanced budget. However, the definition of a balanced budget is just that inflows equal outflows for the year and says nothing about the long-term sustainability of how the budget is balanced. For example, according to the law, an asset could be sold to pay for the compensation of permanent City staff positions. An asset is a one-time revenue while staff compensation is a recurring expenditure, so this strategy would not be advisable even if it is legal. A structurally balanced budget policy commits a local government to adopting a budget that is balanced using sustainable strategies. GFOA is happy to provide the City with templates for such a policy, if the City is interested in pursuing it. This kind of policy would support both a strong score in the “operating history” and, perhaps, the “institutional framework” measures in the Moody’s system. For example, Moody’s recognizes “unusually strong budget management and planning” as a “notching factor” that could justify a higher score for a municipality than the ratios in the scorecard might suggest. A structurally balanced budget policy could be an illustration strong budget management and planning.

### Manage the Risk Posed by Pensions

As we've discussed, pensions are the Achilles' heel of the City's bond rating. The City has been considering strategies to manage its pension risk and has established an irrevocable supplemental (Section 115) pension trust. This could help support a good bond rating. This is supported by conversations the City's Finance Director has had with bond rating agencies: the City's current pension challenges has kept it from achieving an Aaa rating and continued deterioration in pension position could even lead to the City slipping to an A or a lower rating.

### Support a Strong Tax Base

If pensions are the City's Achilles heel, then its aegis is its tax base. Not only is the tax base directly responsible for 30% of the City's score on the Moody's scorecard, it directly impacts other measures as well. For example, the Moody's scorecard method compares debt and pensions to the full value of taxable property in the City. Of course, the tax base also determines how much revenue the City can raise, which influences fund balances and the City's ability to balance its budget. Therefore, the City should take active steps to preserve and to enhance its tax base. GFOA has found that there are unrealized opportunities for municipal governments to better reflect the financial interests of municipal government in land use planning. After all, land use planning will have an important influence on how the tax base develops and how the tax base develops will have an important impact on the quality of life in Berkeley (like the City's ability to invest in infrastructure!). The City can learn more about GFOA's findings and recommendations for how to make the connection between land use planning and city finances in [this report \[Note to reader: as of the date the City of Berkeley's report was posted the GFOA report on the intersection between land use planning and municipal finances has not be released to the public. It will be available soon\]](#).

### Develop and Maintain Measures of Tax Burden

General Obligation (GO) debt is paid for by a special tax levy. Therefore, more GO debt does not place a direct pressure on the City's budget. It does, however, place burden on the City's taxpayers. Voters approve the City's ability to authorize debt. In that way, voters are speaking as to whether debt is affordable to them or not. However, voters are unlikely to have a perfect understanding of the long-term implications of debt for their tax burden. In the past, the City has developed measures that show the average tax burden for a City of Berkeley homeowner. It may be wise to develop the ongoing capacity to monitor and project tax burden, especially if the City plans to continue making use of GO bonds and tax measures. The scope of the GFOA Risk Model covers only City government finances, but the Risk Model does provide much of the information that the City would need to examine the tax burden placed on residents and businesses by future debt. For example, it gives the full range of principal and interest that would need to be covered by taxes every year of the 30-year analysis period. It also provides range of the potential size of the tax base.

### Be Strategic about Debt Issuance

The City already has \$117 million in previously authorized debt that it plans to issue in the next few years. This is included in the Risk Model and in the information we've presented in this report. What the risk model doesn't capture is the City staff's capacity to manage the debt issuance and, critically, to manage

the projects that the debt is intended to finance. Prioritizing projects to make sure the City doesn't take on more than it can handle will not only make the best use of limited staff capacity it will help limit the total amount of debt the City takes on. The City has old debt that will gradually be paid down in the coming years. There is some opportunity to moderate the increase in the City's total debt burden by timing the issuance of new debt with expiration of old debt. That said, we must recognize that the amounts of new debt being contemplated do significantly exceed the amount by which old debt will decrease in the next number of years. So, a total increase in the City's debt burden would be inevitable under the assumption that there \$117 million would be issued along with some significant additional amount to support other projects including the Vision 2050 project.

## Section 5 – Conclusion and Summary

In conclusion, the City's performance on the key financial indicators used in the Moody's scorecard appears to be robust under a variety of circumstances. That said, the final bond rating the City receives is not purely a function of these indicators. Human judgment, applied by bond ratings analysts, determine the final score. Their judgment could be swayed, negatively, by the risks posed by debt and pensions, which we described earlier in this report. We have outlined a number of opportunities for the City to take proactive measures to preserve and protect its bond rating and, thus, its capacity to borrow at favorable interest rates.

To conclude, let's recap the key take-aways from this report.

- The City has important strengths that bolster its ability to borrow, including a strong tax base, fund balances, and a history of balanced budgets. That said, the City's current policy identifies a limit on borrowing equal to 15% of assessed value. Borrowing this much would place the City at the equivalent of a Ba score or the second lowest score for the key financial indicator of debt compared to the value of property in the City. That would, of course, exert strong downward pressure on the City's bond rating. The City should develop a more locally appropriate debt limit, rather than relying on statutory limits (which are set without regard to local context). For example, debt equal to 4% of property value would still provide room for the City to issue more debt (the City is currently at less than 2%), while keeping that measure with the scoring tier equivalent to an A rating. The GFOA Risk Model can be used to "stress test" different policies.
- An unfavorable turn in the economic environment could impact the City's bond rating. The Risk Model can be used to simulate high interest rate environments and stagnant (or even declining) housing markets. Unsurprisingly, these conditions increase the chances that the key financial indicators we analyzed will slip into territory associated with a lower bond rating. This is important because some observers believe that a higher interest rate environment and stagnant or declining property market are real possibilities.
- Growth in the City's tax base supports borrowing and repayment of debt. Hence, the City should consider how it can use the City's land use planning capabilities to support the financial capacity of City government. Land use planning could be used to improve the revenue productivity of the land uses in the City's jurisdiction.
- The City's pension liabilities are a drag on the City and its capacity to borrow. Pensions are clearly the weak spot in the City's bond rating given how the pensions stand today. Some observers believe that the current discount rates assumed for the pensions' investments may be too optimistic. Lower discount rates would increase the size of the liability even further. This emphasizes the need for the City to find ways to manage its pension debt.
- The City can adopt certain financial policies to maintain good management practices. This will help make a positive impression on bond rating analysts. It is important to remember that even though our Risk Models shows the City is likely to perform consistently with an Aa rating in most scenarios: A) in many scenarios the City's position deteriorates from strong Aa to a weak Aa; and B) ratings are ultimately the product of the judgment of the bond ratings analyst. An analyst's

enthusiasm for the City's debt might dampened enough by this deterioration that the analyst decides on a ratings downgrade for the City.

- Though our analysis focused on the direct impact of debt on the finances of City government, the City should also be mindful of the burden on taxpayers. The Risk Model provides much of the information the City would need to estimate burdens on taxpayers under different scenarios.
- The City already has \$117 million in previously authorized debt that it plans to issue in the next few years. Given the City's interest in issuing more debt to support the Vision 2050 and other programs, the City should remain mindful of the City staff's capacity to manage new debt issuance and, critically, to manage the projects that the debt is intended to finance. Prioritizing projects to make sure the City doesn't take on more than it can handle will not only make the best use of limited staff capacity, it will help limit the total amount of debt the City takes on.
- By following a prudent borrowing strategy, managing pensions, and following other recommendations in this report the City should have a good chance of making a positive impression on bond ratings analysts and maintaining its ratings, all while preserving some additional capacity for the City to borrow.

## Appendix 1 – Limitations of GFOA’s Analysis

This section highlights the most important limitations of our analysis.

**Our analysis is not predictive.** GFOA does not forecast bond ratings. Rather, our model generates hundreds or even thousands of different scenarios to show how the future could unfold. This helps the City think more broadly about risk so that it can be more prepared for whatever future event does eventually come to pass. Finally, it is important to note that low probability events are still possible events. Hence, even if our model says an event has a low probability, then that does not mean it won’t occur.

**GFOA is not a risk management consultant.** We worked with the City to find out which risks to bond ratings are most salient and then modeled those risks quantitatively to judge the potential impact. It is not our place to determine what the City’s attitude towards risk should be or to substitute GFOA’s attitude towards risk for the City’s. GFOA builds models to help you explore the questions, but ultimately you have to make the decisions.

**Our analysis is based on historical records.** Historical data is often a good way to model potential future outcomes. However, historical data will not be perfect.

**Our analysis is not inclusive of every risk the City could possibly face.** We examined the City’s past history and worked with City staff to identify the risks that posed the most clear and present danger to the City’s bond rating. However, it is possible that the City could experience a shock that no one was expecting or that the City could be impacted by a low probability, but high consequence event.

**The calculation of the key indicators is subject to some interpretation.** Though Moody’s does produce detailed documentation of their methods, there is still some interpretation required. For example, the measure of fund balance is supposed to include all “operating funds”. It is ultimately up to the analyst to decide which funds are operating funds and which aren’t. It could be that GFOA would have a different interpretation than Moody’s. That said, given that our Risk Model did duplicate the City’s current score, our interpretation should at least be close.

**Good decisions do not always lead to good outcomes.** Excel simulation tools can enhance one’s perception and understanding of uncertainty and risk.<sup>9</sup> However, when dealing with uncertainty, even the best decision may not lead to a good outcome, if luck goes against you.<sup>10</sup>

---

<sup>9</sup> “To survive in an increasingly unpredictable world, we need to train our brains to embrace uncertainty,” Emre Soyer, Quartz Magazine, January 9, 2017 <https://qz.com/879162/to-survive-in-an-increasingly-unpredictable-world-we-need-to-train-our-brains-to-embrace-uncertainty/>.

<sup>10</sup> This is one of the primary lessons in: Annie Duke. *Thinking in Bets: Making Smarter Decisions When You Don’t Have All the Facts*. Portfolio. 2019.



Office of the City Manager

Date: June 23, 2022  
To: Budget and Finance Policy Committee  
From: Dee Williams-Ridley, City Manager  
Submitted by: Henry Oyekanmi, Finance Director  
Subject: Investment Policies of Other Jurisdictions

The City's investment policy is a formal document which provides the guidelines for investments and operational structure in the management of public funds and is confirmed annually by the City Council.

One of the components of the City's investment policy is the section for responsible investing. This provides a list of identified restrictions that were ratified by the City Council. It is extremely important that the investment officer regards these as requirements when making decisions for investment purchase.

Each year the City's investment policy is updated to add all the responsible investing policies passed by city council throughout the year. Throughout the many years, the City has accumulated seven policy restrictions for responsible investing.

Most cities' have the three main statutory objectives in managing the investment programs which are safety, liquidity and return. However, due to the restrictions in City of Berkeley's investment, the investment program considers responsible investing as an additional objective. Compliance to these restrictions is highly regarded as a requirement for its investments. These results in limiting the type of investment offering the investment officer can purchase. Restrictions has a direct impact on diversification of funds and the rate of returns on investments.

On January 27, 2022 while discussing the Fourth Quarter Investment report, the Budget and Finance Committee asked that Finance conduct a comparison study in investment restriction for other cities in California. The Finance Department researched and reviewed the investment policies of the various cities to identify the investment restrictions for their investment program. Finance took the cities that it currently uses to benchmark the rate of returns on the City's quarterly investment report and identified the restrictions on their cities' investment policies.

Below is a summary of the findings from the research:

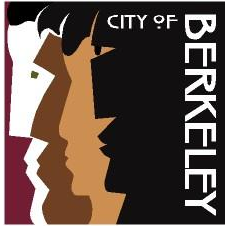
| VARIOUS CALIFORNIA CITIES INVESTMENT RESTRICTIONS |              |                                         |          |              |               |                                          |         |                   |                                  |                                              |                                |
|---------------------------------------------------|--------------|-----------------------------------------|----------|--------------|---------------|------------------------------------------|---------|-------------------|----------------------------------|----------------------------------------------|--------------------------------|
| City                                              | Rates Earned | DIVESTMENT FROM COMPANIES/MANUFACTURERS |          |              |               |                                          |         |                   |                                  | INTEGRATE                                    |                                |
|                                                   |              | Tobacco Products                        | Firearms | Fossil Fuels | Nuclear Power | Private Prison and Immigration Detention | Weapons | Oppressive States | Companies for Mexico Border Wall | Environment, social and governance principle | Investing Community Well Being |
| Palo Alto                                         | 1.58%        | X                                       | X        | X            |               |                                          |         |                   |                                  |                                              |                                |
| Los Angeles                                       | 1.09%        |                                         |          |              |               |                                          |         |                   |                                  |                                              |                                |
| San Jose                                          | 1.08%        |                                         |          |              |               |                                          |         |                   |                                  |                                              | X                              |
| Sacramento                                        | 0.99%        |                                         |          |              |               |                                          |         |                   |                                  |                                              |                                |
| Torrance                                          | 0.98%        |                                         |          |              |               |                                          |         |                   |                                  |                                              |                                |
| San Diego                                         | 0.83%        |                                         |          |              |               |                                          |         |                   |                                  |                                              |                                |
| Berkeley                                          | 0.80%        | X                                       | X        | X            | X             | X                                        | X       | X                 | X                                | X                                            |                                |
| Santa Monica                                      | 0.54%        | X                                       | X        | X            | X             |                                          |         |                   |                                  |                                              |                                |
| San Francisco                                     | 0.48%        | X                                       | X        |              | X             |                                          |         |                   |                                  |                                              |                                |
| Oakland                                           | 0.19%        | X                                       | X        | X            |               |                                          |         |                   |                                  |                                              |                                |

**Research Analysis:**

The study shows that there is a direct correlation between the number of restrictions to the rate of returns for various jurisdictions. The cities that have no restrictions or encouraged restrictions without it being mandated are the cities that have higher rate of return on their investment. Cities with restrictions are the ones who have lower rate of return. The City of Berkeley rate of returns still remains fairly high amidst the restrictions in the investment policy.

As a result of the differences in the investment policies of different cities, including responsible investing policies, maturity restrictions, investment restrictions, etc., it is difficult for any City to come up with a reasonable performance measure for pooled cash investments. In order to provide some measure of the relative performance of the City’s investment returns, past City Councilmembers requested that information about the rates earned by other California cities be included in the quarterly investment reports for comparison purposes, despite the differences in the investment policies of the various cities.





Councilmember Kate Harrison  
Councilmember District 4

On December 5, 2023, the City Council adopted recommendation A in this revised report, and referred recommendation B to the Budget and Finance Policy Committee.

## REVISED AGENDA MATERIAL for Supplemental Packet 1

**Meeting Date:** December 5, 2023

**Item Number:** 12

**Item Description:** **Budget Referral: Allocate the Existing \$900,000 Transportation Network Company (TNC) Tax to Calm Traffic in Vicinity of Derby St., Increase Citywide Traffic Calming Budget, and Establish Ongoing General Fund Allocation Policy for the TNC**

**Submitted by:** Councilmember Harrison

- Revised the budget referral pursuant to the advice from the Agenda and Rules Committee to specify that recommendation #5 includes a referral to the Budget and Finance Committee.
- Clarified the item to highlight that the Council already budgeted \$900,000 as part of the FY 2024 budget, and that the allocations suggested by this item in Recommendations A. 1-4 do not require any new budget outlays and do not have any impact on the General Fund.
- Clarified that the City's Budget Office reports that the \$900,000 in TNC funds budgeted in FY 2024 are not encumbered at this time. However, Public Works is actively planning to allocate \$200k for traffic signal detection upgrades from analog to video detection at high priority bike/ped/high-injury intersections.



Kate Harrison  
Councilmember, District 4

CONSENT ACTION  
CALENDAR  
December 5, 2023

To: Honorable Members of the City Council  
From: Councilmembers Harrison (Author) and Taplin (Co-sponsor)  
Subject: Budget Referral: Allocate the Existing \$900,000 Transportation Network Company (TNC) Tax to Calm Traffic in Vicinity of Derby St., Increase Citywide Traffic Calming Budget, and Establish Ongoing General Fund Allocation Policy for the TNC

RECOMMENDATION

A. Designate existing (already budgeted and not requiring new outlays) \$900,000 in FY 2024 Transportation Network Company (TNC) Tax allocation as follows:

1. \$100,000 in short, medium, and long-term traffic calming measures in the vicinity of 2023 Halloween Derby St. hit-and-run incident involving a minor to include speed tables, highlighting designation of crosswalks, and consideration of a stop sign on Mabel at Carleton and Derby.
2. \$25,000 to purchase five additional portable speed radar trailers bringing the City's total to seven for targeted traffic calming; and
3. \$325,000 to increase the citywide Traffic Calming Budget on a one-time basis to \$400,000 (up from the current \$75,000); and
4. \$450,000 ~~to~~ citywide to fund:
  - a. tier 1 protected bicycle lanes and crossings identified in the 2017 Bicycle Plan, including but not limited to quick-build projects; and
  - b. priority pedestrian street crossings identified in the 2020 pedestrian plan, including but not limited to quick-build projects; and
  - c. priority quick-build public transit projects under the Street Repair Program; and

~~5.~~ B. Refer to City Manager and the Budget and Finance Committee staff to consider establishing an ongoing General Fund policy of allocating 50% of annual TNC Tax revenues to a citywide traffic calming budget and the remaining 50% to tier 1 bike/pedestrian/transit priority projects as specified under 3. a-c.

Formatted: No bullets or numbering

BACKGROUND

A child was hit by a speeding car Halloween night 2023 while trick-or-treating on Derby Street in southwest Berkeley, resulting in serious injuries. The driver did not stop.

2180 Milvia Street, Berkeley, CA 94704 • Tel: (510) 981-7140 • TDD: (510) 981-6903 • Fax: (510) 644-1174  
E-Mail: KHarrison@cityofberkeley.info

Budget Referral: Allocate the Existing \$900,000 Transportation Network Company (TNC) Tax to Calm Traffic in Vicinity of Derby St., Increase Citywide Traffic Calming Budget, and Establish Ongoing General Fund Allocation Policy for the TNC

**CONSENT ACTION**  
CALENDAR  
December 5, 2023

Miraculously, the child survived and is expected to make a full recovery, but not without significant trauma for the victim, family, and community. The hit-and-run suspect is still at large.

The family of the victim of this horrifying traffic violence incident started a petition to address the lack of adequate traffic safety measures, specifically the absence of speed bumps, daylighted crosswalks, and stop signs.

As Chair of the Facilities, Infrastructure, Transportation, Environment & Sustainability Policy Committee, Councilmember Harrison scheduled a hearing on November 15, 2023 to provide the family with an opportunity to speak about their experience and petition, and to provide Transportation Division and Berkeley Police Department staff with an opportunity to respond and consider traffic calming measures.

Specifically, the petition, which now includes more than 16,000 signatures, requests that the Mayor, Council, the Berkeley Police Department and the Berkeley Department of Public Works:

1. install **speed bumps** on all streets running east to west between Sacramento and San Pablo, and from Dwight Way to Ashby. These include Dwight, Blake, Parker, Carleton, Derby, Ward, Stuart, Oregon, Russell and Julia streets. Speed bumps have been proven effective in reducing vehicle speeds by 20-25% (source: Federal Highway Administration), making our roads safer.
2. establish **brightly marked crosswalks at key intersections**. Pedestrian fatalities are twice as likely to occur at unmarked crossings compared to those with crosswalks (source: National Highway Traffic Safety Administration).
3. add **stop signs at critical locations**, specifically on Mabel at Carleton and at Derby. Stop signs not only regulate traffic flow but also prioritize pedestrian safety by forcing drivers to come to a complete halt.

This budget referral seeks to revise already allocated funds from FY 2024. In June 2023, the Council approved Councilmember Harrison's budget referral, submitted in January 2022, to allocate up to \$2 million in TNC revenues to tier 1 bike/pedestrian/mobility/transit projects.<sup>1</sup> Councilmember Harrison had previously proposed allocating TNC revenues to such purposes in early 2021.<sup>2</sup>

<sup>1</sup>Budget Referral: Allocate Projected Revenues from Voter-approved Transportation Network Company User Tax to Support Priority Mobility Infrastructure, Including Tier 1 Protected Bicycle Lanes and Crossings, Pedestrian Street Crossings, and Quick-build Public Transit Projects," January 18, 2022, <https://records.cityofberkeley.info/PublicAccess/api/Document/AYihhfV5w8HzhLOFURtCVnuzC%C3%89L08MaMb7h8yeczajQXCe8nTt4CrnqA1hIk9fBiQvytqZyp9gxr22wMc75S00%3D/>

<sup>2</sup>Budget Referral: Allocate Transportation Network Companies User's Tax Proceeds and other General Fund Revenues to Support Priority Protected Bicycle Boulevards and the Street Repair Program," March 9,

Budget Referral: Allocate the Existing \$900,000 Transportation Network Company (TNC) Tax to Calm Traffic in Vicinity of Derby St., Increase Citywide Traffic Calming Budget, and Establish Ongoing General Fund Allocation Policy for the TNC

**CONSENT ACTION**  
CALENDAR  
December 5, 2023

Berkeley voters overwhelmingly passed the TNC User’s Tax (Measure GG) in 2020 with a 50-cent fee per rideshare trip specifically in order to generate “at least \$900,000 annually to support general municipal services like paving streets and improving pedestrian and bicycle infrastructure.”<sup>3</sup> City staff estimate that the tax will bring in approximately \$1-1.5 million per year. As the legislative record demonstrates, it is difficult to budget on periodic basis based on revenues. Rather, as included in this item, the Council should establish a general fund revenue policy to ensure that the funding is allocated automatically.

Of the total \$900,000 FY 2024 TNC allocation, this budget referral would designate \$100,000 to short, medium and long-term traffic calming upgrades in the vicinity of the neighborhood where the traffic violence occurred. This includes \$100,000 in dedicated funding for speed tables, daylighting and consideration of a stop sign and \$25,000 for purchasing approximately five additional speed trailers that can be deployed across the City to calm traffic (bringing the City’s total to seven). All of these measures were discussed in detail during the November 15, 2023 FITES Committee meeting.

In addition, in recognition of the FITES discussion, the petition, and historic citywide concerns about the City’s woefully underfunded traffic calming budget, this item increases the citywide budget from \$75,000 to \$400,000.

Consistent with Council’s action in adopting Councilmember Harrison’s 2022 budget referral as part of the FY 2024 budget, this item allocates the remaining \$450,000 to citywide priority bike/pedestrian/mobility/transit projects.

The City’s Budget Office reports that the \$900,000 in TNC funds budgeted in FY 2024 are not encumbered at this time. However, Public Works is actively planning to program \$200k for traffic signal detection upgrades from analog to video detection at six high priority bike/ped/high-injury intersections. Public Works has also been considering replacing existing analog detection at some intersections and adding leading pedestrian intervals and to support existing Bicycle and Pedestrian safety project(s) that have budget gaps. All of these measures are consistent with either A. 3 and A. 4 of the item’s recommendation.

Finally, this budget referral refers to the City Manager and Budget staff to establish an ongoing General Fund policy of allocating 50% of annual TNC Tax revenues to a

2021, <https://records.cityofberkeley.info/PublicAccess/api/Document/ARkxRrGkx0%C3%89GGtZtKu8TUcvBWPF1qgSC4d8o5Waq20km4RcyQp4H%C3%89q5seu%C3%8130xYc5NRj2NaGiW3uaJStC%C3%89NLo%C3%89k%3D/>

<sup>3</sup> “Argument in Favor of Measure GG,” Berkeley City Clerk, August 2020, <https://www.cityofberkeley.info/uploadedFiles/Clerk/Elections/GG%20-%20Primary%20in%20Favor%20-%20FINAL.pdf>

Budget Referral: Allocate the Existing \$900,000 Transportation Network Company (TNC) Tax to Calm Traffic in Vicinity of Derby St., Increase Citywide Traffic Calming Budget, and Establish Ongoing General Fund Allocation Policy for the TNC

~~CONSENT ACTION~~  
CALENDAR  
December 5, 2023

citywide traffic calming budget and the remaining 50% to tier 1 bike/pedestrian/transit priority projects as specified under recommendation 3. a-c.

It is in the public interest to immediately allocate these funds to protect children and other community members from traffic violence in West Berkeley, expand the historically underfunded traffic calming budget, and establish an ongoing policy of allocating TNC revenues consistent with voter intent to enhance low-carbon transportation infrastructure and mitigate for increase car traffic.

FISCAL IMPACTS OF RECOMMENDATION

No impact on the general fund as the Council already allocated \$900,000 from TNC tax revenues as part of the FY 2024 budget.

ENVIRONMENTAL SUSTAINABILITY

Traffic calming measures enhance community safety and can enhance usage of low-carbon pedestrian/bike/mobility/transit trips consistent with the City's Climate Action Plan goals.

CONTACT PERSON

Councilmember Kate Harrison, (510) 981-7140



Kate Harrison  
Councilmember, District 4

ACTION CALENDAR  
December 5, 2023

To: Honorable Members of the City Council

From: Councilmembers Harrison (Author) and Taplin (Co-sponsor)

Subject: Budget Referral: Allocate the Existing \$900,000 Transportation Network Company (TNC) Tax to Calm Traffic in Vicinity of Derby St., Increase Citywide Traffic Calming Budget, and Establish Ongoing General Fund Allocation Policy for the TNC

RECOMMENDATION

Designate existing \$900,000 FY 2024 Transportation Network Company (TNC) Tax allocation as follows:

1. \$100,000 in short, medium, and long-term traffic calming measures in the vicinity of 2023 Halloween Derby St. hit-and-run incident involving a minor to include speed tables, highlighting designation of crosswalks, and consideration of a stop sign on Mabel at Carleton and Derby.
2. \$25,000 to purchase five additional portable speed radar trailers bringing the City's total to seven for targeted traffic calming; and
3. \$325,000 to increase the citywide Traffic Calming Budget on a one-time basis to \$400,000 (up from the current \$75,000); and
4. \$450,000 to citywide to fund:
  - a. tier 1 protected bicycle lanes and crossings identified in the 2017 Bicycle Plan, including but not limited to quick-build projects; and
  - b. priority pedestrian street crossings identified in the 2020 pedestrian plan, including but not limited to quick-build projects; and
  - c. priority quick-build public transit projects under the Street Repair Program; and
5. Refer to City Manager and Budget staff to establish an ongoing General Fund policy of allocating 50% of annual TNC Tax revenues to a citywide traffic calming budget and the remaining 50% to tier 1 bike/pedestrian/transit priority projects as specified under 3. a-c.

BACKGROUND

A child was hit by a speeding car Halloween night 2023 while trick-or-treating on Derby Street in southwest Berkeley, resulting in serious injuries. The driver did not stop. Miraculously, the child survived and is expected to make a full recovery, but not without

Budget Referral: Allocate the Existing \$900,000 Transportation Network Company (TNC) Tax to Calm Traffic in Vicinity of Derby St., Increase Citywide Traffic Calming Budget, and Establish Ongoing General Fund Allocation Policy for the TNC

ACTION CALENDAR  
December 5, 2023

significant trauma for the victim, family, and community. The hit-and-run suspect is still at large.

The family of the victim of this horrifying traffic violence incident started a petition to address the lack of adequate traffic safety measures, specifically the absence of speed bumps, daylighted crosswalks, and stop signs.

As Chair of the Facilities, Infrastructure, Transportation, Environment & Sustainability Policy Committee, Councilmember Harrison scheduled a hearing on November 15, 2023 to provide the family with an opportunity to speak about their experience and petition, and to provide Transportation Division and Berkeley Police Department staff with an opportunity to respond and consider traffic calming measures.

Specifically, the petition, which now includes more than 16,000 signatures, requests that the Mayor, Council, the Berkeley Police Department and the Berkeley Department of Public Works:

1. install **speed bumps** on all streets running east to west between Sacramento and San Pablo, and from Dwight Way to Ashby. These include Dwight, Blake, Parker, Carleton, Derby, Ward, Stuart, Oregon, Russell and Julia streets. Speed bumps have been proven effective in reducing vehicle speeds by 20-25% (source: Federal Highway Administration), making our roads safer.
2. establish **brightly marked crosswalks at key intersections**. Pedestrian fatalities are twice as likely to occur at unmarked crossings compared to those with crosswalks (source: National Highway Traffic Safety Administration).
3. add **stop signs at critical locations**, specifically on Mabel at Carleton and at Derby. Stop signs not only regulate traffic flow but also prioritize pedestrian safety by forcing drivers to come to a complete halt.

This budget referral seeks to revise already allocated funds from FY 2024. In June 2023, the Council approved Councilmember Harrison's budget referral, submitted in January 2022, to allocate up to \$2 million in TNC revenues to tier 1 bike/pedestrian/mobility/transit projects.<sup>1</sup> Councilmember Harrison had previously proposed allocating TNC revenues to such purposes in early 2021.<sup>2</sup>

---

<sup>1</sup>"Budget Referral: Allocate Projected Revenues from Voter-approved Transportation Network Company User Tax to Support Priority Mobility Infrastructure, Including Tier 1 Protected Bicycle Lanes and Crossings, Pedestrian Street Crossings, and Quick-build Public Transit Projects," January 18, 2022, <https://records.cityofberkeley.info/PublicAccess/api/Document/AYihhf5w8HzhLOFURtCVnulzC%C3%89L08MaMb7h8yezajQQXCe8nTt4CrnqA1hIk9fBiQvytqZyp9gxr22wMc75S00%3D/>

<sup>2</sup>"Budget Referral: Allocate Transportation Network Companies User's Tax Proceeds and other General Fund Revenues to Support Priority Protected Bicycle Boulevards and the Street Repair Program," March 9, 2021, <https://records.cityofberkeley.info/PublicAccess/api/Document/ARkxRrGkx0%C3%89GGtZtKu8>

Berkeley voters overwhelmingly passed the TNC User’s Tax (Measure GG) in 2020 with a 50-cent fee per rideshare trip specifically in order to generate “at least \$900,000 annually to support general municipal services like paving streets and improving pedestrian and bicycle infrastructure.”<sup>3</sup> City staff estimate that the tax will bring in approximately \$1-1.5 million per year. As the legislative record demonstrates, it is difficult to budget on periodic basis based on revenues. Rather, as included in this item, the Council should establish a general fund revenue policy to ensure that the funding is allocated automatically.

Of the total \$900,000 FY 2024 TNC allocation, this budget referral would designate \$100,000 to short, medium and long-term traffic calming upgrades in the vicinity of the neighborhood where the traffic violence occurred. This includes \$100,000 in dedicated funding for speed tables, daylighting and consideration of a stop sign and \$25,000 for purchasing approximately five additional speed trailers that can be deployed across the City to calm traffic (bringing the City’s total to seven). All of these measures were discussed in detail during the November 15, 2023 FITES Committee meeting.

In addition, in recognition of the FITES discussion, the petition, and historic citywide concerns about the City’s woefully underfunded traffic calming budget, this item increases the citywide budget from \$75,000 to \$400,000.

Consistent with Council’s action in adopting Councilmember Harrison’s 2022 budget referral as part of the FY 2024 budget, this item allocates the remaining \$450,000 to citywide priority bike/pedestrian/mobility/transit projects.

Finally, this budget referral refers to the City Manager and Budget staff to establish an ongoing General Fund policy of allocating 50% of annual TNC Tax revenues to a citywide traffic calming budget and the remaining 50% to tier 1 bike/pedestrian/transit priority projects as specified under recommendation 3. a-c.

It is in the public interest to immediately allocate these funds to protect children and other community members from traffic violence in West Berkeley, expand the historically underfunded traffic calming budget, and establish an ongoing policy of allocating TNC revenues consistent with voter intent to enhance low-carbon transportation infrastructure and mitigate for increase car traffic.

---

TUcvBWPF1qgSC4d8o5Waq20km4RcyQp4H%C3%89q5seu%C3%8130xYc5NRj2NaGiW3uaJStC  
%C3%89NLo%C3%89k%3D/

<sup>3</sup> “Argument in Favor of Measure GG,” Berkeley City Clerk, August 2020, <https://www.cityofberkeley.info/uploadedFiles/Clerk/Elections/GG%20-%20Primary%20in%20Favor%20-%20FINAL.pdf>



Budget Referral: Allocate the Existing \$900,000 Transportation Network Company (TNC) Tax to Calm Traffic in Vicinity of Derby St., Increase Citywide Traffic Calming Budget, and Establish Ongoing General Fund Allocation Policy for the TNC

ACTION CALENDAR  
December 5, 2023

FISCAL IMPACTS OF RECOMMENDATION

No impact on the general fund as the Council already allocated \$900,000 from TNC tax revenues as part of the FY 2024 budget.

ENVIRONMENTAL SUSTAINABILITY

Traffic calming measures enhance community safety and can enhance usage of low-carbon pedestrian/bike/mobility/transit trips consistent with the City's Climate Action Plan goals.

CONTACT PERSON

Councilmember Kate Harrison, (510) 981-7140



## Agenda Committee 1/16/2024

### Item 10 - City Council Legislative Systems Redesign

#### Discussion Items - Part 1

#### Background:

The Agenda Committee presented materials and solicited input from the City Council during fall of 2023 regarding possible Legislative Systems Redesign options. The goal of Systems Redesign is to improve processes for developing, introducing, vetting, passing, funding, and implementation of Major Council Items and initiatives. Based on City Council input, the Agenda Committee has been tasked with proposing a new set of improvements to:

1. Consider possible refinements to the definition of Major Items
2. Make the Council Item Guidelines mandatory for Major Items (formerly referred to as "Policy Track Items")
3. Establish transparent deadlines for budget processes and clarity about what kind of "asks" can be submitted/considered at each budget cycle
4. Strengthen the Committee System to provide more in-depth review and vetting of Major Items
5. Clarify levels of input from Staff and City Attorney at all stages, from development to implementation
6. Clarify processes and timelines for implementation of items once passed and funded
7. Establish protocols for one-time vetting/disposition of currently backlogged items
8. Consider yearly prioritization processes in light of the intended outcome of fewer, more fully considered Major Items in the queue

To facilitate focused discussion, this memo only addresses proposals related to items 1, 2, and 3, above. Additional considerations will be discussed at subsequent meetings.

#### **1. Consider possible refinements to the definition of Major Items**

"Major Items" are items meeting the current definition of *Policy Committee Track Items*:

*"Moderate to significant administrative, operational, budgetary, resource, or programmatic impacts."*

Some Councilmembers expressed that the definition might be further clarified. After discussing a variety of options, and considering times when the definition might have

proved problematic, it was decided that no changes should be proposed; the definition appears to provide good guidance to members of the Agenda & Rules Committee and has not been a source of controversy to date.

Consideration was given to potentially require all Ordinance changes to be labeled Major Items, but on further discussion, it was concluded that only Ordinance changes/new Ordinances with “moderate to significant administrative, operations, budgetary, resources, or programmatic impacts” would be worthy of being considered as Major Items - thus reinforcing the appropriateness of the existing definition.

One possible improvement could be to add examples of items that may be considered Major Items, rather than to amend the rule:

*“Examples may include, but are not limited to Items that:*

- *Clarify or extend existing Plans, Programs, Policies and Laws in moderate to significantly impactful ways*
- *Change/Amend existing Plans, Programs, Policies and Laws in moderate to major ways*
- *Create a new and meaningful exception to existing Plans, Programs, Policies and Laws*
- *Reverse/change existing Plans, Programs, Policies and Laws in moderate to significant ways*
- *May require moderate to significant increases in funding or additional FTE for start-up and/or ongoing operations”*

**Recommendation:** Keep existing definition, add examples, and revisit should controversies occur.

## **2. Make the Council Item Guidelines mandatory for Major Items (formerly referred to as “Policy Track Items”)**

In discussing this seemingly straightforward concept, a number of considerations arose that are addressed in the following proposed path forward.

The Council Rules of Procedure and Order already include an outline of what is “required” for Council items, in Section XXX of the Rules. The Guidelines – suggested but not required and included in an Appendix to the Rules – were built from the Rules, providing more elaboration and specificity.

As suggested but not required, the Guidelines have not been “in conflict” with the Rules. However, adopting the Guidelines as requirements changes this equation; *the existing Rules and the Guidelines cannot both be simultaneously required*. The proposed path forward addresses the potential conflict that arises when the Guidelines are adopted as mandatory for Major Items.

In addition, if the Guidelines are mandatory only for Major Items, we must consider what will be mandatory for “all other” items – hereinafter referred to as “Standard Items.” The proposed path forward thus addresses both Major Item and Standard Item requirements.

Another consideration is how the Agenda Committee will evaluate whether an item - Major or Standard - is in compliance with mandatory requirements, and what the Agenda Committee must or may do if it finds an item falls short of the requirements. The following proposal addresses these issues as well.

Finally, the Guidelines were reviewed to identify any possible edits that might be suggested prior to adoption of the Guidelines as mandatory.

**Proposal:**

1. Make Edits to Guidelines:
  - a. Remove “preamble” language
  - b. Make light changes to the Guidelines and expand illustrative examples
  - c. *See Edited Version of the Guidelines*
  
2. Remove/eliminate existing Rules about how to present/write Items and adopt a two-tiered set of Rules for **Standard Items** and **Major Items**, based on the Guidelines.
  - a. For **Major Items**, make the full Guidelines MANDATORY
  - b. For **Standard Items**, make elements **1, 2, 3, 4, 5, 14 and 15** of the Guidelines MANDATORY, with other elements RECOMMENDED.
  - c. **Drafting Consideration** - Keep the Guidelines as an Appendix – incorporated by reference into the Rules – rather than “pasting” the full Guidelines directly into the Rules.

- d. **Clerk Templates** - the Clerk's Office will create updated, more user-friendly and easily accessible templates for Major and Standard Items, as well as for Supplemental, Late, and other Submissions.
  - e. For "**Speciality Items**" such as D13 Account grants, letters and resolutions in support of State or Federal Legislation, and other "special" Item types, the Clerk's Office will provide updated RECOMMENDED templates.
3. **For MANDATORY elements of both Major and Standard Items**, suggest adopting the following (or similar) standard for review by the Agenda Committee:

*If a Major or Standard Item, as submitted by the Primary Author, does not substantially and materially meet reasonably applicable Mandatory Elements of the Guidelines, the Agenda & Rules Committee shall request, and may require, that the Primary Author provide additional analysis and/or consultation to fulfill Guideline requirements.*

*If the Agenda & Rules Committee requests or requires the Primary Author to provide additional analysis or consultation, the Item may or shall be referred back to the Primary Author and may be resubmitted for a future Agenda.*

4. **For RECOMMENDED elements of Standard Items and Speciality Items**, authorize the Agenda Committee to do what it currently has the power to do under Rules Section (C)(1) (with some edits):

*Refer the item back to the Primary Author for adherence to ~~required~~ recommended form or for additional analysis as ~~required~~ recommended in Section III.B.2 (Primary Author may decline and request Policy Committee assignment).*

5. **For Emergency/Time Sensitive Items**, Items can bypass mandatory Guidelines requirements if the Agenda Committee makes the findings for a Time Critical Track Item (existing definition).

**Proposed Standard for allowing Emergency/Time Sensitive Items to go forward without fulfilling the Mandatory Guidelines:**

*The Agenda Committee may make an exception to Mandatory Guidelines requirements for a Major or Standard Item if the Item meets the definition of a Time Critical Track Item, as provided in Section (3)(g)(1) of the Rules, in which case the Item may go forward as submitted on the Action Calendar for the Agenda under consideration with a notation, added by the Clerk's Office, that additional materials have been requested by the Agenda Committee. The Primary Author shall submit such additional materials as a Supplemental 1 filing.*

**Time Critical Track Item Definition (existing, Section (3)(g)(1)):**

*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.*

**6. Appeals - provide a mechanism to appeal Agenda Committee decisions to the full Council?**

May be advisable to have a bypass mechanism - or not?

**3. Establish transparent deadlines for budget processes and clarity about what kind of "asks" can be submitted/considered at each budget cycle**

The Council did not support a single, yearly cycle for submitting Council items, but expressed a desire for clear deadlines to be established for submission/consideration of items for various budget processes. In addition, questions have arisen regarding what kinds of requests can/should be submitted for consideration at various junctures in the yearly/biennial budget cycle.

Overall, it was determined that *the Agenda Committee should formally ask the Budget Committee for guidance on these questions*, as they fall more squarely into the Budget Committee's purview.

- By when should Standard and Major Items with budgetary considerations be passed out from Council to be considered in the June budget adoption/update?
- Working back from that date, by when should a Major Item or Standard Item be submitted, to allow time for consideration by the appropriate

Policy Committee and/or the City Council? (This may be a question for Agenda & Rules Committee to determine, once B&F sets the deadline)

- What kinds of budget requests are allowed/appropriate for the June budget?
- Consider establishing deadlines for the City Manager to bring Budget Updates (Fall and Spring) to the City Council.
- With established deadlines for Budget Updates, work back to establish deadlines for Major and Standard items to be submitted for consideration at each Budget Update. (This may be a question for Agenda & Rules Committee to determine, once B&F sets the deadline)
- What kinds of budget requests will be considered at Fall and Spring updates - from both Council and from the City Manager/Staff?
- If only emergency/time sensitive requests will be considered (or, for example, expansions of existing programs but not new programs, etc.), how will excess funds, if any, be rolled over and made available for Council priorities at the next June budget?



## 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. These Guidelines are mandatory for all Major Items and strongly recommended for all other council reports Standard Items. While not all elements ~~would be~~ applicable to every type of Agenda item, the Guidelines are intended to prompt Authors to consider important elements of a complete item and to present 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~~

~~duplicate. 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~~ Considerations
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, that can be presented singularly or in combination with others, 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 Policy Committee, or other Legislative Body

- 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, as relevant.
  - **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, City Clerk, etc.
  - **Commissions:** what Commissions were or will be consulted and what were their recommendations/concerns/suggestions?
- 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~~In addition, further elaboration of terms for recommendations, if any, should be spelled out with clarity.

- Example: Keeping winter shelters open for an extra three months extends the City's existing Winter Shelter program in a minor way. The shelters have been open during inclement weather every year for decades, and have been extended to accommodate extended rainy and cold seasons in previous years. Keeping winter shelters open through April ensures our homeless neighbors will continue to have a place to keep dry and warm and supports the City's strategic plan goal of providing services to those with critical needs in our community. All services associated with the Winter Shelter program, including but not limited to meal and storage services, are specifically included in the direction to extend the program.

#### **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? Initial, high-level consultation with the City Manager and/or the City Attorney regarding implementation, administration, and enforcement is strongly recommended, but not required.

#### **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~~ Considerations**

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 and benefits. Initial, high-level consultation with the City Manager and/or the City Attorney regarding the fiscal impacts of the proposal is strongly recommended, but not required.

#### **13. Outcomes and Evaluation**

State the specific outcomes expected, if any.

- ~~(i.e., Example: “it is expected that 100-300 homeless people will be referred to housing every year able to access dry and warm shelter during the 3-month extension of the winter shelter program”)~~

Also state and what reporting or evaluation is recommended.

- Example: The shelter operator shall keep an accounting of the number and any available demographic information about individuals who use the shelter during the extension period and report to the City Council, through the City Manager, on success or challenges of the program extension).

#### **14. Contact Information**

#### **15. Attachments/Supporting Materials**

## **APPENDIX B. GUIDELINES FOR DEVELOPING AND WRITING COUNCIL AGENDA ITEMS**

These Guidelines are mandatory for all Major Items and strongly recommended for Standard Items. While not all elements are applicable to every type of agenda item, the Guidelines prompt Authors to consider important elements of a complete item and to present items with as much relevant information and analysis as possible.

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 Considerations
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, that can be presented singularly or in combination with others, 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, Council Policy Committee, or other Legislative Body
- 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**

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, as relevant.
  - **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, City Clerk, etc.
  - **Commissions:** what Commissions were or will be consulted and what were their recommendations/concerns/suggestions?
- 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. In addition, further elaboration of terms for recommendations, if any, should be spelled out with clarity.

- *Example: Keeping winter shelters open for an extra three months extends the City's existing Winter Shelter program in a minor way. The shelters have been open during inclement weather every year for decades, and have been extended to accommodate extended rainy and cold seasons in previous years. Keeping winter shelters open through April ensures our homeless neighbors will continue to have a place to keep dry and warm and supports the City's strategic plan goal of providing services to those with critical needs in our community. All services associated with the Winter Shelter program, including but not limited to meal and storage services, are specifically included in the direction to extend the program.*

### **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? Initial, high-level consultation with the City Manager and/or the City Attorney regarding implementation, administration, and enforcement is strongly recommended, but not required.

### **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 Considerations**

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 and benefits. Initial, high-level consultation with the City Manager and/or the City

Attorney regarding the fiscal impacts of the proposal is strongly recommended, but not required.

**13. Outcomes and Evaluation**

State the specific outcomes expected, if any.

- Example: *“It is expected that 300 homeless people will be able to access dry and warm shelter during the 3-month extension of the winter shelter program.”*

Also state what reporting or evaluation is recommended.

- Example: *“The shelter operator shall keep an accounting of the number and any available demographic information about individuals who use the shelter during the extension period and report to the City Council, through the City Manager, on success or challenges of the program extension).”*

**14. Contact Information**

**15. Attachments/Supporting Materials**

