



AGENDA

BERKELEY CITY COUNCIL MEETING

Tuesday, July 25, 2023

6:00 PM

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

TELECONFERENCE LOCATION - 1404 LE ROY AVE, BERKELEY, CA 94708

JESSE ARREGUIN, MAYOR

Councilmembers:

DISTRICT 1 – RASHI KESARWANI

DISTRICT 2 – TERRY TAPLIN

DISTRICT 3 – BEN BARTLETT

DISTRICT 4 – KATE HARRISON

DISTRICT 5 – SOPHIE HAHN

DISTRICT 6 – SUSAN WENGRAF

DISTRICT 7 – RIGEL ROBINSON

DISTRICT 8 – MARK HUMBERT

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

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

*Remote participation by the public is available through Zoom. To access the meeting remotely: Join from a PC, Mac, iPad, iPhone, or Android device: Please use this URL: <https://cityofberkeley-info.zoomgov.com/j/1606074224>. If you do not wish for your name to appear on the screen, then use the drop down menu and click on "rename" to rename yourself to be anonymous. To request to speak, use the "raise hand" icon by rolling over the bottom of the screen. To join by phone: Dial **1-669-254-5252** or **1-833-568-8864 (Toll Free)** and enter Meeting ID: **160 607 4224**. If you wish to comment during the public comment portion of the agenda, Press *9 and wait to be recognized by the Chair.*

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

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

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

Preliminary Matters

Roll Call:

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

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

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

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

Consent Calendar

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

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

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

Consent Calendar

Public Comment on Consent Calendar and Information Items Only: *The Council will take public comment on any items that are either on the amended Consent Calendar or the Information Calendar. Speakers will be entitled to two minutes each to speak in opposition to or support of Consent Calendar and Information Items. A speaker may only speak once during the period for public comment on Consent Calendar and Information items.*

Additional information regarding public comment by City of Berkeley employees and interns: Employees and interns of the City of Berkeley, although not required, are encouraged to identify themselves as such, the department in which they work and state whether they are speaking as an individual or in their official capacity when addressing the Council in open session or workshops.

Consent Calendar

1. **Zoning Ordinance Amendments to Title 23 of the Berkeley Municipal Code to Conform to State Law, and Make Non-Substantive Technical Edits**

From: City Manager

Recommendation: Adopt second reading of Ordinance No. 7,882-N.S amending the following sections of the Zoning Ordinance to match State law relating to special needs housing (including supportive and transitional housing, emergency shelter, navigation center), employment housing, and family day care, and to make technical edits, corrections and other non-substantive amendments:

- 23.202.020 Allowed Land Uses (Residential Districts)
- 23.202.110 R-4 Multi-Family Residential District
- 23.204.020 Allowed Land Uses (Commercial Districts)
- 23.204.040 Use Specific Regulations (Commercial Districts)
- 23.204.060 C-U University Commercial District
- 23.206.020 Allowed Land Uses and Permit Requirements (Manufacturing Districts)
- 23.206.040 Use Specific Regulations (Manufacturing Districts)
- 23.206.050 Protected Industrial Uses
- 23.206.080 MU-LI Mixed Use-Light Industrial District (Land Use Regulations)
- 23.302.070 Use-Specific Regulations (Supplemental Use Regulations)
- 23.304.030 Setbacks
- 23.304.040 Building Separation in Residential Districts
- 23.308.020 Applicability and Nonconformities (Emergency Shelters)
- 23.308.030 Standards for Emergency Shelters
- 23.324 Nonconforming Uses, Structures, and Buildings
- 23.324.010 Chapter Purpose
- 23.324.050 Nonconforming Structures and Buildings
- 23.502.020 Glossary

First Reading Vote: All Ayes.

Financial Implications: None

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

Consent Calendar

2. Minutes for Approval

From: City Manager

Recommendation: Approve the minutes for the Council meetings of June 6 (regular), June 13 (regular), June 20 (special closed and special) and June 27 (regular)

Financial Implications: None

Contact: Mark Numainville, City Clerk, (510) 981-6900

3. Voting Delegates – League of California Cities Annual Conference

From: City Manager

Recommendation: Designate, by motion, a voting delegate and alternate for the business meeting of the Annual League of California Cities conference to be held on Friday, September 22, 2023, in Sacramento.

Financial Implications: See report

Contact: Mark Numainville, City Clerk, (510) 981-6900

4. Contract: Berkeley Convention and Visitor's Bureau, d.b.a. Visit Berkeley

From: City Manager

Recommendation: Adopt a Resolution allowing the City Manager to execute a sole source contract and any amendments with the Berkeley Convention and Visitors' Bureau, d.b.a. Visit Berkeley, to distribute one-twelfth of annual Berkeley Transient Occupancy Tax funds to support tourism marketing and promotion for the period from July 1, 2023 through June 30, 2027 for a not to exceed amount of \$3,500,000.

Financial Implications: See report

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

5. Contracts: Turtle Island Monument, Scott Parsons and Artworks Foundry LLC

From: City Manager

Recommendation: Adopt two Resolutions authorizing the City Manager to execute the following artwork contracts and any amendments for the City of Berkeley's Turtle Island Monument at Martin Luther King Jr. Civic Center Park with contract periods of July 1, 2023 through March 30, 2025:

1. Scott Parsons - for fabrication of three new stone medallions, purchase of twelve selected boulders into which seven existing art medallions will be installed, purchase of granite base stone material for mounting of five bronze turtles for an amount not to exceed \$236,000.

2. Artworks Foundry - for fabrication of a large central bronze turtle sculpture for Turtle Island Monument for an amount not to exceed \$350,000.

Financial Implications:

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

Consent Calendar

6. Contract No. 117596-1 Amendment: Animal Fix Clinic (formerly Fix Our Ferals) for Spay and Neuter Services

From: City Manager

Recommendation: Adopt a Resolution authorizing the City Manager to execute a contract and any necessary amendments with Animal Fix Clinic (formerly Fix Our Ferals) to provide no-cost spay and neuter surgeries to eligible pet owners for FY 2024, increasing the contract amount by \$35,000 for a new total contract amount not to exceed \$102,218 and extending the terms of the contract to July 25, 2026.

Financial Implications: See report

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

7. Formal Bid Solicitations and Request for Proposals Scheduled for Possible Issuance After Council Approval on July 25, 2023

From: City Manager

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

Financial Implications: Various Funds - \$885,000

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

8. Contract Amendment: Cooke and Associates for Applicant Background Investigations

From: City Manager

Recommendation: Adopt a Resolution authorizing the City Manager to execute a contract amendment with Cooke and Associates to expand capacity to perform background investigation services from \$50,000 to an amount not to exceed \$300,000 from August 1, 2023 through July 31, 2026.

Financial Implications: See report

Contact: David Sprague, Fire, (510) 981-3473, Jennifer Louis, Police, (510) 981-5900

Consent Calendar

9. **Contract Amendments: Mental Health Services Act Community Services and Supports, and Prevention and Early Intervention**

From: City Manager

Recommendation: Adopt ten Resolutions authorizing the City Manager or her designee to execute the following contracts, which are funded through Mental Health Services Act (MHSA) Community Services and Supports (CSS) and Prevention and Early Intervention (PEI), increasing the contract amounts as outlined below, and extending the contracts through June 30, 2026:

1. Increasing CSS Contract No. 108800-1 with Bay Area Hearing Voices Network by \$46,941 per year from Mental Health Services Act (Fund #315) for a total contract amount not to exceed \$325,678 for hearing voices support groups;
2. Increasing CSS Contract No. 31900132 with Building Opportunities for Self-Sufficiency by \$100,000 per year from Mental Health Services Act (Fund #315), for a total contract amount not to exceed \$700,000 for representative payee services;
3. Increasing CSS Contract No. 32200130 with Alameda County Behavioral Health Care Services by \$491,933 per year from Mental Health Services Act (Fund #315) for a total contract amount not to exceed \$2,459,665 for Wellness Center operations;
4. Increasing CSS Contract No. 32000117 with Insight Housing (formerly Berkeley Food and Housing Project) for \$626,616 per year for three years from Mental Health Services Act (Fund #315), for a total contract amount not to exceed \$5,286,488 for supportive housing services;
5. Increasing CSS Contract No. 32000094 with Youth Spirit Artworks by \$132,046 per year for three years for Transition Age Youth case management and trauma support services from Mental Health Services Act (Fund #315), and \$78,000 for Fiscal Year 2024 for Tiny House Village housing services from Measure P (Fund #011), for a total contract amount not to exceed \$1,211,230;
6. Increasing PEI Contract No. 32000240 with Berkeley Unified School District by \$401,389 per year from Mental Health Services Act (Fund #315), for a total contract amount not to exceed \$2,598,334 for services to support Berkeley students;
7. Increasing PEI Contract No. 088999-1 with Center for Independent Living by \$32,046 per year from Mental Health Services Act (Fund #315) for a total contract amount not to exceed \$448,860 for services to support older adults;
8. Increasing PEI Contract No. 052129-1 with Pacific Center for Human Growth by \$100,000 per year from Mental Health Services Act (Fund #315) for a total contract amount not to exceed \$815,150 for services to support the Lesbian, Gay, Bisexual, Transgender, Queer/Questioning, Agender, Plus (LGBTQIA+) population;
9. Increasing PEI Contract No. 32200146 with ONTRACK Program Resources by \$100,000 per year from Mental Health Services Act (Fund #315) for a total contract amount not to exceed \$475,000 for services to support African Americans;
10. Increasing PEI Contract No. 3200111 with East Bay Sanctuary Covenant by \$100,000 per year from Mental Health Services Act (Fund #315) for a total contract amount not to exceed \$500,000 for services to support the Latinx, Latina, Latino population.

Financial Implications: See report

Contact: Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400

Consent Calendar

- 10. Contract No. 32300138 Amendment: Prevention and Early Intervention Statewide Project - California Mental Health Services Authority**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager or her designee to execute an amendment to Contract No. 32300138 with the California Mental Health Services Authority (CalMHSA) to execute a Participation Agreement for Fiscal Year 2024 for the Prevention and Early Intervention (PEI) Statewide Project and allocate Mental Health Services Act (MHSA) funds in the amount of \$93,027, for a total amount not to exceed \$163,934 through June 30, 2024.
Financial Implications: See report
Contact: Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400
- 11. Contract: 2 Plus 1 Housing Resolution Services for Harriet Tubman Terrace Tenant Advocate**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager or her designee to execute a contract for professional services with the vendor 2 Plus 1 Housing Resolution Services for a Harriet Tubman Terrace Tenant Advocate for the Department of Health, Housing, and Community Services (HHCS) from August 1, 2023 to July 31, 2024 in an amount not to exceed \$100,000.
Financial Implications: See report
Contact: Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400
- 12. Mental Health Services Act (MHSA) Fiscal Years 2024-2026 Three Year Program and Expenditure Plan**
From: City Manager
Recommendation: Adopt a Resolution approving the Mental Health Services Act Fiscal Years 2024-2026 Three Year Program and Expenditure Plan (MHSA Three Year Plan), which provides information on current and proposed uses of funds for mental health programming, and forwarding the MHSA Three Year Plan to appropriate state officials.
Financial Implications: See report
Contact: Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400
- 13. Reserving Predevelopment Funds BRIDGE Housing Cooperation to Support the Development of Affordable Housing at the North Berkeley BART Site**
From: City Manager
Recommendation: Adopt a Resolution: 1. Reserving \$1,500,000 in Affordable Housing Mitigation Fee funds to BRIDGE Housing Corporation (BRIDGE) or its affiliate to support master planning and predevelopment activities related to the development of affordable housing at the North Berkeley BART site. 2. Authorizing the City Manager or her designee to execute all original or amended documents or agreements to effectuate this action.
Financial Implications: See report
Contact: Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400

Consent Calendar

- 14. Establish Classification and Salary Range – Deputy Police Chief**
From: City Manager
Recommendation: Adopt a Resolution establishing the unrepresented classification of Deputy Police Chief with an hourly salary range of \$96.1538 - \$125.0000, and an annual salary range of \$200,000.0000 - \$260,000.0000.
Financial Implications: See report
Contact: Aram Kouyoumdjian, Human Resources, (510) 981-6800
- 15. Salary Range Adjustments: Senior Building Maintenance Supervisor, Senior Equipment Supervisor, Senior Public Works Supervisor, and Senior Solid Waste Supervisor**
From: City Manager
Recommendation: Adopt a Resolution amending Resolution No. 69,997-N.S., Salary Resolution for Public Employees Union (PEU) – Local 1, to increase the salary range of the Senior Building Maintenance Supervisor by 9.30%; Senior Equipment Supervisor by 13.00%; Senior Public Works Supervisor by 8.53%; and Senior Solid Waste Supervisor by 8.53%, effective January 1, 2023.
This Resolution follows Council consideration of this item in Closed Session on May 1, 2023.
Financial Implications: See report
Contact: Aram Kouyoumdjian, Human Resources, (510) 981-6800
- 16. Piggyback Contract – SmartWave for City Facility Managed Wi-Fi**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute a contract which aligns with the City of Tucson, AZ existing contract and amendments, to provide managed Wi-Fi throughout City of Berkeley facilities in an amount of \$325,000 with an option to extend ongoing Operations and Maintenance (O&M) for an additional year for a total contract value not to exceed \$370,000 through FY2025.
Financial Implications: IT's Cost Allocation Fund - \$370,000
Contact: Kevin Fong, Information Technology, (510) 981-6500
- 17. Side Letter Agreement: Hornblower Sublease**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute and implement a Side Letter Agreement with 200 Marina Boulevard, Berkeley, LLC to memorialize the terms and amount of Hornblower sublease rent payments and the City's consent to the Hornblower sublease at the Doubletree Hotel at the Berkeley Waterfront.
Financial Implications: See report
Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700

Consent Calendar

- 18. Contract No. 32200183 Amendment: Western Water Features Inc. for Renovations at King Swim Center**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 32200183 with Western Water Features, Inc. for renovations at King Swim Center, increasing the contract amount by \$79,000 for a total not to exceed amount of \$1,179,000.
Financial Implications: \$1,179,000
Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700
- 19. \$5.5M Loan for D and E Dock Project In Berkeley Marina**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to implement one of the following options: (1) execute an Amendment to the existing \$5.5M Loan Agreement with the State Division of Boating and Waterways, based on one of four proposed alternatives described in the Current Situation section of the report;
-OR-
(2) adopt a resolution authorizing the City Manager to implement an internal loan of \$5.5M from the Workers Compensation Fund and/or the Stability Reserve Fund and/or Catastrophic Reserve Fund as determined by the City Manager, and repay this loan from the Transient Occupancy Tax revenue and/or the Marina Fund with the terms to be determined by the City Manager.
Financial Implications: See report
Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700
- 20. Accept Grant Funds from the Governor’s Office of Planning and Research to Create a New Environmental Justice Element, Update the General Plan Disaster Preparedness & Safety Element, and Develop Community-Driven Climate and Resilience Metrics**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager or their designee to accept the California Governor’s Office of Planning and Research (OPR) Adaptation Planning Grant Program (APGP) grant in the amount of \$497,042, and to execute any resulting grant agreement, for the duration of August 31, 2023 through January 31, 2026.
Financial Implications: See report
Contact: Jordan Klein, Planning and Development, (510) 981-7400

Consent Calendar

- 21. Authorize an Agreement with AC Transit to Provide Funding for Transit Shelter Maintenance**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to enter into a funding agreement between the City of Berkeley and the Alameda-Contra Costa Transit District (AC Transit) to provide an amount not to exceed \$110,000 over five years to support transit shelter and bench maintenance.
Financial Implications: See report
Contact: Liam Garland, Public Works, (510) 981-6300
- 22. Contract No. 32100127 Amendment: Benefit Resource, Inc. for Third-Party Administrator of the Employee Commute Benefit Program**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute a contract amendment with Benefit Resource, Inc., (BRI) to provide third-party administrator services for the City of Berkeley's Employee Commute Benefit Program for an amount not to exceed \$50,000 for a total contract not to exceed of \$100,000 and extending the term through February 28, 2025.
Financial Implications: See report
Contact: Liam Garland, Public Works, (510) 981-6300
- 23. Contract No. 32000128 Amendment: WSP USA Environment & Infrastructure Inc. (formerly Wood Environment & Infrastructure Solutions, Inc.) for On-Call Environmental Consulting Services**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 32000128 with WSP USA Environment & Infrastructure Inc. (formerly Wood Environment & Infrastructure Solutions, Inc.) to increase the contract for on-call environmental consulting services by \$500,000 for a new not to exceed amount of \$1,200,000 and extend the contract term through December 30, 2026.
Financial Implications: See report
Contact: Liam Garland, Public Works, (510) 981-6300
- 24. Contract No. 32000145 Amendment: Zonar Systems, Inc. for Global Positioning System Telematics Program**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 32000145 with Zonar Systems, Inc. for global positioning system telematics program, increasing the amount by \$200,000 for a total amount not to exceed \$478,698 and extending the term through June 30, 2026.
Financial Implications: See report
Contact: Liam Garland, Public Works, (510) 981-6300

Consent Calendar

- 25. Contract No. 32100070 Amendment: Urban Ore, Inc. for Salvage Operations at the City of Berkeley Transfer Station**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 32100070 with Urban Ore, Inc. for salvage operations of reusable materials at the City's Transfer Station increasing the not to exceed amount by \$75,272 for a new not to exceed amount of \$189,848 and extending the term through June 30, 2025.
Financial Implications: See report
Contact: Liam Garland, Public Works, (510) 981-6300
- 26. Contract: R & S Erection of Richmond, Inc. for On-Call Roll Up Door and Gate Maintenance and Replacement**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager or their designee to award a contract and execute any amendments and extensions, with R & S Erection of Richmond, Inc. for the ongoing maintenance, urgent repairs and replacement of roll up doors in an amount not to exceed \$300,000 for the period of August 1, 2023 through July 31, 2026.
Financial Implications: See report
Contact: Liam Garland, Public Works, (510) 981-6300
- 27. Contract: Wood Rodgers, Inc. for Stormwater Master Plan**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute a professional services contract with Wood Rodgers, Inc. in an amount not to exceed \$1,900,000 for the development of a comprehensive Stormwater Master Plan (SWMP). A comprehensive SWMP would identify key deficiencies in the stormwater system, prioritize capital improvement projects, identify funding needs, develop City specific drainage design standards, and update maintenance and inspection plan for stormwater facilities.
Financial Implications: See report
Contact: Liam Garland, Public Works, (510) 981-6300
- 28. Contract: Disability Access Consultants for On-Call American with Disabilities Act Consulting Services**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute a contract with Disability Access Consultants (DAC) for on-call American with Disabilities Act consulting services to provide support to the City of Berkeley's Disability Compliance Program, for up to three years in an amount not to exceed \$300,000.
Financial Implications: See report
Contact: Liam Garland, Public Works, (510) 981-6300

Consent Calendar

29. **Audit Status Report: Underfunded Mandate: Resources, Strategic Plan, and Communication Needed to Continue Progress towards the Year 2020 Zero Waste Goal** *(Reviewed by the Facilities, Infrastructure, Transportation, Environment & Sustainability Committee)*
From: City Manager
Recommendation: See policy committee recommendation.
Policy Committee Recommendation: Send the item to Council with a positive recommendation.
Financial Implications: None
Contact: Liam Garland, Public Works, (510) 981-6300
30. **Audit Status Report: Unified Vision of Zero Waste Activities Will Help Align Service Levels with Billing and Ensure Customer Equity** *(Reviewed by the Facilities, Infrastructure, Transportation, Environment & Sustainability Committee)*
From: City Manager
Recommendation: See policy committee recommendation.
Policy Committee Recommendation: Send the item to Council with a positive recommendation.
Financial Implications: None
Contact: Liam Garland, Public Works, (510) 981-6300
31. **Resolution to Adopt a City-Wide “Care First, Jails Last” Policy**
From: Mental Health Commission
Recommendation: Adopt a Resolution adopting a city-wide “Care First, Jails Last” policy that prioritizes the use and/or development of a continuum of care for individuals with mental illness, substance use, or co-occurring disorders rather than incarceration. Require City departments that have contact with the public to revise policies, procedures, and practices to reflect this priority and policy resolution. Require City Council to use this priority and policy resolution to inform budgetary priorities.
Financial Implications: See report
Contact: Jamie Works-Wright, Commission Secretary, (510) 981-5400

Council Consent Items

32. **Young Lives Matter Foundation Walk for Peace: Relinquishment of Council Office Budget Funds from General Funds and Grant of Such Funds**
From: Councilmember Taplin (Author), Councilmember Harrison (Co-Sponsor)
Recommendation: Adopt a Resolution approving the expenditure of an amount not to exceed \$500 per Councilmember, including up to \$500 from Councilmember Taplin, to support the Young Lives Matter Foundation’s Walk for Peace with funds relinquished to the City’s general fund.
Financial Implications: Councilmember’s Discretionary Fund - \$500
Contact: Terry Taplin, Councilmember, District 2, (510) 981-7120

Council Consent Items

- 33. Resolution to Initiate Berkeley Farmers' Market Week**
From: Councilmember Bartlett (Author), Mayor Arreguin (Co-Sponsor), Councilmember Harrison (Co-Sponsor), Councilmember Hahn (Co-Sponsor)
Recommendation: Adopt a resolution to officially proclaim the first week of August as Berkeley Farmers' Market Week.
Financial Implications: None
Contact: Ben Bartlett, Councilmember, District 3, (510) 981-7130
- 34. Commemoration of the 100th Anniversary of the 1923 Berkeley Fire: Relinquishment of Council Office Budget Funds from General Funds and Grant Such Funds**
From: Councilmember Wengraf (Author), Councilmember Harrison (Co-Sponsor), Councilmember Hahn (Co-Sponsor), Mayor Arreguin (Co-Sponsor)
Recommendation: Adopt a Resolution approving the expenditure of an amount not to exceed \$500 per Councilmember or Mayor, including \$500 from Councilmembers Wengraf and Harrison, to support the City's Commemoration of the 100th Anniversary of the 1923 Berkeley Fire with funds relinquished to the City's general fund. The relinquishment of funds from Councilmembers Wengraf and Harrison's discretionary Council Office Budgets and all other Councilmembers and Mayor who would like to contribute will support a community fair with family friendly activities, including historical and educational displays and activities for the 1923 Fire Commemoration on September 17, 2023.
Financial Implications: Councilmembers' Discretionary Funds - \$500
Contact: Susan Wengraf, Councilmember, District 6, (510) 981-7160
- 35. Resolution Supporting the Unionization of Peet's Coffee Workers**
From: Councilmember Robinson (Author), Councilmember Hahn (Co-Sponsor), Councilmember Humbert (Co-Sponsor), Mayor Arreguin (Co-Sponsor)
Recommendation: Adopt a Resolution in support of workers at Peet's Coffee unionizing under the Industrial Workers of the World IU 460
Financial Implications: None
Contact: Rigel Robinson, Councilmember, District 7, (510) 981-7170

Action Calendar

The public may comment on each item listed on the agenda for action. For items moved to the Action Calendar from the Consent Calendar or Information Calendar, persons who spoke on the item during the Consent Calendar public comment period may speak again during one of the Action Calendar public comment periods on the item. Public comment will occur for each Action item (excluding public hearings, appeals, and/or quasi-judicial matters) in one of two comment periods, either 1) before the Action Calendar is discussed; or 2) when the item is taken up by the Council.

A member of the public may only speak at one of the two public comment periods for any single Action item.

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

Action Calendar

minutes. The Presiding Officer may, with the consent of persons representing both sides of an issue, allocate a block of time to each side to present their issue.

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

Action Calendar – Scheduled Public Comment Period

During this public comment period, the Presiding Officer will open and close a comment period for each Action item on this agenda (excluding any public hearings, appeals, and/or quasi-judicial matters). The public may speak on each item. Those who speak on an item during this comment period may not speak a second time when the item is taken up by Council.

Action Calendar – Public Hearings

Staff shall introduce the public hearing item and present their comments. For certain hearings, this is followed by five-minute presentations each by the appellant and applicant. The Presiding Officer will request that persons wishing to speak line up at the podium, or use the "raise hand" function in Zoom, to be recognized and to determine the number of persons interested in speaking at that time.

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

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

**36. Amendments to Title 23 Relating to Accessory Dwelling Units (ADUs) and Repeal of Chapter 12.99 to Conform to State Law and Respond to Guidance from the California Department of Housing and Community Development
From: City Manager**

Recommendation: Conduct a public hearing and, upon conclusion, adopt the first reading of an Ordinance amending Berkeley Municipal Code (BMC) Title 23, and repealing BMC Chapter 12.99, relating to Accessory Dwelling Units and Junior Accessory Dwelling Units.

Financial Implications: See report

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

Action Calendar – New Business

- 37. Adopting the Affordable Housing Framework for Development at the North Berkeley BART Station Area**
From: City Manager
Recommendation: Adopt a Resolution:
1. Adopting the framework for City subsidy of affordable housing at the North Berkeley BART station area.
2. Authorizing the City Manager or her designee to execute all original or amended documents or agreements to effectuate this action.
Financial Implications: See report
Contact: Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400
- 38a. Surveillance Ordinance items related to Fixed Automated License Plate Readers (ALPRs)**
From: City Manager
Recommendation: Adopt a Resolution accepting the proposed policies and acquisition report for the use of fixed automated license plate readers (ALPRs).
Financial Implications: See report
Contact: Jennifer Louis, Police, (510) 981-5900
- 38b. Police Accountability Board (PAB) response to Surveillance Ordinance items related to Fixed Automated License Plate Readers (ALPRs)**
From: Police Accountability Board
Contact: Hansel Aguilar, Police Accountability Board, (510) 981-4960
- 39. Assembly Bill 481, 2022 Annual Military Equipment Report**
From: City Manager
Recommendation: Adopt a Resolution approving the 2022 Annual Military Equipment Report.
Financial Implications: See report
Contact: Jennifer Louis, Police, (510) 981-5900

Council Action Items

- 40. Waivers for Woolsey Gardens Affordable Housing Project**
From: Mayor Arreguin (Author), Councilmember Harrison (Co-Sponsor)
Recommendation: Pursuant to Berkeley Municipal Code (BMC) Section 22.20.070 and/or 22.20.080, adopt a Resolution approving the following requests from Northern California Land Trust for the Woolsey Gardens affordable housing project at 3120-3130 Shattuck: 1. Waive the requirement in BMC Section 23C.12.070(C)(4) in force at the time of entitlement that subsequent purchasers of inclusionary units in limited equity housing cooperatives have a yearly gross income of no more than 44 percent of the cost of a unit at the time of sale. 2. Approve the provision of an additional inclusionary unit instead of paying the in-lieu fee equivalent of .44 units as required by BMC Section 23.C.12.040(E) in force at the time of entitlement.
Financial Implications: See report
Contact: Jesse Arreguin, Mayor, (510) 981-7100

Public Comment – Items Not Listed on the Agenda

Adjournment

NOTICE CONCERNING YOUR LEGAL RIGHTS: *If you object to a decision by the City Council to approve or deny a use permit or variance for a project the following requirements and restrictions apply: 1) No lawsuit challenging a City decision to deny (Code Civ. Proc. §1094.6(b)) or approve (Gov. Code 65009(c)(5)) a use permit or variance may be filed more than 90 days after the date the Notice of Decision of the action of the City Council is mailed. Any lawsuit not filed within that 90-day period will be barred. 2) In any lawsuit that may be filed against a City Council decision to approve or deny a use permit or variance, the issues and evidence will be limited to those raised by you or someone else, orally or in writing, at a public hearing or prior to the close of the last public hearing on the project.*

Archived indexed video streams are available at:

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

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

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

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

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

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

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

City Clerk Department - 2180 Milvia Street, First Floor
Tel: 510-981-6900, TDD: 510-981-6903, Fax: 510-981-6901
Email: clerk@berkeleyca.gov

Libraries: Main – 2090 Kittredge Street,
Claremont Branch – 2940 Benvenue, West Branch – 1125 University,
North Branch – 1170 The Alameda, Tarea Hall Pittman South Branch – 1901 Russell

COMMUNICATION ACCESS INFORMATION:

This meeting is being held in a wheelchair accessible location.

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

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



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

~~~~~  
***I hereby certify that the agenda for this meeting of the Berkeley City Council was posted at the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way, as well as on the City's website, on July 13, 2023.***

Mark Numainville, City Clerk

## Communications

*Council rules limit action on Communications to referral to the City Manager and/or Boards and Commissions for investigation and/or recommendations. All communications submitted to Council are public record. Copies of individual communications are available for viewing at the City Clerk Department and through [Records Online](#).*

### **Item #37: Adopting the Affordable Housing Framework for Development at the North Berkeley BART Station Area**

1. Paul Widess
2. Marianne Betterly
3. Karen Eisenstadt
4. David Rice
5. T. Anne Richards
6. Marice Ashe
7. Kathryn Malone
8. Leonard Mudrock
9. Lonnie Wankel
10. Joan Hamilton
11. Mary Lai
12. Toby Salk
13. Helga Recke and Peter Ewell
14. Laura Garcia Moreno
15. Kori Kody
16. Chris Witt
17. Walter Wood
18. Laura Ide
19. Katherine Kunhraman
20. Nicole Corsini
21. Richard Laden and Marie-Paule Laden
22. Laura Klein
23. Carol Hirth

24. Vicki Sommer (2)
25. Seth Kimball
26. Leni Siegel
27. Alisa Foster and Family
28. Lunda Caesara
29. Abe Hardin
30. Harvey Smith
31. Leonard Mudrock

**Item #38: Surveillance Ordinance items related to Fixed Automated License Plate Readers (ALPRs)**

32. Tobey White
33. Hansel Aguilar, on behalf of the Police Accountability Board (3)
34. Christine Schwartz
35. David Freeling
36. Sean Gibson
37. Sara Pierre
38. Dorothea Dorenz
39. Margaret Wellons
40. Patrick McCully
41. Zach Franklin
42. Eric Lee
43. Margaret Flaherty

**Hopkins Corridor**

44. Margo Smith
45. Virginia Kamp
46. Cindi Goldberg

**Thank You Berkeley Police Department**

47. TK Alexander

**Police Accountability Board**

48. Fran Haselsteiner
49. Hansel Aguilar, on behalf of the Police Accountability Board

**Racehorse Protection**

50. Carla Cabral
51. Bonnie Klapper
52. Kevin Korevaar-Plesniak
53. Gayle Paul
54. Joyce Lipener
55. Sheri Graeber
56. Diana Deikman
57. Karin Nelson
58. Kimberlee Krok
59. Ginnysue57

60. Linda Reilly  
61. Yasirah Vaughn

**Oppose AB 965**

62. Richard Tamm  
63. Martin Bernbaum

**People's Park Protestors**

64. Lorraine Mahley

**Street Repair Money**

65. S. Entistle

**1740 San Pablo Avenue New Construction – Funding Application**

66. Rachel Durney, on behalf of NorCal Development, BRIDGE

**Abatement Notice: 1510 Rose Street #A**

67. Sara Kershner (2)

**Upcoming Sewer Rehabilitation Work at California and Prince**

68. Dan Bristol  
69. Joseph Griffin

**Claremont Hotel – Adjacent Strip Needs Work**

70. Jo Farmer

**Trash Not Being Picked Up Again**

71. Wenter S, on behalf of Third Culture Bakery (2)  
72. Berkeley's Mayor's Office

**Perimeter Trail at Cesar Chavez Park**

73. Rachel Bradley

**Curb Cuts – Thank You**

74. Laura Bates

**Safety Hazards at Willard Park**

75. Kristen Boyd

**Pump Out Services for RV's**

76. Ellen Fullman

**Aquatic Center**

77. Natasha Hains

**Fireworks**

- 78. Pamela Michaud (3)
- 79. Sarah Garrett
- 80. Colleen McCann
- 81. Mike Kim
- 82. Sandra Blair
- 83. Carol Cohen

**City's Subcontractor Weeding the Spruce and Vine Traffic Circle**

- 84. Fred Dodsworth

**URL's Only**

- 85. Vivian Warkentin (3)

**Supplemental Communications and Reports**

*Items received by the deadlines for submission will be compiled and distributed as follows. If no items are received by the deadline, no supplemental packet will be compiled for said deadline.*

- **Supplemental Communications and Reports 1**  
Available by 5:00 p.m. five days prior to the meeting.
- **Supplemental Communications and Reports 2**  
Available by 5:00 p.m. the day before the meeting.
- **Supplemental Communications and Reports 3**  
Available by 5:00 p.m. two days following the meeting.



ORDINANCE NO. 7,882-N.S.

AMENDMENTS TO THE RESIDENTIAL DISTRICT CHAPTER (BMC 23.202), COMMERCIAL DISTRICT CHAPTER (BMC 23.204), MANUFACTURING DISTRICT CHAPTER (BMC 23.206), USE-SPECIFIC REGULATIONS (SUPPLEMENTAL USE REGULATIONS) (BMC 23.302.070), GENERAL DEVELOPMENT STANDARDS CHAPTER (BMC 23.304), EMERGENCY SHELTERS CHAPTER (BMC 23.308), PARKING AND LOADING CHAPTER (BMC 23.322), NONCONFORMING USES, STRUCTURES, AND BUILDINGS (BMC 23.342), AND GLOSSARY (BMC 23.502.020) FOR CONSISTENCY WITH STATE LAW RELATED TO SPECIAL NEEDS AND EMPLOYMENT HOUSING, FAMILY DAY CARE HOME, PARKING, AND ASSOCIATED TECHNICAL EDITS

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

**Section 1.** That the following lines under the category “Public and Quasi-Public Uses” in Table 23.202-1 (Allowed Land Uses in Residential Districts) within Berkeley Municipal Code 23.202.020 are amended, added, or removed: “Emergency Shelter” is hereby amended, the lines “Emergency Shelter, more than 15 beds”; “Low Barrier Navigation Center” and “Supportive Housing” are hereby added, and the lines “Family Day Care Home, Large” and “Family Day Care Home, Small” are hereby removed to read as follows:

Table 23.202-1: Allowed Land Uses in Residential Districts

| ZC = Zoning Certificate<br>AUP = ADMINISTRATIVE USE PERMIT<br>UP(PH) = Use Permit<br>NP = Not Permitted<br>* Use-Specific Regulations Apply<br>**--Required permits for specific uses are set forth in the R-BMU Master Development Permit (MDP). See and | RESIDENTIAL DISTRICTS |      |      |     |      |     |     |     |     |       |        | USE-SPECIFIC REGULATIONS APPLIES TO USES WITH AN ASTERISK FOLLOWING THE PERMIT REQUIREMENT (E.G., ZC*) |  |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------|------|------|-----|------|-----|-----|-----|-----|-------|--------|--------------------------------------------------------------------------------------------------------|--|
|                                                                                                                                                                                                                                                           | R-1                   | R-1A | ES-R | R-2 | R-2A | R-3 | R-4 | R-5 | R-S | R-SMU | R-BMU* |                                                                                                        |  |
| <b>Public and Quasi-Public Uses</b>                                                                                                                                                                                                                       |                       |      |      |     |      |     |     |     |     |       |        |                                                                                                        |  |
| Emergency Shelter, 15 beds or fewer                                                                                                                                                                                                                       | NP                    | NP   | NP   | NP  | NP   | NP  | ZC  | ZC  | ZC  | ZC    | ZC     | 23.308 - Emergency Shelters                                                                            |  |

|                                      |    |    |    |      |      |      |          |          |          |          |          |                                    |
|--------------------------------------|----|----|----|------|------|------|----------|----------|----------|----------|----------|------------------------------------|
| Emergency Shelter, more than 15 beds | NP | NP | NP | NP   | NP   | NP   | UP (P H) | UP (P H) | UP (P H) | UP (P H) | UP (P H) |                                    |
| Low Barrier Navigation Center        | NP | NP | NP | ZC   | ZC   | ZC   | ZC       | ZC       | ZC       | ZC       | ZC       |                                    |
| Supportive Housing                   | NP | NP | NP | ZC * | ZC * | ZC * | ZC *     | ZC *     | ZC *     | ZC *     | ZC *     | 23.302.070. I – Supportive Housing |

Section 2. The Berkeley Municipal Code Table 23.202-14 is hereby amended to read as follows:

TABLE 23.202-14. R-4 LOT AND HEIGHT STANDARDS

| BASIC STANDARDS                                                                                                                                    |                          | SUPPLEMENTAL STANDARDS        |
|----------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------|-------------------------------|
| Lot Area, Minimum                                                                                                                                  |                          | 23.304.020– Lot Requirements  |
| New Lots                                                                                                                                           | 5,000 sq. ft.            |                               |
| Per Group Living Accommodation Resident                                                                                                            | 350 sq. ft. [1]          |                               |
| Usable Open Space, Minimum                                                                                                                         |                          | 23.304.090– Usable Open Space |
| Per Dwelling Unit                                                                                                                                  | 200 sq. ft.              |                               |
| Per Group Living Accommodation Resident                                                                                                            | 90 sq. ft.               |                               |
| Floor Area Ratio, Maximum                                                                                                                          | No maximum               |                               |
| Main Building Height, Average                                                                                                                      |                          | 23.304.050– Building Height   |
| New Buildings and Non-Residential Additions                                                                                                        | 35 ft. and 3 stories [2] |                               |
| Residential Additions                                                                                                                              | 16 ft. [3]               |                               |
| Notes:                                                                                                                                             |                          |                               |
| 1. One additional resident is allowed for remaining lot area between 200 and 350 square feet.                                                      |                          |                               |
| 2. Maximum 65 ft. and six stories allowed with Use Permit.                                                                                         |                          |                               |
| 3. Height greater than 16 ft. up to 35 ft. allowed with an AUP. Height greater than 35 ft. up to 65 ft. and six stories allowed with a Use Permit. |                          |                               |

Section 3. That the following lines under the category “Public and Quasi-Public Uses” in Table 23.204-1 (Allowed Uses in the Commercial Districts) within Berkeley Municipal Code 23.204.020 (Allowed Land Uses) are hereby amended or added: “Emergency Shelter” is amended; and the lines “Emergency Shelter, 26 to 60 beds”;

“Emergency Shelter, more than 60 beds”; “Low Barrier Navigation Center”; and “Supportive Housing” are hereby added to read as follows:

TABLE 23.204-1. ALLOWED USES IN THE COMMERCIAL DISTRICTS

| ZC = Zoning Certificate<br>AUP = Administrative Use Permit<br>UP(PH) = Use Permit<br>NP = Not Permitted<br>-- = Permitted with AUP, see 23.204.020(B)<br>[#] = Table Note Permit Requirement<br>* Use-Specific Regulations Apply | COMMERCIAL DISTRICTS |          |          |          |          |          |          |          |          |          |          | USE-SPECIFIC REGULATIONS |                                   |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|--------------------------|-----------------------------------|
|                                                                                                                                                                                                                                  | C-C                  | C-N      | C-U      | C-E      | C-NS     | C-NA     | C-SA     | C-T      | C-SO     | C-DMU    | C-AC     |                          |                                   |
| <b>Public and Quasi-Public Uses</b>                                                                                                                                                                                              |                      |          |          |          |          |          |          |          |          |          |          |                          |                                   |
| Emergency Shelter, 25 beds or fewer                                                                                                                                                                                              | ZC                   | ZC       | ZC       | ZC       | ZC       | ZC       | ZC       | ZC       | ZC       | ZC       | ZC       | ZC                       | 23.308 - Emergency Shelters       |
| Emergency Shelter, 26 to 60 beds                                                                                                                                                                                                 | UP (P H)             | UP (P H) | UP (P H) | UP (P H) | UP (P H) | UP (P H) | UP (P H) | UP (P H) | UP (P H) | ZC       | UP (P H) | UP (P H)                 |                                   |
| Emergency Shelter, more than 60 beds                                                                                                                                                                                             | UP (P H)             | UP (P H) | UP (P H) | UP (P H) | UP (P H) | UP (P H) | UP (P H) | UP (P H) | UP (P H) | UP (P H) | UP (P H) | UP (P H)                 |                                   |
| Low Barrier Navigation Center                                                                                                                                                                                                    | ZC                   | ZC       | ZC       | ZC       | ZC       | ZC       | ZC       | ZC       | ZC       | ZC       | ZC       | ZC                       |                                   |
| Supportive Housing                                                                                                                                                                                                               | ZC *                 | ZC *     | ZC *     | ZC *     | ZC *     | ZC *     | ZC *     | ZC *     | ZC *     | ZC *     | ZC *     | ZC *                     | 23.302.070.1 – Supportive Housing |

**Section 4.** That Berkeley Municipal Code Table 23.204-12 is hereby amended to read as follows:

TABLE 23.204-12. C-U SETBACK STANDARDS

| LOT LINE & PROJECT CONDITIONS                                                                           | REQUIRED SETBACK                                                                           |
|---------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------|
| <b>Front</b>                                                                                            |                                                                                            |
| Ground-floor non-residential uses fronting University Avenue                                            | Average 2 ft.<br>2 ft. at all sidewalk pedestrian entries                                  |
| Ground-floor residential uses fronting University Avenue                                                | Average 2 ft.<br>Maximum 10 ft.[1]                                                         |
| Fronting a street other than University Avenue and confronting a non-residential district               | No minimum                                                                                 |
| <b>Rear</b>                                                                                             |                                                                                            |
| Lots on south side of University Avenue abutting a residential district                                 | Minimum of 10 ft. or 10% of lot depth, whichever is greater, and an average_ of 20 ft. [2] |
| Lots on south side of University Avenue not abutting a residential district                             | No minimum                                                                                 |
| Lots on north side of University Avenue                                                                 | See 23.204.060(D)(5)– C-U University Commercial District (Solar Access)                    |
| <b>Interior Side</b>                                                                                    | No minimum                                                                                 |
| <b>Street Side</b>                                                                                      | 2 ft. average                                                                              |
| All setbacks for lots on South Side of University Avenue fronting a street other than University Avenue | As required by 23.304.030.C.2– Setbacks (Lots Adjacent to Residential Districts) [3]       |

Notes:

1. A maximum setback of 10 feet is only permitted for landscaping that enhances the streetscape and provides privacy for residential units on the first floor.
2. See 23.304.030(C)(2)(b) (Modifications in Commercial Districts) for allowed reductions.
3. If a lot fronting a side street is consolidated into a single project with the adjacent University Avenue-fronting lot, the project must conform to the setback standards in this table.

Section 5. That the following lines under the category “Public and Quasi-Public Uses” in Table 23.206-1 (Allowed Uses in Manufacturing Districts), within Berkeley Municipal Code 23.206.020 (Allowed Land Uses and Permit Requirements) named Low Barrier Navigation Center; and Supportive Housing are hereby added to read as follows:

TABLE 23.206-1. ALLOWED USES IN MANUFACTURING DISTRICTS

|                                                            |                                |                                                                             |
|------------------------------------------------------------|--------------------------------|-----------------------------------------------------------------------------|
| ZC = Zoning Certificate<br>AUP = Administrative Use Permit | <b>MANUFACTURING DISTRICTS</b> | <b>Use-Specific Standards</b><br>Applies to uses with an asterisk following |
|------------------------------------------------------------|--------------------------------|-----------------------------------------------------------------------------|

|                                                                                                                                                                              |          |           |              |             |                                         |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------|-----------|--------------|-------------|-----------------------------------------|
| UP(PH) = Use Permit<br>-- = Permitted with an AUP,<br>see 23.206.020(B)<br>NP = Not Permitted<br>[#] = Floor Area Permit<br>Requirement<br>* Use-Specific Standards<br>Apply |          |           |              |             | the permit requirement<br>(e.g., ZC*)   |
|                                                                                                                                                                              | <b>M</b> | <b>MM</b> | <b>MU-LI</b> | <b>MU-R</b> | <b>Use-Specific<br/>Regulation</b>      |
| <b>Public and Quasi-Public Uses</b>                                                                                                                                          |          |           |              |             |                                         |
| Low Barrier Navigation<br>Center                                                                                                                                             | NP       | NP        | NP           | ZC          |                                         |
| Supportive Housing                                                                                                                                                           | NP       | NP        | NP           | ZC*         | 23.302.070.1 –<br>Supportive<br>Housing |

Section 6. That the line named “Retail, General” in Table 23.206-1 (Allowed Uses in Manufacturing Districts), within Berkeley Municipal Code 23.206.020 (Allowed Land Uses and Permit Requirements) is hereby amended to read as follows:

TABLE 23.206-1. ALLOWED USES IN MANUFACTURING DISTRICTS

|                                                                                                                                                                                                                                               |                                |           |              |             |                                                                                                                             |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------|-----------|--------------|-------------|-----------------------------------------------------------------------------------------------------------------------------|
| ZC = Zoning Certificate<br>AUP = Administrative Use<br>Permit<br>UP(PH) = Use Permit<br>-- = Permitted with an AUP,<br>see 23.206.020(B)<br>NP = Not Permitted<br>[#] = Floor Area Permit<br>Requirement<br>* Use-Specific Standards<br>Apply | <b>MANUFACTURING DISTRICTS</b> |           |              |             | <b>Use-Specific<br/>Standards</b><br>Applies to uses with<br>an asterisk following<br>the permit requirement<br>(e.g., ZC*) |
|                                                                                                                                                                                                                                               | <b>M</b>                       | <b>MM</b> | <b>MU-LI</b> | <b>MU-R</b> | <b>Use-Specific<br/>Regulation</b>                                                                                          |
| <b>Retail Uses</b>                                                                                                                                                                                                                            |                                |           |              |             |                                                                                                                             |
| Retail, General                                                                                                                                                                                                                               | NP                             | NP        | AUP*         | AUP*[3]     | 23.206.080(B)(6);<br>23.206.090(B)(4)                                                                                       |

Section 7. That Note 5 in Table 23.206-1 (Allowed Uses in Manufacturing Districts), within Berkeley Municipal Code 23.206.020 (Allowed Land Uses and Permit Requirements) is hereby amended to read as follows:

[5] Requires a Use Permit for more than 5,000 sq. ft. of floor area.

Section 8. That Berkeley Municipal Code Section 23.206.040(C)(1) is hereby amended to read as follows:

1. As used in this section, “child-serving use” means a school, child care center, or park/recreational facility used by children. Family day care homes are exempt from these regulations and not included in the definition of “child-serving use.”

Section 9. That Berkeley Municipal Code 23.206.050(A)(3)(a) is hereby amended to read as follows:

- a) To approve a Use Permit required by Table 23.206-6 for changes to a protected industrial use in the MM and MU-LI districts, the review authority must find that replacement space is provided as required by Paragraph 4 (Replacement Space) below.

Section 10. That Berkeley Municipal Code 23.206.050(B) is hereby removed and Berkeley Municipal Code 23.206.050(C) is hereby amended to read as follows:

*B. Protected Non-Industrial Uses in the MU-LI and MU-R Districts.*

1. *Protected Non-Industrial Uses Defined.* A use in the MU-LI or MU-R districts listed in Table 23.206-8 is classified as a protected non-industrial use, provided the use:
  - (a) Was legally established as of July 6, 1989; and
  - (b) Exists as a single stand-alone use or is combined with residential use in a live/work unit.

TABLE 23.206-8: PROTECTED NON-INDUSTRIAL USES

| CATEGORY   | PROTECTED USES                                                                                                                                                                                                                                                                   |
|------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Category 1 | Art/craft studio                                                                                                                                                                                                                                                                 |
| Category 2 | 1) Art galleries, ancillary to art/craft studios and when located in the same building<br>2) Child care facility<br>3) Fine arts performance, instruction and rehearsal studios (dance, music, theater)<br>4) Theaters, stage performance, but excluding motion picture theaters |

2. *Permit Required for Change of Use.*
  - (a) Table 23.206-9 shows permits required to change a protected non-industrial use.

TABLE 23.206-9: PERMITS REQUIRED FOR CHANGE TO PROTECTED NON-INDUSTRIAL USE

| EXISTING PROTECTED USE GROSS FLOOR AREA | NEW USE                              |                                         |                                                                                         |
|-----------------------------------------|--------------------------------------|-----------------------------------------|-----------------------------------------------------------------------------------------|
|                                         | A PROTECTED USE IN THE SAME CATEGORY | A PROTECTED USE IN A DIFFERENT CATEGORY | A NON-PROTECTED USE THAT OCCUPIES ALL OF THE NON-RESIDENTIAL FLOOR AREA IN THE BUILDING |
| Less than 5,000 sq. ft.                 | ZC                                   | AUP                                     | AUP                                                                                     |
| 5,000 sq. ft. or more                   | AUP                                  | UP(PH)                                  | UP(PH)                                                                                  |

3. *Owner-Occupied Exemption.* A protected non-industrial use which is owner-occupied and occupies all of the non-residential floor area in a building is exempt from the requirements of this section.
4. *Findings.*
  - (a) To approve a permit required by Table 23.206-9, the review authority must find that space occupied by the existing non-industrial protected use will be replaced with a comparable space in the West Berkeley Plan area, which is reserved for use by any protected use in the same category. Such replacement space may not qualify for exemption under Paragraph 3 (Owner-Occupied Exemption) above or by reason of having been established after July 6, 1989.
  - (b) When making additional findings required by Chapter 23.406 (Specific Permit and Approval Requirements), the review authority may only consider the potential detriment associated with the new use. Dislocation of any specific previous occupant or use may not be a basis for finding detriment.

Section 11. That Berkeley Municipal Code 23.206.080(B)(6) is hereby amended to read as follows:

6. *General Retail.* Allowed general retail uses in the MU-LI district are limited to food product stores and building materials and garden supply stores. Other types of general retail uses are not permitted. Food product stores are not permitted if over 2,000 square feet. Building materials and garden supplies stores are permitted with an AUP if under 20,000 square feet and with a Use Permit if 20,000 square feet or more.

Section 12. That Berkeley Municipal Code 23.206.090(B)(3) is hereby amended to read as follows:

3. *Community Care Facility.* Community care facilities are allowed in the MU-R district as a change of use. New construction is permitted with a Use Permit.

Section 13. That Berkeley Municipal Code 23.302.070(I) through (K) are hereby added and re-lettered to read as follows:

*I. Supportive Housing.*

1. *Permits Required.* Supportive housing shall be allowed by right in zones where multifamily and mixed uses are permitted, if the proposed housing development satisfies requirements pursuant to Government Code Section 65651(a).

*J. Smoke Shops.* In all districts, smoke shops are not permitted within 1,400 feet of a school or public park.

*K. Warehouse Storage for Retail Use.*

1. In all districts where retail uses are allowed, on-site storage of goods is allowed as an accessory use to a primary retail use on the lot.
2. The storage of goods for a contiguous and directly accessible retail space is allowed in the MU-LI and MU-R districts subject to the following:
  - a) An AUP is required for storage 3,000 square feet or less; a Use Permit is required for storage more than 3,000 square feet.
  - b) Except for food product stores in the MU-LI district, the storage is permitted only for uses within the district. Storage for retail uses wholly or partially outside the district is not permitted.

Section 14. That Berkeley Municipal Table 23.304-2 is hereby amended to read as follows:

TABLE 23.304-2: ALLOWED BUILDING PROJECTIONS

| BUILDING FEATURE                                                                                         | MAXIMUM PROJECTION INTO REQUIRED SETBACK<br>(MUST MAINTAIN 3 FT MINIMUM FROM INTERIOR SIDE LOT LINE) |         |               |             |
|----------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------|---------|---------------|-------------|
|                                                                                                          | FRONT                                                                                                | REAR    | INTERIOR SIDE | STREET SIDE |
| Chimneys, Water Heater Enclosures, Flues, Heating and Cooling Equipment                                  | 2.5 ft.                                                                                              | 2.5 ft. | 1.5 ft.       | 2.5 ft.     |
| Eaves, Cornices, Canopies, Awnings and Bay Windows [1]                                                   | 2.5 ft.                                                                                              | 2.5 ft. | 1.5 ft.       | 2.5 ft.     |
| Uncovered decks, porches, landings, ramps and stairs when 30 inches or more above grade at any point [2] | 6 ft.                                                                                                | 6 ft.   | 1.5 ft.       | 2.5 ft.     |
| Balconies and fire escapes [1]                                                                           | 6 ft.                                                                                                | 6 ft.   | 1.5 ft.       | 2.5 ft.     |



---

Notes:

1. Projecting bay windows and balconies may not exceed 25% of the length of building wall to which its attached.
2. Uncovered decks, porches, landings and stairs less than 30 inches in height (not including railings) are not subject to minimum setback requirements.

Section 15. That Berkeley Municipal Code 23.304.030(B)(4) is hereby amended to read as follows:

4. *Accessibility for Persons with Disabilities.* Wheelchair ramps, lifts, and other structures to accommodate persons with disabilities that are less than 30 inches above grade (not including railings) are not subject to minimum setback requirements. Any accessibility feature with a height above grade of 30 inches or more (not including railings) may project into a required setback area with approval of a reasonable accommodation request. See Section 23.406.090 (Reasonable Accommodation). Preferred designs would comply with the following:
  - a) One side yard with a pedestrian pathway of at least 3 feet in width that provides access to the rear yard shall be maintained on the lot. A public sidewalk that provides access to the rear yard would also meet this requirement, and
  - b) The projection may not block access to or encroach into any required off-street parking space or driveway leading to such space unless there is no other feasible location for the accessibility feature.

Section 16. That Berkeley Municipal Code Section 23.308.020(C) is hereby removed as follows:

Section 17. That Berkeley Municipal Code 23.308.030(A) is hereby amended to read as follows:

- A. *All Districts.* The following standards apply to emergency shelters in all districts.
  1. No individual or household shall be denied emergency shelter because of an inability to pay.
  2. No emergency shelter shall be located within 300 feet of another emergency shelter, except when a Use Permit is approved to allow less of a buffer distance.
  3. When abutting a Residential District, all waiting and intake areas shall be located indoors.

4. Emergency shelter facilities are required to have an area for onsite client intake equal to one-quarter of the area provided for client beds. This may be a multi-use area.
5. The following incidental uses are permitted in emergency shelter facilities
  - a. On-site cafeteria.
  - b. Child care center.
6. Lighting shall be provided in all exterior areas, including pathways, parking areas, courtyards, rear yard areas, and spaces between structures. Lighting shall be directed in a manner that does not cast light onto neighboring properties.
7. On-site management and security shall be provided at all times the facility is in operation and on-site management shall be provided at least one hour before and after facility operation hours.
8. The shelter provider shall conduct a community meeting after giving notice to all owners and occupants within a 100-foot radius of the proposed shelter location. A community meeting shall not be required when the target population of the proposed shelter requires privacy due to safety concerns as determined by the Zoning Officer.

Section 18. That Berkeley Municipal Code 23.308.030(C) is hereby amended to read as follows:

C. *Findings.* To approve a Use Permit for an emergency shelter, the Zoning Adjustments Board (ZAB) must find that a larger shelter facility will help meet the City's goals pertaining to emergency housing of the homeless.

Section 19. That Berkeley Municipal Code 23.322.020(D) is hereby added to read as follows:

D. *Location Exemption.* Off-street parking spaces are not required for a new use or building, or an enlargement or intensification of an existing use or structure, that is located within 0.5 miles of a major transit stop, as defined by Section [21155](#) of the California Public Resources Code, unless otherwise authorized by Government Code Section [65863.2](#).

Section 20. That the category named "Non-Residential Uses" in Table 23.322-1, (Required Off Street Parking in Residential Districts), within Berkeley Municipal Code 23.322.030 (Required Parking Spaces), is hereby amended to read as follows:

TABLE 23.322-1. REQUIRED OFF-STREET PARKING IN RESIDENTIAL DISTRICTS

| Land Use                                          | Number of Required Off-street Parking Spaces                                                                                                                                                      |
|---------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Non-Residential Uses</b>                       |                                                                                                                                                                                                   |
| All non-residential uses except uses listed below | R-SMU District: 1 per 1,000 sq. ft.<br>R-BMU District: None required; no more than 1.5 spaces per 1,000 sq. ft.<br>All Other Residential Districts: See 23.322.030.A.2                            |
| Community Care Facility                           | R-BMU District: None required; no more than 1.5 spaces per 1,000 sq. ft.<br>All Other Residential Districts: None required                                                                        |
| Food Service Establishment                        | R-BMU District: None required; no more than 1.5 spaces per 1,000 sq. ft.<br>All Other Residential Districts: 1 per 300 sq. ft.                                                                    |
| Hospital                                          | R-SMU District: 1 per 1,000 sq. ft.<br>R-BMU District: None required; no more than 1.5 spaces per 1,000 sq. ft.<br>All Other Residential Districts: 1 per each 4 beds plus 1 per each 3 employees |
| Library                                           | R-BMU District: None required; no more than 1.5 spaces per 1,000 sq. ft.<br>All Other Residential Districts: 1 per 500 sq. ft. of publicly accessible floor area                                  |
| Nursing Home                                      | 1 per 3 employees                                                                                                                                                                                 |
| Medical Practitioners                             | R-BMU District: None required; no more than 1.5 spaces per 1,000 sq. ft.<br>All Other Residential Districts: 1 per 300 sq. ft.                                                                    |
| Non-Medical Offices                               | R-SMU District: 1 per 1,000 sq. ft.<br>R-BMU District: None required; no more than 1.5 spaces per 1,000 sq. ft.<br>All Other Residential Districts: 1 per 400 sq. ft.                             |
| Hotels, Tourist                                   | 1 per 3 guest/sleeping rooms or suites plus 1 per 3 employees                                                                                                                                     |

Section 21. That the category named “Non-Residential Uses” in Table 23.322-4 (Required Off Street Parking in Manufacturing Districts), within Berkeley Municipal Code 23.322.030 (Required Parking Spaces), is hereby amended to read as follows:

TABLE 23.322-4: REQUIRED OFF-STREET PARKING IN MANUFACTURING DISTRICTS

| Land Use                    | Required Parking Spaces |
|-----------------------------|-------------------------|
| <b>Non-Residential Uses</b> |                         |
| All non-residential         | 2 per 1,000 sq. ft.     |

| Land Use                                  | Required Parking Spaces                                                                                                                                                                                                                                       |
|-------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| uses except uses listed below             |                                                                                                                                                                                                                                                               |
| Art/Craft Studio                          | 1 per 1,000 sq. ft.                                                                                                                                                                                                                                           |
| Community Care Facility                   | None required                                                                                                                                                                                                                                                 |
| Food Service Establishment                | 1 per 300 sq. ft.                                                                                                                                                                                                                                             |
| Library                                   | 1 per 500 sq. ft. of publicly accessible floor area                                                                                                                                                                                                           |
| Laboratories                              | 1 per 650 sq. ft.                                                                                                                                                                                                                                             |
| Nursing Home                              | 1 per 5 residents, plus 1 per 3 employees                                                                                                                                                                                                                     |
| Medical Practitioners                     | One per 300 sq. ft.                                                                                                                                                                                                                                           |
| Large Vehicle Sales and Rental            | <u>MU-LI District:</u> 1.5 per 1,000 sq. ft.<br><u>All Other Districts:</u> 1 per 1,000 sq. ft. of display floor area plus 1 per 500 sq. ft. of other floor area; 2 per service bay                                                                           |
| Manufacturing                             | <u>MU-R District:</u> 1.0 per 1,000 sq. ft.<br><u>All Other Districts:</u> 1 per 1,000 sq. ft. for spaces less than 10,000 sq. ft.; 1 per 1,500 sq. ft. for spaces 10,000 sq. ft. or more                                                                     |
| Storage, warehousing, and wholesale trade | 1 per 1,000 sq. ft. for spaces of less than 10,000 sq. ft.;<br>1 per 1,500 sq. ft. for spaces 10,000 sq. ft. or more                                                                                                                                          |
| Live/Work                                 | <u>MU-LI District:</u> 1 per 1,000 sq. ft. of work area where workers/clients are permitted<br><u>MU-R District:</u> if workers/clients are permitted in work area, 1 per first 1,000 sq. ft. of work area and 1 per each additional 750 sq. ft. of work area |

Section 22. That Berkeley Municipal Code 23.324 title is hereby amended to read as follows:

**Chapter 23.324**

**CONFORMING AND NONCONFORMING USES, STRUCTURES, BUILDINGS, AND LOTS**

Section 23. That Berkeley Municipal Code 23.324.010 is hereby amended to read as follows:

**23.324.010 Chapter Purpose.**

This chapter establishes regulations for conforming and nonconforming lots, uses, structures, and buildings. These regulations are intended allow for:

- A. The development and use of lawful nonconforming lots;
- B. Changes to nonconforming uses and the termination of abandoned uses;
- C. Maintenance, repair, and expansion of nonconforming structures and buildings; and
- D. Alterations to nonconforming structures and buildings when needed for public safety.

Section 24. That Berkeley Municipal Code 23.324.050 section title is hereby amended to read as follows:

### **23.324.050 Conforming and Nonconforming Structures and Buildings**

Section 25. That Berkeley Municipal Code 23.324.050(F)(4)(a) is hereby amended to read as follows:

(a) A conforming or nonconforming residential-only structure or building with four residential units or less, including any accessory structures or buildings, that is involuntarily damaged or destroyed may be replaced or reconstructed with a Zoning Certificate.

Section 26. That Berkeley Municipal Code 23.502.020(C)(17) is hereby amended to read as follows:

17. *Community Care Facility.* A state-licensed facility for the non-medical care and supervision of children, adolescents, adults or elderly persons. This use includes community care facilities as defined in California Health and Safety Code (H&SC) Section 1500 et seq, residential care facilities for the elderly (H&SC Section 1569 et seq.), facilities for the mentally disordered or otherwise handicapped (California Welfare and Institutions Code Section 5000 et seq.), alcoholism or drug abuse recovery or treatment facilities (H&SC Section 11834.02), and other similar facilities. This use excludes medical care institutions, skilled nursing facilities, nursing homes, foster homes, family day care homes, child care facilities, supportive housing, and transitional housing.

Section 27. That Berkeley Municipal Code 23.502.020(E)(3) is hereby amended to read as follows:

3. *Emergency Shelter.* Temporary lodging for homeless persons with minimal supportive services that may include 24-hour services and may be limited to occupancy of six months or less as defined in Health and Safety Code Section 50801(e)).

Section 28. That Berkeley Municipal Code 23.502.020(F)(3) is hereby amended to read as follows:

3. *Family Day Care Home.* An establishment providing day care for 14 or fewer children in a dwelling unit as licensed by the California Department of Social Services. A family day care home is considered an activity allowed as part of residential use in any zoning district in which residential uses are either permitted or conditionally permitted.

Section 29. That Berkeley Municipal Code 23.502.020(H)(10) is hereby amended to read as follows:

10. *Household.* One or more persons, whether or not related by blood, marriage, or adoption, with common access to and use of all living, kitchen, and eating areas within a single dwelling unit.

Section 30. That Berkeley Municipal Code 23.502.020(L)(21) is hereby added as follows:

21. *Low Barrier Navigation Center.* A temporary, low-barrier-to-entry shelter focused on moving people into permanent housing that provides temporary living facilities while case managers connect individuals experiencing homelessness to income, public benefits, healthy services, shelter, and housing. Low barrier includes best practices to reduce barriers to entry, such as allowing partners, pets, storage of personal items, and privacy pursuant to California Government Code Section 65660 and includes services to connect people to permanent housing through a service plan and services staffing and a coordinated entry system pursuant to Section 576.400(d) or Section 578.7(a)(8), as applicable, of Title 24 of the Code of Federal Regulations.

Section 31. That Berkeley Municipal Code Section 23.502.020(S)(16) is hereby amended to read as follows:

16. *Single-Family Dwelling.* A building designed for and occupied exclusively by one household, or may provide accommodations for six or fewer employees as “employee housing” pursuant to Healthy and Safety Code Section 17021.5

Section 32. That Berkeley Municipal Code Section 23.502.020(S)(32) is hereby amended to read as follows:

32. *Supportive Housing.* As defined in Health and Safety Code 50675.14(b)(2), housing with no limit on length of stay that is occupied by the target population as defined in Health and Safety Code 50675.14(b)(3) and linked to on- or off-site services that assist the supportive housing residents in retaining the housing, improving their health status, and maximizing their ability to live and, when possible, work in the community.

Section 33. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.

At a regular meeting of the Council of the City of Berkeley held on July 11, 2023, this Ordinance was passed to print and ordered published by posting by the following vote:

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

Noes: None.

Absent: None.







Office of the City Manager

CONSENT CALENDAR  
July 25, 2023

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Mark Numainville, City Clerk

Subject: Minutes for Approval

RECOMMENDATION

Approve the minutes for the Council meetings of June 6 (regular), June 13 (regular), June 20 (special closed and special) and June 27 (regular)

CONTACT PERSON

Mark Numainville, City Clerk, 981-6900

Attachments:

1. June 6, 2023 – Regular Council Meeting
2. June 13, 2023 – Regular Council Meeting
3. June 20, 2023 – Special Closed Council Meeting
4. June 20, 2023 – Special (WS) Council Meeting
5. June 27, 2023 – Regular Council Meeting

**MINUTES**  
**BERKELEY CITY COUNCIL MEETING**  
**Tuesday, June 6, 2023**  
**6:00 PM**

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

TELECONFERENCE LOCATION - 1404 LE ROY AVE, BERKELEY 94708

JESSE ARREGUIN, MAYOR

Councilmembers:

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

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

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

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

*Remote participation by the public is available through Zoom. To access the meeting remotely: Join from a PC, Mac, iPad, iPhone, or Android device: Please use this URL: <https://cityofberkeley-info.zoomgov.com/j/1605182859>. If you do not wish for your name to appear on the screen, then use the drop down menu and click on "rename" to rename yourself to be anonymous. To request to speak, use the "raise hand" icon by rolling over the bottom of the screen. To join by phone: Dial **1-669-254-5252** or **1-833-568-8864 (Toll Free)** and enter Meeting ID: **160 518 2859**. If you wish to comment during the public comment portion of the agenda, Press \*9 and wait to be recognized by the Chair.*

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

*To submit a written communication for the City Council's consideration and inclusion in the public record, email [council@cityofberkeley.info](mailto:council@cityofberkeley.info).*

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

## Preliminary Matters

**Roll Call:** 6:03 p.m.

**Present:** Taplin, Harrison, Hahn, Wengraf, Robinson, Humbert, Arreguin

**Absent:** Kesarwani, Bartlett

Councilmember Kesarwani present at 6:13 p.m.

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

### Ceremonial Matters:

1. Recognition of Ms. Omania's Zero Waste Class at Oxford Elementary
2. Recognition of the Juneteenth Holiday on June 19, 2023
3. Recognition of Berkeley's Juneteenth Festival

### City Auditor Comments:

Jenny Wong, City Auditor, provided an update, including the recent national award for the Berkeley Auditor's Office work on the Police Overtime Audit, and the introduction of the new public whistleblower program.

### City Manager Comments: None

**Public Comment on Non-Agenda Matters:** 3 speakers.

**Action:** M/S/C (Arreguin/Hahn) to accept an urgency item from Councilmember Hahn pursuant to Government Code Section 54954.2(b)(2) entitled Resolution to Honor June 2023 as LGBTQ+ Pride Month.

**Vote:** Ayes – Kesarwani, Taplin, Harrison, Hahn, Wengraf, Robinson, Humbert, Arreguin; Noes – None; Abstain – None; Absent – Bartlett.

## Consent Calendar

**Public Comment on Consent Calendar and Information Items Only:** 6 speakers.

**Action:** M/S/C (Arreguin/Hahn) to adopt the Consent Calendar in one motion except as indicated.

**Vote:** Ayes – Kesarwani, Taplin, Harrison, Hahn, Wengraf, Robinson, Humbert, Arreguin; Noes – None; Abstain – None; Absent – Bartlett.

Recess 7:31 p.m. – 7:52 p.m.

**Urgent Item: Resolution to Honor June 2023 as LGBTQ+ Pride Month**  
**From: Councilmember Hahn (Author), Councilmember Bartlett (Author), Mayor Arreguin (Co-Sponsor), Councilmember Taplin (Co-Sponsor)**

**Recommendation:** Adopt a Resolution to honor June as LGBTQ+ Pride Month in the City of Berkeley and authorize the City Manager to fly the Rainbow Flag every year in the month of June.

**Financial Implications:** None

Contact: Sophie Hahn, Councilmember, District 5, (510) 981-7150

**Action:** Adopted Resolution No. 70,870–N.S.

1. **Formal Bid Solicitations and Request for Proposals Scheduled for Possible Issuance After Council Approval on June 6, 2023**

**From: City Manager**

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

**Financial Implications:** Various Funds - \$1,061,394

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

**Action:** Approved recommendation.

## Consent Calendar

### 2. Shelter Plus Care Program Renewal Grants

**From: City Manager**

**Recommendation:** Adopt a Resolution authorizing the City Manager or her designee to receive funds and execute any agreements and amendments resulting from the renewal of the following grants: 1. Two Shelter Plus Care grants from U.S. Department of Housing and Urban Development (HUD): a) \$3,949,021 for Supportive Housing Collaborative Project (SHC) for the period June 1, 2023 through May 31, 2024; b) \$2,327,914 for COACH Project (COACH) for the period of January 1, 2023 through December 31, 2023. 2. One federal Shelter Plus Care grant received via Alameda County in a not-to-exceed amount of \$881,045 to provide tenant-based rental assistance to individuals who are chronically homeless and disabled from March 1, 2023 through February 28, 2024.

**Financial Implications:** See report

Contact: Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400

**Action:** Adopted Resolution No. 70,871–N.S.

### 3. Request for Proposal for Martin Luther King, Junior (MLK) House

**From: City Manager**

**Recommendation:** Adopt a Resolution authorizing the City Manager to: 1. Release a Request for Proposals (RFP) seeking a new owner/operator for Martin Luther King, Junior (MLK) House currently owned by Resources for Community Development (RCD); and 2. Consider the reallocation of \$1,178,974 in 2021 Housing Trust Fund (HTF) Rehabilitation Funding initially awarded to RCD to the new owner/operator of MLK House as part of the transfer of property to help support rehabilitation of the existing housing.

**Financial Implications:** See report

Contact: Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400

**Action:** Adopted Resolution No. 70,872–N.S.

### 4. Grant Application: The Surrendered and Abandoned Vessel Exchange (SAVE) Grant Program of the California Division of Boating & Waterways

**From: City Manager**

**Recommendation:** Adopt a Resolution authorizing the City Manager or her designee to 1) Apply for and accept a grant in the amount of \$60,000 from the California Division of Boating & Waterways (“DBW”) Surrendered and Abandoned Vessel Exchange (SAVE) grant program for the removal and disposal of anticipated abandoned vessels located at the Berkeley Marina; 2) Execute any amendments; and 3) Authorize a local match contribution of \$6,000.

**Financial Implications:** Grant - \$60,000

Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700

**Action:** Adopted Resolution No. 70,873–N.S.

## Consent Calendar

- 5. Contract Amendments for As-needed Trees Services with Bay Area Tree, Hamilton Tree, Professional Tree, and West Coast Arborist**  
**From: City Manager**  
**Recommendation:** Adopt four Resolutions authorizing the City Manager to amend contracts with Bay Area Tree Specialists (31900202), Hamilton Tree Service (31900193), Professional Tree Care (31900212), and West Coast Arborists (31900218), for as-needed tree services, increasing the amount by \$250,000 each.  
**Financial Implications:** See report.  
Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700  
**Action:** Adopted Resolution No. 70,874–N.S. (Bay Area Tree), Resolution No. 70,875–N.S. (Hamilton Tree), Resolution No. 70,876–N.S. (Professional Tree), and Resolution No. 70,877–N.S. (West Coast Arborists).
- 6. Donation from the Bessemer Trust for Tree Planting**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution accepting a cash donation in the amount of \$7,105 for tree planting at Indian Rock Park and John Hinkel Park from the Bessemer Trust.  
**Financial Implications:** \$7,105 (Donation)  
Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700  
**Action:** Adopted Resolution No. 70,878–N.S.
- 7. Contract: Rebuilding Together East Bay North for Just Transition Pilot Program**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager or their designee to award a contract and execute any amendments, extensions, or change orders with Rebuilding Together East Bay North (RTEBN) in an amount not to exceed \$1,500,000 to develop and implement a Just Transition Pilot Program over a two-year period.  
**Financial Implications:** See report  
Contact: Jordan Klein, Planning and Development, (510) 981-7400  
**Action:** Adopted Resolution No. 70,879–N.S.
- 8. Contract No. 32000020 Amendment: Rincon Consultants, Inc. for On-Call Planning and Environmental Services**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 32000020 with Rincon Consultants, Inc. to prepare an addendum to the 2023-2031 Housing Element Update Environmental Impact Report (EIR) for the Southside Zoning Implementation Program, increasing the contract amount by \$61,000 to a new total not-to-exceed contract amount of \$2,061,000.  
**Financial Implications:** See report.  
Contact: Jordan Klein, Planning and Development, (510) 981-7400  
**Action:** Adopted Resolution No. 70,880–N.S.

## Consent Calendar

9. **Berkeley City Auditor Whistleblower Program**

**From: Auditor, Mayor Arreguin (Co-Sponsor), Councilmember Kesarwani (Co-Sponsor), Councilmember Harrison (Co-Sponsor), Councilmember Wengraf (Co-Sponsor)**

**Recommendation:** Adopt a Resolution to support and endorse the City Auditor's plan to implement a Whistleblower Program. Consistent with the implementation plan, the City Auditor is currently requesting authorization to hire one additional Audit Manager.

**Financial Implications:** See report

Contact: Jenny Wong, Auditor, (510) 981-6750

**Action:** Adopted Resolution No. 70,881–N.S.

## Council Consent Items

10. **Referral to City Manager and City Attorney: Tenant Habitability Plan and Amendments to Relocation Ordinance** *(Reviewed by the Land Use, Housing, & Economic Development Committee)*

**From: Mayor Arreguin (Author)**

**Recommendation:**

1. Refer to the City Manager and City Attorney to review and develop proposed amendments to the Berkeley Municipal Code to require a Tenant Habitability Plan for major construction or renovation at tenant occupied properties. Proposed language modeled after the City of Los Angeles' Tenant Habitability Plan requirements is attached for consideration. The City Manager should also return with information on the costs and staffing needs for implementation for future budget discussions.
2. Refer to the City Manager and City Attorney recommendations from the 4x4 City Council/Rent Board Joint Committee on Housing for amendments to the City's Relocation Ordinance, BMC Chapter 13.84 to strengthen and improve enforcement of the ordinance.

*Policy Committee Recommendation: Forward the item to Council with a positive recommendation that the City Council approve the item with the Author's updated recommendations as follows:*

1. *Refer to the City Manager and City Attorney to review and develop proposed amendments to the Berkeley Municipal Code to require a Tenant Habitability Plan for major construction or renovation at tenant occupied properties. Proposed language modeled after the City of Los Angeles' Tenant Habitability Plan requirements is attached for consideration. The City Manager should also return with information on the costs and staffing needs for implementation for future budget discussions. The committee further recommends that the City Manager establish an interdepartmental working group, including staff from Planning, HHCS, and the Rent Board.*
2. *Refer to the City Manager and City Attorney recommendations from the 4x4 City Council/Rent Board Joint Committee on Housing for amendments to the City's Relocation Ordinance, BMC Chapter 13.84 to strengthen and improve enforcement of the ordinance.*

**Financial Implications:** See report

Contact: Jesse Arreguin, Mayor, (510) 981-7100

**Action:** Councilmembers Hahn, Harrison, and Robinson added as co-sponsors.

Approved as recommended by the Land Use, Housing, & Economic Development Committee.



## Council Consent Items

- 11. Amendments to the COVID-19 Emergency Response Ordinance**  
**From: Mayor Arreguin (Author), Councilmember Harrison (Author), Councilmember Hahn (Author), Councilmember Robinson (Author)**  
**Recommendation:** Adopt first reading of an Ordinance amending Berkeley Municipal Code (BMC) Chapter 13.110, the COVID-19 Emergency Response Ordinance to adjust the required timeline to provide documentation proving that non-payment of rent was for a Covered Reason for Delayed Payment if an Unlawful Detainer is served.  
**Financial Implications:** None  
 Contact: Jesse Arreguin, Mayor, (510) 981-7100  
**Action:** Item continued to June 13, 2023, including revised materials in Supplemental Communications Packet #1 from Mayor Arreguin.
- 12. Budget Referral: Additional Street Maintenance Funding to Improve Pavement Condition, Saving Tax Dollars and Our Streets** *(Reviewed by the Facilities, Infrastructure, Transportation, Environment & Sustainability Committee)*  
**From: Councilmember Kesarwani (Author), Councilmember Humbert (Co-Sponsor), Councilmember Taplin (Co-Sponsor), Councilmember Wengraf (Co-Sponsor)**  
**Recommendation:** Refer to the FY 2023-25 biennial budget process to further increase the street paving budget by \$4.7 million General Fund in FY 2024-25 for a total street paving budget of approximately \$20 million in FY 2024-25.  
*Policy Committee Recommendation: To send the item to Council with a positive recommendation.*  
**Financial Implications:** See report  
 Contact: Rashi Kesarwani, Councilmember, District 1, (510) 981-7110  
**Action:** Approved as recommended by the Facilities, Infrastructure, Transportation, Environment & Sustainability Committee.
- 13. Bench Donation: Relinquishment of Council Office Budget Funds to General Fund and Grant of Such Funds**  
**From: Councilmember Bartlett (Author)**  
**Recommendation:** Adopt a Resolution approving the expenditure of funds, including \$3500 from Vice Mayor Bartlett for creating a community bench in memory of the efforts of community members made in 2020 on the Black Lives Matter movement, with funds relinquished to the City's General Fund for this purpose from the discretionary council office budget of Vice Mayor Bartlett and any other Councilmembers who would like to contribute.  
**Financial Implications:** Councilmember's Discretionary Funds - \$3,500  
 Contact: Ben Bartlett, Councilmember, District 3, (510) 981-7130  
**Action:** Adopted Resolution No. 70,882–N.S.

## Council Consent Items

- 14. Berkeley Juneteenth Festival: Relinquishment of Council Office Budget Funds to General Fund and Grant of Such Funds**  
**From: Councilmember Bartlett (Author), Councilmember Hahn (Co-Sponsor)**  
**Recommendation:** Adopt a Resolution approving the expenditure of funds, including \$1000 from Vice Mayor Bartlett for pre-planning of the Berkeley Juneteenth Festival (organized by Berkeley Juneteenth Association, Inc. 501(c)3), with funds relinquished to the City's General Fund for this purpose from the discretionary council office budget of Vice Mayor Bartlett and any other Councilmembers who would like to contribute.  
**Financial Implications:** Councilmember's Discretionary Funds - \$1,000  
 Contact: Ben Bartlett, Councilmember, District 3, (510) 981-7130  
**Action:** Adopted Resolution No. 70,883–N.S. amended to include contributions from the following Councilmembers up to the amounts listed: Mayor Arreguin - \$250; Councilmember Harrison - \$250; Councilmember Hahn - \$300; Councilmember Robinson - \$250; Councilmember Wengraf - \$350; Councilmember Taplin - \$1,000; Councilmember Humbert - \$300.
- 15. Refer \$7,000 to the June 2023 Budget Process to Purchase Marking Equipment to Engrave Identification Numbers onto Catalytic Converters**  
**From: Councilmember Harrison (Author), Councilmember Hahn (Co-Sponsor)**  
**Recommendation:** Referral to the June 2023 Budget Process for \$7,000 to purchase marking equipment to engrave identification numbers onto catalytic converters to deter theft and assist with investigations and recovery efforts.  
**Financial Implications:** \$7,000  
 Contact: Kate Harrison, Councilmember, District 4, (510) 981-7140  
**Action:** Approved recommendation.
- 16. Referring \$15,000 to the June 2023 Budget Process for a City Recreational Vehicle Pump-Out Station**  
**From: Councilmember Harrison (Author)**  
**Recommendation:** Refer \$15,000 to the June 2023 Budget Process in Measure P funds for City recreational vehicle pump-out station, including minimal staffing costs, liability, maintenance, and replacement costs to allow individuals to discharge effluent waste directly into the City's sewer system.  
**Financial Implications:** \$15,000  
 Contact: Kate Harrison, Councilmember, District 4, (510) 981-7140  
**Action:** Approved recommendation revised to change the amount to \$94,000.

## Council Consent Items

17. **Support for SB-233 (Skinner)**

**From: Councilmember Wengraf (Author), Councilmember Harrison (Co-Sponsor), Councilmember Hahn (Co-Sponsor), Councilmember Bartlett (Co-Sponsor)**

**Recommendation:** Approve a letter to Senator Skinner in support of SB-233 (Skinner) Electric vehicles and electric vehicle supply equipment: bidirectional capability, and send copies to Assemblymember Wicks and Governor Newsom.

**Financial Implications:** None

Contact: Susan Wengraf, Councilmember, District 6, (510) 981-7160

**Action:** Approved recommendation.

## Action Calendar – Public Hearings

### 18. Bird Safe Building Requirements; Adding Berkeley Municipal Code Section 23.304.150

**From: City Manager**

**Recommendation:** Conduct a public hearing and, upon conclusion, adopt first reading of an ordinance adding Berkeley Municipal Code Section 23.304.150 establishing Bird Safe Building requirements (“bird safe requirements”) for projects that require a building permit.

**Financial Implications:** See report

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

**Public Testimony:** The Mayor opened the public hearing. 43 speakers.

M/S/C (Arreguin/Hahn) to close the public hearing.

**Vote:** Ayes – Kesarwani, Taplin, Harrison, Hahn, Wengraf, Robinson, Humbert, Arreguin; Noes – None; Abstain – None; Absent – Bartlett.

**Action:** M/S/C (Wengraf/Arreguin) to:

1) adopt first reading of Ordinance No. 7,864–N.S. as amended in the revision submitted by Councilmember Harrison in Supplemental Communications Packet #2 and further amended at meeting as noted below. Second reading scheduled for June 27, 2023.

- Added exemption for landmarks and structures of merit.
- Amended applicable building locations to include building features between the ground and 75 feet above grade.
- Added exemption for residential or mixed-use projects 35 feet or less in height and/or less than 10,000 square feet of gross floor area.
- Amended phase-in period for non-residential buildings with lower hazard facades from January 1, 2025 to July 1, 2025.
- Added exemption for affordable housing projects, including High-Risk Features; and

2) Refer to the City Manager to provide the City Council a report on the bird safe building requirements no sooner than three years after effective date of this ordinance, including the following:

1. An update on the implementation of the ordinance and the costs, availability, and market for bird safe glass.
2. Review of the entire ordinance including but not limited to changing the applicability of the ordinance; and

3) Refer to the City Manager to explore providing applicants information on the bird safe building requirements and encourage voluntary compliance for projects not subject to the ordinance; and

4) Authorize the City Manager to make clarifying, non-substantive edits to the ordinance to meet the direction and intent of the Council’s action.

**Vote:** Ayes – Kesarwani, Taplin, Harrison, Hahn, Wengraf, Robinson, Humbert, Arreguin; Noes – None; Abstain – None; Absent – Bartlett.

## Action Calendar – New Business

### 19. 2022 Police Equipment & Community Safety Ordinance Annual Report

**From:** City Manager

**Recommendation:** Adopt a Resolution approving the 2022 Equipment Ordinance Annual Report.

**Financial Implications:** See report

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

**Action:** Moved to Consent Calendar. Adopted Resolution No. 70,884–N.S.

## Information Reports

### 20. Police Overtime Audit Report Wins National Recognition

**From:** Auditor

Contact: Jenny Wong, Auditor, (510) 981-6750

**Action:** Received and filed.

## Public Comment – Items Not Listed on the Agenda - 3 speakers.

## Adjournment

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

**Vote:** Ayes – Kesarwani, Taplin, Harrison, Hahn, Wengraf, Robinson, Humbert, Arreguin; Noes – None; Abstain – None; Absent – Bartlett.

Adjourned at 10:31 p.m.

I hereby certify that the forgoing is a true and correct record of the regular meeting held on June 6, 2023.

---

Mark Numainville, City Clerk

## Communications

### Item # 18: Bird Safe Building Requirements; Adding Berkeley Municipal Code Section 23.304.150

1. Teresa Ely, on behalf of the Golden Gate National Parks Conservancy
2. Bonnie Lewkowicz
3. Lucy Kenyon
4. Jeannette Kortz
5. Marie Mika
6. Janet Johnson
7. Tom Kelly
8. Victor Ichioka
9. Cathy Condon

10. Marista Jarvis
11. Deborah Crooks
12. Amanda Noguera
13. Margo Schueler
14. Hilla Abel
15. Lucas Tobin
16. Emma Cox
17. Karen Rothblatt (2)
18. Birgit Graeve
19. Keith Johnson
20. O'Brien Thiele
21. Katrina Lundstedt
22. Mary Lynn Morales
23. Charlene Woodcock
24. Sheila Metcalf Tobin
25. Jan and Steven
26. Robert Keller
27. Kim Thompson
28. Isabelle Gaston
29. Miriam Fabbri
30. Kathleen Clancy
31. Wendy Bloom
32. Eric Friedman
33. Peggy Scott
34. Linda Burden
35. Patricia Long
36. Bobbi Sloan
37. Melina Howard-Herrarte, on behalf of the Sierra Club
38. Mary Frank
39. Janice Murota
40. Lois Cantor
41. Elizabeth McAnally
42. Merle Norman
43. Andrew Chan
44. Deborah Green
45. Basak Altan
46. Jenny White
47. Juli Dickey
48. Richard Peterson
49. Cheryl Fippen
50. Pamela Nudel
51. Russ Greene
52. Irene Rice
53. Alex Stec
54. Amy Dunn
55. Brenda Wallace

56. Nancy Yates
57. Michelle Squitieri
58. Kelsey Seymour
59. Alicia Telford
60. Andrea Aidells
61. Sherry Reson
62. Sheila Goldmacher
63. Sylvia Soriano
64. Donald Goldmacher
65. Miranda Ewell
66. Ariel Smith-iyer
67. Linda Zagula
68. Jeff White
69. Melissa Quilter
70. Natalie Nussbaum
71. Roberta Wyn, on behalf of Citizens for East Shore Parks
72. Allison Kidder
73. Scott Loss
74. Joshua Bradt
75. Analia Hawkins
76. Noreen Weeden, Golden Gate Audubon Conservation Committee
77. Eva Shu
78. Beverly Tharp
79. Lovell Jarvis
80. Gianna Ranuzzi
81. Bonnie Borucki, on behalf of We Bee Gardner's
82. Kelly Hammargren
83. Linda Currie
84. Erin Diehm
85. Sally Nelson
86. Carla Woodworth
87. Pam Stello
88. Pierre Thiry
89. Selma Danskin
90. Glenn Phillips, on behalf of Golden Gate Audubon
91. Helen Morgan
92. Janet Carpinelli
93. Laura Watkins

**Unhoused Becoming Unhinged**

94. Jeff Morgan, on behalf of Covenant Wines
95. Farley Gwazda
96. Councilmember Kesarwani

**Berkeley Police Chief**

97. Karen Libby
98. Diana Andreeva

- 99. Josh Buswell-Charkow
- 100. Tom Attar
- 101. Janice Schroeder
- 102. Margot Smith

**Ambulance Service in North Berkeley**

- 103. Varya Simpson
- 104. Stefanie and William Gynn
- 105. Peggy Mendelson
- 106. Tom Burns
- 107. Rhyena Halpern
- 108. Hubert von Marschall
- 109. Susan Matisoff
- 110. Barbara Lanier

**Housing**

- 111. Melinda Howard-Herrarte, Chair, Northern Alameda County Sierra Club

**Commission Vacancies at Human Welfare and Community Action**

- 112. David Knight, CalCAPA

**3000 Shattuck Project**

- 113. Larisa Cummings

**Chess Club**

- 114. Jeffery Mitchell

**Decriminalize Psychedelics**

- 115. Esther Lerman

**Domestic Violence**

- 116. Linda Xyz

**African American Holistic Resource Center**

- 117. Walter Wood
- 118. Moni Law

**Mental Health Crisis**

- 119. Fred Dodsworth

**Sidewalk Safety**

- 120. John Cooke

**Keep California Public Transit Moving**

- 121. Dulanya Cooray



**Neighborhood Watch**

122. Vivian Warkentin

**2023 Dilemma**

123. Carolyn E. Moore

**Tax/Fee Freeze**

124. Barbara Gilbert (2)

**Senior Artists' Colony**

125. Joann Sullivan

**Crosswalk at 6<sup>th</sup> and Addison**

126. Rebecca Herman

**Police Accountability Board Budget Recommendations**

127. Hansel Aguilar

**Invitation to Attend Police Accountability Board Meeting**

128. Hansel Aguilar

**Hopkins Corridor**

129. Carol Hirth

130. Kathleen Davis

131. Josie Gerst

132. Kay Englund

133. Leni Siegel

134. Stephen Wood

135. Susan Taylor

136. Cindi Goldberg

137. Verna Winters

138. Howard Goldberg

139. Pamela Zelnik

140. Lee Bishop

141. John Parman

142. Dorothea Dorenz

143. Karen Gordon

144. Melinda Howard-Herrarte, on behalf of Sierra Club

**Pavement Smoothness and Fuel Efficiency**

145. David Lerman

**UA Theatre**

146. Arlene Owseichik

**Cesar Chavez and Dolores Huerta Tribute Site**

147. Beatriz Leyva-Cutler

**Offices to Housing**

148. Merry Selk

**Bayer - Amended and Restated Development Agreement Year One Reporting**

149. Jennifer Cogley, Bayer Community Relations

**Gas Leaf Blowers**

150. Gary VanderPol

**Vietnam Era Veteran**

151. Will Elliott

**Help Rachida To Find Housing**

152. Birgit Graeve

**Lithium Ion Battery Information**

153. David Sprague, Berkeley Fire Chief

**Asking Assistance with Criminal Justice and Accountability for Injury**

154. Benjamin Stein

**Keep Masks in Health Care + COVID Safety**

155. Sophie

**Wednesday Threat Alert at Urban Adamah**

156. Adam Weisberg

157. Councilmember Harrison

**URL's Only**

158. Vivian Warkentin

159. Kevin Burke

**Supplemental Communications and Reports 1**

**Item # 11: Amendments to the COVID-19 Emergency Response Ordinance**

160. Supplemental material, submitted by Mayor Arreguin

**Item # 18: Bird Safe Building Requirements; Adding Berkeley Municipal Code Section 23.304.150**

161. Katharine Bierce

162. Melanie Bowden

163. Lara Rachowicz

164. Diana Bohn

165. Cassandra

166. Sharol Embry

167. Anne Rowe
168. Kimberly Young
169. Peggy Mulligan
170. Alexandra Ozols
171. Sarah Hinds
172. Melanie Lutz
173. Alan Ashbaugh
174. Nel Benningshof
175. Diana Bohn
176. Ray Zhu
177. Pamela Glassoff
178. Judy Noddin
179. Sandra Morey
180. Andrea Matsushima
181. Anita Pereira
182. Patricia Kale
183. Rick Gaston
184. Kathy Kramer
185. Bernard Marszalek
186. Carol Hirth
187. Heather Sabin
188. Donna Sharee
189. Robert Hall
190. Susan Payne
191. Janice Tweedy
192. Kate Stenberg
193. Becca Todd
194. Allison Levin
195. Joe Marsala
196. Delia Taylor
197. Sally Tobin
198. Janet Byron
199. Jennifer Kern
200. Harrison
201. Kelly Hammargren
202. Mari Vlastos
203. Ellen O'Donnell
204. Sally de Becker

## **Supplemental Communications and Reports 2**

### **Item # 18: Bird Safe Building Requirements; Adding Berkeley Municipal Code Section 23.304.150**

205. Revised material, submitted by Councilmember Harrison
206. Supplemental material, submitted by Councilmember Kesarwani
207. Jennifer Steele
208. Kelly Hammargren

- 209. Lois Yuen
- 210. Sally Nelson
- 211. William Barclay
- 212. Cathy Fogel
- 213. Zipporah Collins
- 214. Christopher Kroll
- 215. Sierra Glassmab
- 216. Jaewon Lee
- 217. Judith Dunham
- 218. Sharon Anderson
- 219. Jonathan Wieder
- 220. Sally Wong
- 221. TM Scruggs
- 222. Linda Zagula
- 223. David Jaber
- 224. Penny Barron
- 225. Jesse Greenspan
- 226. Sylvia Hawley
- 227. Deborah Finch
- 228. Jonathan Curley
- 229. Laura Klein
- 230. Charles Byrne
- 231. Peg Bogle
- 232. Meredith Hall
- 233. Steve Robey
- 234. Roshann Wallen
- 235. Alan Ramo
- 236. Cindy Shamban
- 237. Chad Wilsey
- 238. Keith Johnson

**Honoring June 2023 as LGBTQ+ Pride Month**

- 239. Urgent Item submitted by Councilmembers Hahn and Bartlett (Authors) and Mayor Arreguin and Councilmember Taplin (Co-sponsors)

**Item #18: Bird Safe Building Requirement; Adding Berkeley Municipal Code section 23.304.150**

- 240. 462 Communications submitted via Berkeley Considers, includes summary information

**Supplemental Communications and Reports 3**

**Item # 18: Bird Safe Building Requirements; Adding Berkeley Municipal Code Section 23.304.150**

- 241. Presentation, submitted by Planning Department
- 242. Marianne Jensen
- 243. Jacqueline Lasahn
- 244. Bet Muth

- 245. Kelly Hammargren
- 246. Xander Boutelle
- 247. Leeor Neta
- 248. Miranda Ewell
- 249. Jan Murota
- 250. Wanda Warkentin
- 251. Daniel Klem
- 252. Peter Saenger, on behalf of Acopian Center for Ornithology
- 253. Christine Sheppard, on behalf of American Bird Conservancy
- 254. Liz Varnhagen
- 255. Erin Diehm
- 256. Gregory Kalkanis
- 257. Jaine Gilbert
- 258. Ingrid Crickmore
- 259. Rhea Sundqvist
- 260. Ariella Seidenberg
- 261. Timothy O'Connell
- 262. Glenn Phillips, on behalf of the Golden Gate Audubon Society

### **Miscellaneous**

- 263. Benjamin Stein
- 264. Mr. Eid

**MINUTES**  
**BERKELEY CITY COUNCIL MEETING**  
**Tuesday, June 13, 2023**  
**6:00 PM**

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

TELECONFERENCE LOCATION - SOFITEL WASHINGTON DC LAFAYETTE SQUARE  
 806 15TH ST NW, WASHINGTON, DC 20005

TELECONFERENCE LOCATION – 1619 EDITH STREET, BERKELEY, CA 94703

JESSE ARREGUIN, MAYOR

Councilmembers:

DISTRICT 1 – RASHI KESARWANI

DISTRICT 2 – TERRY TAPLIN

DISTRICT 3 – BEN BARTLETT

DISTRICT 4 – KATE HARRISON

DISTRICT 5 – SOPHIE HAHN

DISTRICT 6 – SUSAN WENGRAF

DISTRICT 7 – RIGEL ROBINSON

DISTRICT 8 – MARK HUMBERT

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

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

*Remote participation by the public is available through Zoom. To access the meeting remotely: Join from a PC, Mac, iPad, iPhone, or Android device: Please use this URL: <https://cityofberkeley-info.zoomgov.com/j/1613410530>. If you do not wish for your name to appear on the screen, then use the drop down menu and click on "rename" to rename yourself to be anonymous. To request to speak, use the "raise hand" icon by rolling over the bottom of the screen. To join by phone: Dial **1-669-254-5252** or **1-833-568-8864 (Toll Free)** and enter Meeting ID: **161 341 0530**. If you wish to comment during the public comment portion of the agenda, Press \*9 and wait to be recognized by the Chair.*

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

*To submit a written communication for the City Council's consideration and inclusion in the public record, email [council@cityofberkeley.info](mailto:council@cityofberkeley.info).*

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

## Preliminary Matters

**Roll Call:** 6:07 p.m.

**Present:** Kesarwani, Taplin, Harrison, Hahn, Wengraf, Robinson, Humbert

**Absent:** Bartlett, Arreguin

Mayor Arreguin present at 7:13 p.m.

Councilmember Bartlett present at 7:26 p.m.

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

### Ceremonial Matters:

1. Adjourned the Meeting in Memory of James Henry Jacobs, Jr., Berkeley's First African-American Librarian

**City Manager Comments:** None

**Public Comment on Non-Agenda Matters:** 5 speakers.

## Consent Calendar

**Public Comment on Consent Calendar and Information Items Only:** 5 speakers.

**Action:** M/S/C (Hahn/Harrison) to adopt the Consent Calendar in one motion except as indicated.

**Vote:** Ayes – Kesarwani, Taplin, Harrison, Hahn, Wengraf, Robinson, Humbert; Noes – None; Abstain – None; Absent – Bartlett, Arreguin.

Recess 6:57 p.m. – 7:13 p.m.

## Consent Calendar

1. **Re-Vote to Adopt the Final Ordinance to Amend the Miscellaneous CalPERS Contract to Effectuate PEPRA Cost Sharing Agreements**  
**From: City Manager**  
**Recommendation:** Adopt second reading of Ordinance No. 7,863 N.S. – the final Ordinance amending the City’s contract with CalPERS to effectuate changes to the cost sharing agreement between the City and PEPRA members of Service Employees International Union, Local 1021 Maintenance and Clerical (SEIU MC), SEIU Local 1021 Community Services & Part-Time Recreation Leaders Association (CSU/PTRLA), Public Employees Union Local 1 (Local 1), and the Unrepresented Employees group – in compliance with Government Code Section 20471.  
**First Reading Vote:** Ayes – Kesarwani, Taplin, Bartlett, Hahn, Wengraf, Robinson, Humbert, Arreguin; Noes – None; Abstain – None; Absent – Harrison.  
**Financial Implications:** See report  
Contact: Aram Kouyoumdjian, Human Resources, (510) 981-6800  
**Action:** Adopted second reading of Ordinance No. 7,863–N.S.
  
2. **Formal Bid Solicitations and Request for Proposals Scheduled for Possible Issuance After Council Approval on June 13, 2023**  
**From: City Manager**  
**Recommendation:** Approve the request for proposals or invitation for bids (attached to staff report) that will be, or are planned to be, issued upon final approval by the requesting department or division. All contracts over the City Manager’s threshold will be returned to Council for final approval.  
**Financial Implications:** Various Funds - \$650,000  
Contact: Henry Oyekanmi, Finance, (510) 981-7300  
**Action:** Approved recommendation.
  
3. **Temporary Appropriations FY 2024**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing a temporary appropriation in the sum of \$50,000,000 to cover payroll and other expenses from July 1, 2023, until the effective date of the FY 2024 Annual Appropriations Ordinance.  
**Financial Implications:** See report  
Contact: Henry Oyekanmi, Finance, (510) 981-7300  
**Action:** Adopted Resolution No. 70,885–N.S.
  
4. **FY 2024 Tax Rate: Fund the Debt Service on the Affordable Housing General Obligation Bonds (Measure O, November 2018 Election)**  
**From: City Manager**  
**Recommendation:** Adopt first reading of an Ordinance setting the FY 2024 tax rate funding the debt service on the Affordable Housing General Obligation Bonds (Measure O, November 2018) at 0.0250%.  
**Financial Implications:** See report  
Contact: Henry Oyekanmi, Finance, (510) 981-7300  
**Action:** Adopted first reading of Ordinance No. 7,865–N.S. Second reading scheduled for June 27, 2023.



## Consent Calendar

- 5. FY 2024 Tax Rate: Fund Firefighting, Emergency Medical Response and Wildfire Prevention (Measure FF)**  
**From: City Manager, City Manager**  
**Recommendation:** Adopt first reading of an Ordinance setting the FY 2024 tax rate for funding Firefighting, Emergency Medical Response and Wildfire Prevention (Measure FF) in the City of Berkeley at the annual tax rate of \$0.1176 (11.76 cents) per square foot of improvements.  
**Financial Implications:** See report  
Contact: Henry Oyekanmi, Finance, (510) 981-7300, David Sprague, Fire, (510) 981-3473  
**Action:** Adopted first reading of Ordinance No. 7,866–N.S. Second reading scheduled for June 27, 2023.
- 6. FY 2024 Tax Rate: Fund Debt Service on Neighborhood Branch Library Improvements Project General Obligation Bonds (Measure FF, November 2008 Election)**  
**From: City Manager**  
**Recommendation:** Adopt first reading of an Ordinance setting the FY 2024 tax rate for funding the debt service on the Neighborhood Branch Library Improvements Project General Obligation Bonds (Measure FF, November 2008 Election) at 0.0050%.  
**Financial Implications:** See report  
Contact: Henry Oyekanmi, Finance, (510) 981-7300  
**Action:** Adopted first reading of Ordinance No. 7,867–N.S. Second reading scheduled for June 27, 2023.
- 7. FY 2024 Tax Rate: Fund Debt Service on 2015 Refunding General Obligation Bonds (Measures G, S & I)**  
**From: City Manager**  
**Recommendation:** Adopt first reading of an Ordinance setting the FY 2024 tax rate funding the debt service on the 2015 consolidation of Measures G, S and I (General Obligation Bonds - Elections of 1992, 1996 and 2002) at 0.0115%.  
**Financial Implications:** See report  
Contact: Henry Oyekanmi, Finance, (510) 981-7300  
**Action:** Adopted first reading of Ordinance No. 7,868–N.S. Second reading scheduled for June 27, 2023.

## Consent Calendar

- 8. FY 2024 Tax Rate: Fund the Debt Service on the Infrastructure and Facilities General Obligation Bonds (Measure T1, November 2016 Election)**  
**From: City Manager**  
**Recommendation:** Adopt first reading of an Ordinance setting the FY 2024 tax rate funding the debt service on the Infrastructure and Facilities Improvements General Obligation Bonds (Measure T1, November 2016) at 0.0140%.  
**Financial Implications:** See report  
 Contact: Henry Oyekanmi, Finance, (510) 981-7300  
**Action:** Adopted first reading of Ordinance No. 7,869–N.S. Second reading scheduled for June 27, 2023.
- 9. FY 2024 Tax Rate: Fund the Debt Service on the Street and Watershed Improvements General Obligation Bonds (Measure M, November 2012 Election)**  
**From: City Manager**  
**Recommendation:** Adopt first reading of an Ordinance setting the FY 2024 tax rate funding the debt service on the Street and Integrated Watershed Improvements General Obligation Bonds (Measure M, November 2012) at 0.0065%.  
**Financial Implications:** See report  
 Contact: Henry Oyekanmi, Finance, (510) 981-7300  
**Action:** Adopted first reading of Ordinance No. 7,870–N.S. Second reading scheduled for June 27, 2023.
- 10. FY 2024 Tax Rate: Business License Tax on Large Non-Profits**  
**From: City Manager**  
**Recommendation:** Adopt first reading of an Ordinance setting the FY 2024 tax rate for Business License Tax on large non-profits at \$0.7909 (79.09 cents) per square foot of improvements.  
**Financial Implications:** See report  
 Contact: Henry Oyekanmi, Finance, (510) 981-7300  
**Action:** Adopted first reading of Ordinance No. 7,871–N.S. Second reading scheduled for June 27, 2023.
- 11. FY 2024 Tax Rate: Fund the Maintenance of Parks, City Trees and Landscaping**  
**From: City Manager**  
**Recommendation:** Adopt first reading of an Ordinance setting the FY 2024 tax rate for funding all improvements for the maintenance of parks, City trees, and landscaping in the City of Berkeley at \$0.2130 (21.30 cents) per square foot of improvements.  
**Financial Implications:** See report  
 Contact: Henry Oyekanmi, Finance, (510) 981-7300  
**Action:** Adopted first reading of Ordinance No. 7,872–N.S. Second reading scheduled for June 27, 2023.

## Consent Calendar

- 12. FY 2024 Tax Rate: Fund the Provision of Emergency Medical Services (Paramedic Tax)**  
**From: City Manager**  
**Recommendation:** Adopt first reading of an Ordinance setting the FY 2024 tax rate for funding the provision of emergency medical services to Berkeley residents at \$0.0451 (4.51 cents) per square foot of improvements.  
**Financial Implications:** See report  
 Contact: Henry Oyekanmi, Finance, (510) 981-7300  
**Action:** Adopted first reading of Ordinance No. 7,873–N.S. Second reading scheduled for June 27, 2023.
- 13. FY 2024 Tax Rate: Fund Emergency Services for the Severely Disabled (Measure E)**  
**From: City Manager**  
**Recommendation:** Adopt first reading of an Ordinance setting the FY 2024 tax rate for funding the provision of emergency services for the disabled at \$0.02018 (2.018 cents) per square foot of improvements.  
**Financial Implications:** See report  
 Contact: Henry Oyekanmi, Finance, (510) 981-7300  
**Action:** Adopted first reading of Ordinance No. 7,874–N.S. Second reading scheduled for June 27, 2023.
- 14. Contract: Berkeley Unified School District for Mental Health and Wellbeing Coordinator at Berkeley High School**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager or her designee to execute a contract and any amendments with the Berkeley Unified School District (BUSD) for a Mental Health and Wellness Coordinator at Berkeley High School (BHS) for a total contract limit of \$350,000 for the period beginning June 26, 2023 and ending June 30, 2025.  
**Financial Implications:** See report  
 Contact: Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400  
**Action:** Adopted Resolution No. 70,886–N.S.
- 15. Contract No. 32200084 Amendment: Capoeira Arts Foundation, Inc. (CAF), COVID-19 Outreach & Education**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution amending Contract No. 32200084 with Capoeira Arts Foundation, Inc. (CAF), to extend the contract end date through June 30, 2024 and increase the not-to-exceed amount (NTE) by \$65,000 utilizing one-time grant funds. The amendment will increase the NTE amount from \$ 206,025 to \$271,025.  
**Financial Implications:** See report  
 Contact: Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400  
**Action:** Adopted Resolution No. 70,887–N.S.

## Consent Calendar

- 16. Contract No. 32200135 Amendment: Multicultural Institute, COVID-19 Outreach & Education**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution amending Contract No. 32200135 with Multicultural Institute, to extend the contract end date through June 30, 2024 and increase the not to exceed amount (NTE) by \$65,000 utilizing one-time grant funds. The amendment will increase the NTE amount from \$121,000 to \$186,000.  
**Financial Implications:** See report  
Contact: Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400  
**Action:** Adopted Resolution No. 70,888–N.S.
- 17. Ephesian Legacy Court and Woolsey Gardens Housing Trust Fund Reservations**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution: 1. Reserving \$14,531,301 in Housing Trust Fund program funds for a development loan for Community Housing Development Corporation’s Ephesian Legacy Court (1708 Harmon Street) affordable housing development. 2. Reserving \$1,000,000 in Housing Trust Fund program funds for a predevelopment loan for Northern California Land Trust’s Woolsey Gardens (3120-3130 Shattuck) affordable housing development and waiving Sections I.A.1 and III.A.1 of the Housing Trust Fund Guidelines. 3. Authorizing the City Manager or her designee to execute all original or amended documents or agreements to effectuate these actions.  
**Financial Implications:** See report.  
Contact: Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400  
**Action:** Adopted Resolution No. 70,889–N.S.
- 18. Funding Recommendation for the Russell Street Project at 1741-1747 Russell**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution: 1. Reserving up to \$4,500,000 in General Funds received pursuant to Measure P for the Russell Street supportive housing project at 1741, 1743, and 1747 Russell Street as proposed by Berkeley Food and Housing Project (BFHP), contingent on BFHP’s timely submission of a complete application demonstrating they meet the City’s funding criteria; and 2. Authorizing the City Manager or her designee to execute all original or amended documents or agreements to effectuate this action.  
**Financial Implications:** See report.  
Contact: Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400  
**Action:** Adopted Resolution No. 70,890–N.S.

## Consent Calendar

**19. Contract: Chemical Procurement Services, LLC for King and West Campus Swim Centers**

**From: City Manager**

**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a contract with Chemical Procurement Services, LLC for King and West Campus Swim Centers for a not-to-exceed total amount of \$120,000 over a two-year period, beginning July 1, 2023 and ending June 30, 2025, contingent upon annual budget appropriations.

**Financial Implications:** General Fund - \$120,000

Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700

**Action:** Adopted Resolution No. 70,891–N.S.

**20. Contract No. 32100065 Amendment: BMI Imaging Systems, Incorporated for Data Conversion Services for the Berkeley Police Department**

**From: City Manager**

**Recommendation:** Adopt a Resolution authorizing the City Manager to amend Contract No. 32100065 and any necessary amendments with BMI Imaging Systems, Incorporated for continuing data conversion services and necessary hosting services for the Berkeley Police Department (BPD), increasing the amount by \$60,000 for a total contract not to exceed \$260,000 and extending the term to six years through August 31, 2026.

**Financial Implications:** See report

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

**Action:** Adopted Resolution No. 70,892–N.S.

**21. Declaration of Intent – Fiscal Year 2024 Street Lighting Assessments**

**From: City Manager**

**Recommendation:** Adopt two Resolutions granting the City Manager the authority to approve the Engineer's Reports; set a public hearing to be held before the Council of the City of Berkeley at its June 27, 2023 meeting; and authorize the City Clerk to publish Notice of the Public Hearing for Fiscal Year 2024 Levy of Assessments for Berkeley Street Lighting Assessment District No. 1982-1 and Street Lighting Assessment District 2018.

**Financial Implications:** See report

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

**Action:** Adopted Resolution No. 70,893–N.S. (District No. 1982-1), and Resolution No. 70,894–N.S. (District 2018).

## Action Calendar – Public Hearings

### 22. Amendments to Berkeley Election Reform Act; Amending Berkeley Municipal Code Chapter 2.12

**From: Fair Campaign Practices Commission**

**Recommendation:** Conduct a public hearing and, upon conclusion, adopt first reading of an ordinance amending the Berkeley Election Reform Act (BMC Chapter 2.12) to modify the forms required to open a campaign committee, change the deadline to qualify for the public financing program and make associated amendments, clarify the rules for public financing candidates that do not qualify for the ballot, add an automatic inflator for the amount a public financing candidate can give to their own committee, clarify post-election processes for public financing candidates, modify the threshold to create a campaign committee, and clarify the rules for returning certain types of contributions.

**Financial Implications:** None

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

**Public Testimony:** The Mayor opened the public hearing. 0 speakers.

M/S/C (Arreguin/Wengraf) to close the public hearing.

**Vote:** All Ayes.

**Action:** M/S/C (Humbert/Taplin) to adopt the first reading of Ordinance No. 7,875–N.S. Second reading scheduled for June 27, 2023.

**Vote:** All Ayes.

### 23. FY 2024 Proposed Budget Update Public Hearing #2

**From: City Manager**

**Recommendation:** Conduct Public Hearing #2 on the FY 2024 Proposed Budget Update and provide staff with comments and direction.

**Financial Implications:** See report

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

**Public Testimony:** The Mayor opened the public hearing. 13 speakers.

M/S/C (Arreguin/Robinson) to close the public hearing.

**Vote:** Ayes – Kesarwani, Taplin, Harrison, Hahn, Wengraf, Robinson, Humbert, Arreguin; Noes – None; Abstain – None; Absent – Bartlett.

Councilmember Bartlett absent 9:41 p.m. – 9:43 p.m.

Recess 9:43 p.m. – 9:50 p.m.

**Action:** Presentation made and discussion held. No action taken.

## Action Calendar – Old Business

24. **Surveillance Ordinance items related to Fixed Surveillance Cameras and Unmanned Aerial Systems (UAS)** *(Continued from May 23, 2023) (Item contains Revised and Supplemental Material)*

**From: City Manager**

**Recommendation:** Adopt a Resolution approving the Surveillance Ordinance items related to Fixed Surveillance Cameras and Unmanned Aerial Systems (UAS).

**Financial Implications:** See report

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

**Action:** M/S/C (Arreguin/Harrison) to suspend the rules and extend the meeting to 11:30 p.m.

**Vote:** All Ayes.

**Action:** 22 speakers. M/S/C (Taplin/Harrison) to adopt Resolution No. 70,895–N.S. approving the Surveillance Ordinance items related to Fixed Surveillance Cameras and Unmanned Aerial Systems (UAS) as amended in Supplemental Communications Packet #2 by Mayor Arreguin with the additions from Councilmember Humbert and the recommended changes from the City Attorney's Office; and to make corresponding changes to Policy 1304.

**Vote:** All Ayes.

## Action Calendar – New Business

### 25. Provide Direction on Closing the Funding Gap to Complete Remaining Measure T1 Projects

**From: City Manager**

**Recommendation:** Identify up to \$9.062M to cover the Measure T1 funding gap in order to complete the current remaining T1 projects.

**Financial Implications:** See report

Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700, Sharon Friedrichsen, Budget Manager, (510) 981-7000, Liam Garland, Public Works, (510) 981-6300

**Action:** M/S/C (Arreguin/Harrison) to suspend the rules and extend the meeting to 11:45 p.m.

**Vote:** All Ayes.

**Action:** 26 speakers. M/S/C (Arreguin/Harrison) to approve the recommendation of the Budget & Finance Committee to cover the Measure T1 funding gap, inclusive of the 6,000 square foot African American Holistic Resource Center project, as follows:

- Use \$4,050,000 from the Workers Compensation Fund;
- Use \$2,800,000 of \$6,750,000 allocated for the Hopkins Bike/Pedestrian T1 Project;
- Use \$500,000 from the North Berkeley Senior Center (NBSC) Solar Battery Storage T1 Project;
- Use \$643,899 of \$1,293,889 from the Street/ Intersection Security Camera Project (General Fund (GF)); and
- Use \$666,101 of \$1,300,000 from Fire Station 6 T1 Project.

**Vote:** All Ayes.

## Action Calendar – Continued Business

### A. Amendments to the COVID-19 Emergency Response Ordinance *(Continued from June 6, 2023)*

**From: Mayor Arreguin (Author), Councilmember Harrison (Author), Councilmember Hahn (Author), Councilmember Robinson (Author)**

**Recommendation:** Adopt first reading of an Ordinance amending Berkeley Municipal Code (BMC) Chapter 13.110, the COVID-19 Emergency Response Ordinance to adjust the required timeline to provide documentation proving that non-payment of rent was for a Covered Reason for Delayed Payment if an Unlawful Detainer is served.

**Financial Implications:** None

Contact: Jesse Arreguin, Mayor, (510) 981-7100

**Action:** 2 speakers. M/S/C (Arreguin/Hahn) to adopt the first reading of Ordinance No. 7,876–N.S as amended in Supplemental Communications Packet #2 by Mayor Arreguin. Second reading scheduled for June 27, 2023.

**Vote:** Ayes – Taplin, Bartlett, Harrison, Hahn, Robinson, Arreguin; Noes – Humbert; Abstain – Kesarwani, Wengraf.



**Public Comment – Items Not Listed on the Agenda - 0 speakers.**

## **Adjournment**

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

**Vote:** All Ayes.

Adjourned at 11:42 p.m.

I hereby certify that the forgoing is a true and correct record of the regular meeting held on June 13, 2023.

---

Mark Numainville, City Clerk

## **Communications**

### **Item #24: Surveillance Ordinance items related to Fixed Surveillance Cameras and Unmanned Aerial Systems (UAS)**

1. John Parman
2. Christoverre Koher (2)
3. Carole Marasovic

### **Crime in Berkeley is Unacceptable**

4. Tamara Birdsall
5. Dorothea Dorenz

### **Appreciation of Sergeant Perkins Badge #57**

6. Anthony Johnson

### **Ellis Street Reparations Now – Mural Restoration**

7. Catherin Huchting, et al

### **People's Park**

8. Wendy Stephens

### **Artists Affordable Housing Certification Program**

9. Kathryn Reasoner

### **Use Permit for 3000 Shattuck**

10. Lynn Cooper

### **Traffic Calming Henry Street Area**

11. Simone Hoelck

**\$5.1M for the Waterfront**

12. Jack Kurzweil

**Dept. of Alcoholic Beverage Control for 1834 4<sup>th</sup> Street, Berkeley**

13. Anneata Williams, ABC

**UC's EIR at People's Park**

14. Joe Liesner

**Police Accountability Board**

15. Bill Williams

**Ashby BART Station RFP and Reparative Investments**

16. South Berkeley Now

**Lessons from a Renters' Utopia (NY Times)**

17. Jack Kurzweil

18. Joe Berry

**Cal Sailing Club Volunteer**

19. Onaje Boone

**UA Theater**

20. Robert Cooper

**Rent Control**

21. Platon Yerofeyev

**Targeted Justice**

22. Special K

**"Youth Peace" Campaign in California**

23. Douglas Wain, on behalf of Youth Peace

**Jail Time Affecting Credit Scores**

24. Lavell Young

**Supplemental Communications and Reports 1**

**Item #24: Surveillance Ordinance items related to Fixed Surveillance Cameras and Unmanned Aerial Systems (UAS)**

25. Dorothea Dorenz

**Supplemental Communications and Reports 2**

**Item #23: FY 2024 Proposed Budget Update Public Hearing #2**

26. Supplemental material, submitted by the City Manager

27. Letter of Support for African-American Holistic Resource Center

**Item #24: Surveillance Ordinance items related to Fixed Surveillance Cameras and Unmanned Aerial Systems (UAS)**

- 28. Supplemental material, submitted by Councilmember Taplin and Wengraf
- 29. Supplemental material, submitted by Mayor Arreguin
- 30. Priyanka
- 31. Ms. K
- 32. Kimberly Damer
- 33. Gregory Kalkanis
- 34. Jasmine Smith
- 35. Jill Travis
- 36. Carmen Sandgren
- 37. Lisa Tsering
- 38. Valarie Phillips
- 39. Elizabeth Areiza
- 40. Paula Reeves
- 41. Grace Hartman
- 42. SafeBears Info
- 43. Mary Chow
- 44. 10 similarly-worded form letters

**Item #25 Provide Direction on Closing the Funding Gap to Complete Remaining Measure T1 Projects**

- 45. Revised material, submitted by Councilmember Kesarwani

**Item #A: Amendments to the COVID-19 Emergency Response Ordinance**

- 46. Revised material, submitted by Mayor Arreguin
- 47. Supplemental material, submitted by Mayor Arreguin (originally submitted for the June 6, 2023 Council meeting)

**Supplemental Communications and Reports 3**

**Item #14: Contract: Berkeley Unified School District for Mental Health and Wellbeing Coordinator at Berkeley High School**

- 48. Todd Andrew

**Item #23: FY 2024 Proposed Budget Update Public Hearing #2**

- 49. Presentation, submitted by the City Manager's Office

**Item #24: Surveillance Ordinance items related to Fixed Surveillance Cameras and Unmanned Aerial Systems (UAS)**

- 50. Berkeley Police Department
- 51. Todd Andrew
- 52. Steve Kromer
- 53. Christine Staples
- 54. Grace Morizawa, Chair, Peace and Justice Commission
- 55. Monika Mann
- 56. Elana Auerbach
- 57. Toni Mester

- 58. Steve Ravellette
- 59. Margaret Flaherty

**Item #25 Provide Direction on Closing the Funding Gap to Complete Remaining Measure T1 Projects**

- 60. Rosa Higgs
- 61. Grace Morizawa, Chair, Peace and Justice Commission
- 62. Todd Andrew
- 63. Derethia DuVal
- 64. Friends of Adeline
- 65. Esther Bass
- 66. Lynn Cooper
- 67. Delores Nochi Cooper
- 68. Willie Phillips
- 69. Paola Laverde
- 70. Negeene Mosaed
- 71. David Brandon
- 72. Christoverre Kohler
- 73. Wyndy
- 74. Moni Law
- 75. Wilhelmenia Wilson
- 76. Cheryl Davila
- 77. Helen Toy
- 78. Lois Yuen

**MINUTES  
SPECIAL MEETING OF THE  
BERKELEY CITY COUNCIL**

**TUESDAY, JUNE 20, 2023**

**4:00 P.M.**

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

TELECONFERENCE LOCATION - 1404 LE ROY AVE, BERKELEY, CA 94708

JESSE ARREGUIN, MAYOR

Councilmembers:

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

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

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

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

*Remote participation by the public is available through Zoom. To access the meeting remotely: Join from a PC, Mac, iPad, iPhone, or Android device: Please use this URL: <https://cityofberkeley-info.zoomgov.com/j/1613505317>. If you do not wish for your name to appear on the screen, then use the drop down menu and click on "rename" to rename yourself to be anonymous. To request to speak, use the "raise hand" icon by rolling over the bottom of the screen. To join by phone: Dial **1-669-254-5252 or 1-833-568-8864 (Toll Free)** and enter Meeting ID: **161 350 5317**. If you wish to comment during the public comment portion of the agenda, Press \*9 and wait to be recognized by the Chair.*

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

*To submit a written communication for the City Council's consideration and inclusion in the public record, email [council@cityofberkeley.info](mailto:council@cityofberkeley.info).*

*This meeting will be conducted in accordance with the Brown Act, Government Code Section 54953 and applicable Executive Orders as issued by the Governor that are currently in effect. Any member of the public may attend this meeting. Questions regarding this matter may be addressed to Mark Numainville, City Clerk, (510) 981-6900. The City Council may take action related to any subject listed on the Agenda.*

## Preliminary Matters

**Roll Call:** 4:09 p.m.

**Present:** Harrison, Hahn, Wengraf, Robinson, Humbert, Arreguín

**Absent:** Kesarwani, Taplin, Bartlett

Councilmember Taplin present at 4:27 p.m.

**Public Comment – Limited to items on this agenda only:** 0 speakers

## CLOSED SESSION:

The City Council will convene in closed session to meet concerning the following:

### 1. CONFERENCE WITH LEGAL COUNSEL – PENDING LITIGATION PURSUANT TO GOVERNMENT CODE SECTIONS 54956.9(a) and 54956.9(d)(1)

a. *Dresslar v. City of Berkeley*, Alameda County Superior Court Case No. RG21094748

**Action:** M/S/C (Arreguin/Robinson) to approve a settlement in the matter of *Dresslar v. City of Berkeley*, Alameda County Superior Court Case No. RG21094748, in the amount of \$74,354 in exchange for a release of all claims against the City.

**Vote:** Ayes – Harrison, Hahn, Wengraf, Robinson, Humbert, Arreguín; Noes – None; Abstain – None; Absent – Taplin, Kesarwani, Bartlett.

b. *Service Employees International Union Local 1021 v. City of Berkeley*  
*California Public Employment Relations Board, Unfair Practice Charge No. SF-CE-1965-M*

**Action:** M/S/C (Hahn/Harrison) to approve a settlement in the matter of *Service Employees International Union Local 1021 v. City of Berkeley*, California Public Employment Relations Board, Unfair Practice Charge No. SF-CE-1965-M, wherein the City agrees to amend Administrative Regulation (AR) 2.23 in exchange for a withdrawal with prejudice of the Charge against the City.

**Vote:** Ayes – Taplin, Harrison, Hahn, Wengraf, Robinson, Humbert, Arreguín; Noes – None; Abstain – None; Absent – Kesarwani, Bartlett.

### 2. CONFERENCE WITH LABOR NEGOTIATORS; GOVERNMENT CODE SECTION 54957.6

Negotiators: Dee Williams-Ridley, City Manager, Anne Cardwell, Deputy City Manager, LaTanya Bellow, Deputy City Manager, Aram Kouyoumdjian, Human Resources Director, Dawud Brewer, Employee Relations Manager, Jonathan Holtzman, Renne Public Law Group.

Employee Organizations: Berkeley Fire Fighters Association Local 1227 I.A.F.F., Berkeley Fire Fighters Association, Local 1227 I.A.F.F. / Berkeley Chief Fire Officers Association; Berkeley Police Association

Councilmember Taplin absent at 5:20 p.m.

**Action:** No reportable action taken.

## **OPEN SESSION:**

The City Council met in closed session to discuss the matter of *Dresslar v. City of Berkeley*, Alameda County Superior Court Case No. RG21094748, and approved a settlement of that matter in the amount of \$74,354 in exchange for a release of all claims against the City.

The City Council also met in closed session to discuss the matter of *Service Employees International Union Local 1021 v. City of Berkeley*, California Public Employment Relations Board, Unfair Practice Charge No. SF-CE-1965-M, and approved a settlement of that matter wherein the City agrees to amend Administrative Regulation (AR) 2.23 in exchange for a withdrawal with prejudice of the Charge against the City.

## **Adjournment**

**Action:** M/S/C (Arreguín/Hahn) to adjourn the meeting.

**Vote:** Ayes – Harrison, Hahn, Wengraf, Robinson, Humbert, Arreguín; Noes – None; Abstain – None; Absent – Taplin, Bartlett, Kesarwani.

Adjourned at 5:41 p.m.

I hereby certify that the forgoing is a true and correct record of the closed session held on June 20, 2023.

---

Sarah Bunting, Assistant City Clerk

## **Communications**

- None

## **Supplemental Communications and Reports 1**

- None

## **Supplemental Communications and Reports 2**

- None

## **Supplemental Communications and Reports 3**

- None

**MINUTES  
SPECIAL MEETING OF THE  
BERKELEY CITY COUNCIL**

**Tuesday, June 20, 2023  
6:00 PM**

SCHOOL DISTRICT BOARD ROOM - 1231 ADDISON STREET, BERKELEY, CA 94702  
TELECONFERENCE LOCATION - 1404 LE ROY AVE, BERKELEY, CA 94708

JESSE ARREGUIN, MAYOR

Councilmembers:

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

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

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

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

*Remote participation by the public is available through Zoom. To access the meeting remotely: Join from a PC, Mac, iPad, iPhone, or Android device: Please use this URL: <https://cityofberkeley-info.zoomgov.com/j/1616716467>. If you do not wish for your name to appear on the screen, then use the drop down menu and click on "rename" to rename yourself to be anonymous. To request to speak, use the "raise hand" icon by rolling over the bottom of the screen. To join by phone: Dial **1-669-254-5252 or 1-833-568-8864 (Toll Free)** and enter Meeting ID: **161 671 6467**. If you wish to comment during the public comment portion of the agenda, Press \*9 and wait to be recognized by the Chair.*

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

*To submit a written communication for the City Council's consideration and inclusion in the public record, email [council@berkeleyca.gov](mailto:council@berkeleyca.gov).*

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



## Preliminary Matters

**Roll Call:** 6:07 p.m.

**Present:** Harrison, Hahn, Wengraf, Robinson, Humbert, Arreguin

**Absent:** Kesarwani, Taplin, Bartlett

Councilmember Bartlett present at 6:08 p.m.

Councilmember Kesarwani present at 7:06 p.m.

## Worksession

- Berkeley Economic Dashboards Update** (*Continued from March 14, 2023*)  
**From: City Manager**  
Contact: Eleanor Hollander, Economic Development, (510) 981-7530  
**Action:** 4 speakers. Presentation made and discussion held.
- Climate Action Plan and Resilience Update** (*Continued from March 14, 2023*)  
**From: City Manager**  
Contact: Jordan Klein, Planning and Development, (510) 981-7400  
**Action:** 9 speakers. Presentation made and discussion held.

## Adjournment

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

**Vote:** Ayes – Bartlett, Harrison, Hahn, Wengraf, Robinson, Humbert, Arreguin; Noes – None; Abstain – None; Absent – Kesarwani, Taplin.

Councilmember Kesarwani absent 8:21 p.m. – 9:13 p.m.

Adjourned at 9:13 p.m.

I hereby certify that the forgoing is a true and correct record of the special meeting held on June 20, 2023.

---

Mark Numainville, City Clerk

## Communications

- None

## Supplemental Communications and Reports 1

- None

## Supplemental Communications and Reports 2

- None

## **Supplemental Communications and Reports 3**

### **Item #2: Climate Action Plan and Resilience Update**

1. Presentation, submitted by Planning and Development
2. Todd Andrew

### **Miscellaneous**

3. Message from EID

**MINUTES**  
**BERKELEY CITY COUNCIL MEETING**  
**Tuesday, June 27, 2023**  
**6:00 PM**

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

TELECONFERENCE LOCATION - 1404 LE ROY AVE, BERKELEY, CA 94708

TELECONFERENCE LOCATION - SHERATON GATEWAY LOS ANGELES HOTEL,  
 6101 WEST CENTURY BOULEVARD, LOS ANGELES, CA 90045

JESSE ARREGUIN, MAYOR

Councilmembers:

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

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

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

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

*Remote participation by the public is available through Zoom. To access the meeting remotely: Join from a PC, Mac, iPad, iPhone, or Android device: Please use this URL: <https://cityofberkeley-info.zoomgov.com/j/1608493904>. If you do not wish for your name to appear on the screen, then use the drop down menu and click on "rename" to rename yourself to be anonymous. To request to speak, use the "raise hand" icon by rolling over the bottom of the screen. To join by phone: Dial **1-669-254-5252** or **1-833-568-8864 (Toll Free)** and enter Meeting ID: **160 849 3904**. If you wish to comment during the public comment portion of the agenda, Press \*9 and wait to be recognized by the Chair.*

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

*To submit a written communication for the City Council's consideration and inclusion in the public record, email [council@cityofberkeley.info](mailto:council@cityofberkeley.info).*

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

## Preliminary Matters

**Roll Call:** 6:07 p.m.

**Present:** Taplin, Harrison, Hahn, Wengraf, Robinson, Humbert, Arreguin

**Absent:** Kesarwani, Bartlett

Councilmember Bartlett present at 6:09 p.m.

Councilmember Kesarwani present at 6:13 p.m.

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

### Ceremonial Matters:

1. Recognition of Dr. Lisa B. Hernandez, Berkeley Public Health Officer
2. Adjourn in memory of Dorothy Walker, Local Activist
3. Adjourn in memory of Gus Newport, Former Mayor of Berkeley

**City Manager Comments:** None

**Public Comment on Non-Agenda Matters:** 5 speakers.

**Action:** M/S/C (Arreguin/Bartlett) to accept an urgency item from the City Manager pursuant to Government Code Section 54954.2(b)(2) entitled Memorandum of Understanding with Alameda County for Temporary Coverage for Public Health Officer, and place the item on the Consent Calendar.

**Vote:** All Ayes.

**Action:** M/S/C (Arreguin/Hahn) to accept supplemental material from the City Manager on Item 40.

**Vote:** All Ayes.

## Consent Calendar

**Public Comment on Consent Calendar and Information Items Only:** 21 speakers.

**Action:** M/S/C (Arreguin/Taplin) to adopt the Consent Calendar in one motion except as indicated.

**Vote:** All Ayes.

Recess 8:07 p.m. – 8:27 p.m.

### **Urgent Item: Memorandum of Understanding with Alameda County for Temporary Coverage for Public Health Officer**

**From:** City Manager

**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a Memorandum of Understanding with Alameda County authorizing Alameda County's Health Officer to provide essential Health Officer duties for Berkeley on a temporary basis after Dr. Lisa Hernandez resigns from City employment in early July.

**Financial Implications:** See report

Contact: Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400

**Action:** Adopted Resolution No. 70,896–N.S.

#### **1. Bird Safe Building Requirements; Adding Berkeley Municipal Code Section 23.304.150**

**From:** City Manager

**Recommendation:** Adopt second reading of Ordinance No. 7,864-N.S. adding Berkeley Municipal Code Section 23.304.150 establishing Bird Safe Building requirements ("bird safe requirements") for projects that require a building permit.

**First Reading Vote:** Ayes – Kesarwani, Taplin, Harrison, Hahn, Wengraf, Robinson, Humbert, Arreguin; Noes – None; Abstain – None; Absent – Bartlett.

**Financial Implications:** See report

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

**Action:** Adopted second reading of Ordinance No. 7,864–N.S.

#### **2. FY 2024 Tax Rate: Fund the Debt Service on the Affordable Housing General Obligation Bonds (Measure O, November 2018 Election)**

**From:** City Manager

**Recommendation:** Adopt second reading of Ordinance No. 7,865-N.S. setting the FY 2024 tax rate funding the debt service on the Affordable Housing General Obligation Bonds (Measure O, November 2018) at 0.0250%.

**First Reading Vote:** Ayes – Kesarwani, Taplin, Harrison, Hahn, Wengraf, Robinson, Humbert; Noes – None; Abstain – None; Absent – Bartlett, Arreguin.

**Financial Implications:** See report

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

**Action:** Adopted second reading of Ordinance No. 7,865–N.S.

## Consent Calendar

- 3. FY 2024 Tax Rate: Fund Firefighting, Emergency Medical Response and Wildfire Prevention (Measure FF)**  
**From: City Manager, City Manager**  
**Recommendation:** Adopt second reading of Ordinance No. 7,866-N.S. setting the FY 2024 tax rate for funding Firefighting, Emergency Medical Response and Wildfire Prevention (Measure FF) in the City of Berkeley at the annual tax rate of \$0.1176 (11.76 cents) per square foot of improvements.  
**First Reading Vote:** Ayes – Kesarwani, Taplin, Harrison, Hahn, Wengraf, Robinson, Humbert; Noes – None; Abstain – None; Absent – Bartlett, Arreguin.  
**Financial Implications:** See report  
Contact: Henry Oyekanmi, Finance, (510) 981-7300, David Sprague, Fire, (510) 981-3473  
**Action:** Adopted second reading of Ordinance No. 7,866–N.S.
- 4. FY 2024 Tax Rate: Fund Debt Service on Neighborhood Branch Library Improvements Project General Obligation Bonds (Measure FF, November 2008 Election)**  
**From: City Manager**  
**Recommendation:** Adopt second reading of Ordinance No. 7,867-N.S. setting the FY 2024 tax rate for funding the debt service on the Neighborhood Branch Library Improvements Project General Obligation Bonds (Measure FF, November 2008 Election) at 0.0050%.  
**First Reading Vote:** Ayes – Kesarwani, Taplin, Harrison, Hahn, Wengraf, Robinson, Humbert; Noes – None; Abstain – None; Absent – Bartlett, Arreguin.  
**Financial Implications:** See report  
Contact: Henry Oyekanmi, Finance, (510) 981-7300  
**Action:** Adopted second reading of Ordinance No. 7,867–N.S.
- 5. FY 2024 Tax Rate: Fund Debt Service on 2015 Refunding General Obligation Bonds (Measures G, S & I)**  
**From: City Manager**  
**Recommendation:** Adopt second reading of Ordinance No. 7,868-N.S. setting the FY 2024 tax rate funding the debt service on the 2015 consolidation of Measures G, S and I (General Obligation Bonds - Elections of 1992, 1996 and 2002) at 0.0115%.  
**First Reading Vote:** Ayes – Kesarwani, Taplin, Harrison, Hahn, Wengraf, Robinson, Humbert; Noes – None; Abstain – None; Absent – Bartlett, Arreguin.  
**Financial Implications:** See report  
Contact: Henry Oyekanmi, Finance, (510) 981-7300  
**Action:** Adopted second reading of Ordinance No. 7,868–N.S.

## Consent Calendar

6. **FY 2024 Tax Rate: Fund the Debt Service on the Infrastructure and Facilities General Obligation Bonds (Measure T1, November 2016 Election)**  
**From: City Manager**  
**Recommendation:** Adopt second reading of Ordinance No. 7,869-N.S. setting the FY 2024 tax rate funding the debt service on the Infrastructure and Facilities Improvements General Obligation Bonds (Measure T1, November 2016) at 0.0140%.  
**First Reading Vote:** Ayes – Kesarwani, Taplin, Harrison, Hahn, Wengraf, Robinson, Humbert; Noes – None; Abstain – None; Absent – Bartlett, Arreguin.  
**Financial Implications:** See report  
 Contact: Henry Oyekanmi, Finance, (510) 981-7300  
**Action:** Adopted second reading of Ordinance No. 7,869–N.S.
7. **FY 2024 Tax Rate: Fund the Debt Service on the Street and Watershed Improvements General Obligation Bonds (Measure M, November 2012 Election)**  
**From: City Manager**  
**Recommendation:** Adopt second reading of Ordinance No. 7,870-N.S. setting the FY 2024 tax rate funding the debt service on the Street and Integrated Watershed Improvements General Obligation Bonds (Measure M, November 2012) at 0.0065%.  
**First Reading Vote:** Ayes – Kesarwani, Taplin, Harrison, Hahn, Wengraf, Robinson, Humbert; Noes – None; Abstain – None; Absent – Bartlett, Arreguin.  
**Financial Implications:** See report  
 Contact: Henry Oyekanmi, Finance, (510) 981-7300  
**Action:** Adopted second reading of Ordinance No. 7,870–N.S.
8. **FY 2024 Tax Rate: Business License Tax on Large Non-Profits**  
**From: City Manager**  
**Recommendation:** Adopt second reading of Ordinance No. 7,871-N.S. setting the FY 2024 tax rate for Business License Tax on large non-profits at \$0.7909 (79.09 cents) per square foot of improvements.  
**First Reading Vote:** Ayes – Kesarwani, Taplin, Harrison, Hahn, Wengraf, Robinson, Humbert; Noes – None; Abstain – None; Absent – Bartlett, Arreguin.  
**Financial Implications:** See report  
 Contact: Henry Oyekanmi, Finance, (510) 981-7300  
**Action:** Adopted second reading of Ordinance No. 7,871–N.S. and request the City Manager assess the impacts of the increased business license tax on Berkeley’s non-profit housing and arts agencies; provide options to address those impacts with a timeline for implementation; and return to the City Council after review by the City Attorney, by the end of October, 2023.

## Consent Calendar

9. **FY 2024 Tax Rate: Fund the Maintenance of Parks, City Trees and Landscaping**  
**From: City Manager**  
**Recommendation:** Adopt second reading of Ordinance No. 7,872-N.S. setting the FY 2024 tax rate for funding all improvements for the maintenance of parks, City trees, and landscaping in the City of Berkeley at \$0.2130 (21.30 cents) per square foot of improvements.  
**First Reading Vote:** Ayes – Kesarwani, Taplin, Harrison, Hahn, Wengraf, Robinson, Humbert; Noes – None; Abstain – None; Absent – Bartlett, Arreguin.  
**Financial Implications:** See report  
 Contact: Henry Oyekanmi, Finance, (510) 981-7300  
**Action:** Adopted second reading of Ordinance No. 7,872–N.S.
10. **FY 2024 Tax Rate: Fund the Provision of Emergency Medical Services (Paramedic Tax)**  
**From: City Manager**  
**Recommendation:** Adopt second reading of Ordinance No. 7,873-N.S. setting the FY 2024 tax rate for funding the provision of emergency medical services to Berkeley residents at \$0.0451 (4.51 cents) per square foot of improvements.  
**First Reading Vote:** Ayes – Kesarwani, Taplin, Harrison, Hahn, Wengraf, Robinson, Humbert; Noes – None; Abstain – None; Absent – Bartlett, Arreguin.  
**Financial Implications:** See report  
 Contact: Henry Oyekanmi, Finance, (510) 981-7300.  
**Action:** Adopted second reading of Ordinance No. 7,873–N.S.
11. **FY 2024 Tax Rate: Fund Emergency Services for the Severely Disabled (Measure E)**  
**From: City Manager**  
**Recommendation:** Adopt second reading of Ordinance No. 7,874-N.S. setting the FY 2024 tax rate for funding the provision of emergency services for the disabled at \$0.02018 (2.018 cents) per square foot of improvements.  
**First Reading Vote:** Ayes – Kesarwani, Taplin, Harrison, Hahn, Wengraf, Robinson, Humbert; Noes – None; Abstain – None; Absent – Bartlett, Arreguin.  
**Financial Implications:** See report  
 Contact: Henry Oyekanmi, Finance, (510) 981-7300  
**Action:** Adopted second reading of Ordinance No. 7,874–N.S.



## Consent Calendar

- 12. Amendments to Berkeley Election Reform Act; Amending Berkeley Municipal Code Chapter 2.12**  
**From: Fair Campaign Practices Commission**  
**Recommendation:** Adopt second reading of Ordinance No. 7,875-N.S. amending the Berkeley Election Reform Act (BMC Chapter 2.12) to modify the forms required to open a campaign committee, change the deadline to qualify for the public financing program and make associated amendments, clarify the rules for public financing candidates that do not qualify for the ballot, add an automatic inflator for the amount a public financing candidate can give to their own committee, clarify post-election processes for public financing candidates, modify the threshold to create a campaign committee, and clarify the rules for returning certain types of contributions.  
**First Reading Vote:** All Ayes.  
**Financial Implications:** None  
 Contact: Sam Harvey, Commission Secretary, (510) 981-6950  
**Action:** Adopted second reading of Ordinance No. 7,875–N.S.
- 13. Amendments to the COVID-19 Emergency Response Ordinance; Amending Chapter 13.110 of the Berkeley Municipal Code**  
**From: Mayor Arreguin (Author), Councilmember Harrison (Author), Councilmember Hahn (Author), Councilmember Robinson (Author)**  
**Recommendation:** Adopt second reading of Ordinance No. 7,876-N.S. amending Berkeley Municipal Code (BMC) Chapter 13.110, the COVID-19 Emergency Response Ordinance to adjust the required timeline to provide documentation proving that non-payment of rent was for a Covered Reason for Delayed Payment if an Unlawful Detainer is served.  
**First Reading Vote:** Ayes – Taplin, Bartlett, Harrison, Hahn, Robinson, Arreguin; Noes – Humbert; Abstain – Kesarwani, Wengraf.  
**Financial Implications:** None  
 Contact: Jesse Arreguin, Mayor, (510) 981-7100  
**Action:** Adopted second reading of Ordinance No. 7,876–N.S.  
**Second Reading Vote:** Ayes – Taplin, Bartlett, Harrison, Hahn, Robinson, Arreguin; Noes – None; Abstain – Kesarwani, Wengraf, Humbert.
- 14. Minutes for Approval**  
**From: City Manager**  
**Recommendation:** Approve the minutes for the Council meetings of May1 (Closed), May 2 (Special), May 8 (Closed), May 9 (Regular), May 15 (Closed), May 16 (Special and Special WS) and May 23 (Special and Regular).  
**Financial Implications:** None  
 Contact: Mark Numainville, City Clerk, (510) 981-6900  
**Action:** Approved the minutes as submitted.

## Consent Calendar

**15. Formal Bid Solicitations and Request for Proposals Scheduled for Possible Issuance After Council Approval on June 27, 2023**

**From: City Manager**

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

**Financial Implications:** Street Light Poles for FY 2023 Fund - \$400,000

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

**Action:** Approved recommendation.

**16. FY 2024 Tax Rate: Fund Fire Protection and Emergency Response and Preparedness (Measure GG)**

**From: City Manager, City Manager**

**Recommendation:** Adopt first reading of an Ordinance setting the FY 2024 tax rate for funding Fire Protection and Emergency Response and Preparedness in the City of Berkeley at the rate of \$0.06062 (6.062 cents) per square foot of improvements for dwelling units and setting the rate for all other property at \$0.09173 (9.173 cents) per square foot of improvements.

**Financial Implications:** See report

Contact: Henry Oyekanmi, Finance, (510) 981-7300, David Sprague, Fire, (510) 981-3473

**Action:** Adopt first reading of Ordinance No. 7,877–N.S. Second reading scheduled for July 11, 2023.

**17. FY 2024 Special Tax Rate: Fund the Provision of Library Services**

**From: City Manager, City Manager**

**Recommendation:** Adopt first reading of an Ordinance setting the FY 2024 tax rate for funding the provision of Library Services in the City of Berkeley at \$0.2698 (26.98 cents) per square foot for dwelling units and \$0.4080 (40.80 cents) per square foot for industrial, commercial, and institutional buildings.

**Financial Implications:** See report

Contact: Henry Oyekanmi, Finance, (510) 981-7300, Tess Mayer, Library, (510) 981-6100

**Action:** Adopt first reading of Ordinance No. 7,878–N.S. Second reading scheduled for July 11, 2023.

**18. Appropriations Limit for FY 2024**

**From: City Manager**

**Recommendation:** Adopt a Resolution establishing the appropriations limit at \$342,803,053 for FY 2024 pursuant to Article XIII B of the Constitution of the State of California based on the calculations for the appropriations limit.

**Financial Implications:** See report

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

**Action:** Adopted Resolution No. 70,897–N.S.

## Consent Calendar

- 19. Revisions to the Debt Management and Disclosure Policy**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution accepting revisions to the Debt Management and Disclosure Policy.  
**Financial Implications:** None  
 Contact: Henry Oyekanmi, Finance, (510) 981-7300  
**Action:** Adopted Resolution No. 70,898–N.S.
- 20. FY 2024 Reaffirming the Investment Policy and Designation of Investment Authority**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution reaffirming the current Investment Policy (no revisions are recommended) and to confirm the delegation of investment authority to the Director of Finance to make investments for FY 2024.  
**Financial Implications:** None  
 Contact: Henry Oyekanmi, Finance, (510) 981-7300  
**Action:** Adopted Resolution No. 70,899–N.S.
- 21. Contract: ZOLL Medical Corporation for ECG Monitor/Defibrillator Support**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a contract and all amendments with Zoll Medical Corporation for data storage, preventative maintenance and service of X-Series Electrocardiogram (ECG) Monitor / Defibrillators for emergency response vehicles from July 1, 2023 to June 30, 2025 in an amount not to exceed \$106,000.  
**Financial Implications:** See report  
 Contact: David Sprague, Fire, (510) 981-3473  
**Action:** Adopted Resolution No. 70,900–N.S. as revised in Supplemental Communications Packet #2 by the City Manager to correct the not-to-exceed amount to \$145,000.
- 22. Contract: Stryker Corp. Preventative Maintenance and Service**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a contract and any amendments, with Stryker Corporation to provide preventative maintenance and service to the Departments mechanical Cardio Pulmonary Resuscitation (CPR) units for three years from August 1, 2023 until August 1, 2026 in the amount not to exceed \$62,000.  
**Financial Implications:** See report  
 Contact: David Sprague, Fire, (510) 981-3473  
**Action:** Adopted Resolution No. 70,901–N.S.

## Consent Calendar

- 23. Contract: US Digital Designs for Fire Station Emergency Alerting System**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a piggyback contract and any amendments with US Digital Designs using the National Purchasing Partners (NPP) contract No. 2020 in an amount not to exceed \$1,600,000 for the purchase, installation and maintenance of a Fire Station Emergency Alerting System from July 12, 2023 through June 2, 2026.  
**Financial Implications:** Various Funds - \$1,600,000  
 Contact: David Sprague, Fire, (510) 981-3473  
**Action:** Adopted Resolution No. 70,902–N.S.
- 24. Contract No. 32300112 Amendment: Harold Dichoso COVID-19 Outreach and Education.**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to amend Contract No. 32300112 with Harold Dichoso, to extend the contract end date through June 30, 2024 and increase the not-to-exceed amount (NTE) by \$35,000 utilizing one-time grant funds. The amendment will increase the NTE amount from \$90,000 to \$125,000.  
**Financial Implications:** See report  
 Contact: Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400  
**Action:** Adopted Resolution No. 70,903–N.S.
- 25. Fiscal Year 2023 Community Development Block Grant (CDBG) Public Facility Improvement Program Funds for Insight Housing’s (formerly Berkeley Food and Housing Project (BFHP)) Dwight Way Center**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager or her designee to: 1. Allocate \$680,000 of FY 2023 federal CDBG funds available to the Public Facility Improvement Program, to Insight Housing (IH) to rehabilitate IH’s Dwight Way Center (DWC); and 2. Execute all resultant agreements and amendments with IH for the above-mentioned funds; and 3. Recapture any unspent CDBG funds awarded to IH for the resulting contract, if the funds are not spent by June 30, 2024.  
**Financial Implications:** See report  
 Contact: Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400  
**Action:** Adopted Resolution No. 70,904–N.S.

## Consent Calendar

- 26. Dell Computers, Inc.: Using County of Riverside Amendment No. 1 to the Licensing Solution Provider Agreement with Dell Marketing L.P. for Computer Hardware and Software Purchases**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to increase spending authority with Dell Computers, Inc. for the purchase of computer and server hardware, software, and related services, utilizing pricing and contracts, amendments, and extensions from the County of Riverside Amendment No. 1 to the Licensing Solution Provider for the period beginning November 1, 2019 through October 31, 2024 for an amount not-to-exceed (NTE) \$1,939,538 in Fiscal Year 2024.  
**Financial Implications:** See report  
 Contact: Kevin Fong, Information Technology, (510) 981-6500  
**Action:** Adopted Resolution No. 70,905–N.S. as revised in Supplemental Communications Packet #2 from the City Manager to correct the not-to-exceed amount to \$3,707,238.
- 27. Contract No. 10549B Amendment: Tyler Technologies Enterprise Resource Planning System for ongoing software licensing, maintenance services, and disaster recovery services**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 10549B with Tyler Technologies for software licensing, maintenance services, and disaster recovery services for the online Enterprise Resource Planning (ERP) system for the amount not to exceed \$1,000,000 and a total contract value not to exceed \$4,705,343 from April 1, 2017 to June 30, 2025.  
**Financial Implications:** See report  
 Contact: Kevin Fong, Information Technology, (510) 981-6500  
**Action:** Adopted Resolution No. 70,906–N.S.
- 28. Contract: R.X. Lodge, Inc. for the West Side Aquatic Park Tree Planting and Irrigation Project**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution: 1. Approving the plans and specifications for the West Side Aquatic Park Tree Planting and Irrigation Project, Specification No. 23-11587-C; and 2. Accepting the bid of the lowest responsive and responsible bidder, R.X. Lodge, Inc.; and 3. Authorizing the City Manager to execute a contract and any amendments, extensions or other change orders until completion of the project in accordance with the approved plans and specifications, with R.X. Lodge, Inc. for the West Side Aquatic Park Tree Planting and Irrigation Project in an amount not to exceed \$263,000, which includes a contract amount of \$213,000 and a 23.5% contingency in the amount of \$50,000.  
**Financial Implications:** \$263,000  
 Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700  
**Action:** Adopted Resolution No. 70,907–N.S.

## Consent Calendar

**29. Grant Application: USDA Forest Service – Berkeley Urban Forestry Project  
From: City Manager**

**Recommendation:** Adopt a Resolution authorizing the City Manager or her designee to submit a grant application in the amount of up to \$3,800,000 to the federal USDA Forest Service grant program for the Berkeley Urban Forestry Project; accept any grants; execute any resulting grant agreements and any amendments; and that Council authorize up to \$4,200,000 in local in-kind match, including up to \$3,200,000 in local cash match, and authorizes the implementation of the project and appropriation of funding for related expenses, subject to securing the grant.

**Financial Implications:** Revenue - \$3,800,000

Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700

**Action:** Adopted Resolution No. 70,908–N.S.

**30. Donation: Two Memorial Benches at Cesar Chavez Park in memory of Richard & Gloria Crocker  
From: City Manager**

**Recommendation:** Adopt a Resolution accepting a cash donation in the amount of \$6,800 for two memorial benches to be placed at Cesar Chavez Park in memory of Richard and Gloria Crocker.

**Financial Implications:** Revenue - \$6,800

Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700

**Action:** Adopted Resolution No. 70,909–N.S.

**31. Contract: Citygate for Police Department Staffing and Workload Study  
From: City Manager**

**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a contract and any amendments with Citygate Associates, LLC (Contractor) to provide a staffing and workload study from June 30, 2023 to June 30, 2024, in an amount not to exceed \$120,000 with an option to extend for an additional two years, for a total contract amount not to exceed \$200,000.

**Financial Implications:** General Fund - \$200,000

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

**Action:** Adopted Resolution No. 70,910–N.S.

## Consent Calendar

### 32. **Contracts: On-Call Survey Services**

**From: City Manager**

**Recommendation:** Adopt three Resolutions authorizing the City Manager to execute the following contracts and any amendments for on-call survey services for capital improvement projects and the Engineering Division, each for a period of July 1, 2023 through June 30, 2026:

1. Cunha Surveying, Inc. (Cunha) in an amount not to exceed \$400,000;
2. Kister, Savio & Rei, Inc. (KSR) in an amount not to exceed \$400,000;
3. MNS Engineers, Inc. (MNS) in an amount not to exceed \$400,000.

**Financial Implications:** See report

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

**Action:** Adopted Resolution No. 70,911–N.S. (Cunha), Resolution No. 70,912–N.S. (KSR), and Resolution No. 70,913–N.S. (MNS).

### 33. **Contracts: On-Call Geotechnical and Engineering Testing Services**

**From: City Manager**

**Recommendation:** Adopt five Resolutions authorizing the City Manager to execute the following contracts and any amendments for on-call geotechnical and engineering testing services for capital improvement projects, each for a period of July 1, 2023 through June 30, 2026:

1. BSK Associates (BSK), for an amount not to exceed \$400,000;
2. Inspection Services, Inc. (ISI), for an amount not to exceed \$400,000;
3. Ninyo & Moore, for an amount not to exceed \$400,000;
4. Alan Kropp & Associates (Alan Kropp), for an amount not to exceed \$150,000;
5. Fisher Geotechnical, for an amount not to exceed \$150,000.

**Financial Implications:** See report

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

**Action:** Adopted Resolution No. 70,914–N.S. (BSK), Resolution No. 70,915–N.S. (ISI), Resolution No. 70,916–N.S. (Ninyo), Resolution No. 70,917–N.S. (Alan Kropp), and Resolution No. 70,918–N.S. (Fisher).

### 34. **Contract: Bay Cities Paving & Grading, Inc. for Southside Complete Streets Project**

**From: City Manager**

**Recommendation:** Adopt a Resolution: 1. Approving plans and specifications for the Southside Complete Streets Project (“Project”), Specification No. 23-11572-C, Federal Aid Project No. CMSTPL-5057(051); 2. Accepting the bid of Bay Cities Paving & Grading, Inc., the lowest responsive and responsible bidder; and 3. Authorizing the City Manager to execute a contract with Bay Cities Paving & Grading, Inc. and any amendments, extensions, and/or change orders until completion of the Project in accordance with the approved plans and specifications, in an amount not to exceed \$12,973,925, which includes a 20% contingency for unforeseen circumstances.

**Financial Implications:** See report

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

**Action:** Adopted Resolution No. 70,919–N.S.

## Consent Calendar

- 35. Contract: Downtown Streets Team for Hand Sweeping, Graffiti and Litter Abatement, Poster Removal, and Low Barrier Volunteer Work Experience Program**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager or her designee to execute a contract, and any amendments or extensions, with Downtown Streets Team for hand sweeping, graffiti and litter abatement, poster removal, and low barrier volunteer work experience program. The contract will be in an amount not to exceed \$1,625,500 for the period August 1, 2023 through August 30, 2027.  
**Financial Implications:** See report  
 Contact: Liam Garland, Public Works, (510) 981-6300  
**Action:** Adopted Resolution No. 70,920–N.S.
- 36. Contract No. 32000147 Amendment: Trip Stop Sidewalk Repair, Inc. for FY 2020 Sidewalk Inspection and Shaving Services Project**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 32000147 with Trip Stop Sidewalk Repair, Inc. (Trip Stop) for FY2020 Sidewalk Inspection and Shaving Services, increasing the contract amount by \$835,969 for a total not-to-exceed amount of \$2,285,969.  
**Financial Implications:** See report  
 Contact: Liam Garland, Public Works, (510) 981-6300  
**Action:** Adopted Resolution No. 70,921–N.S.
- 37. Ground Lease Agreement – RM Ventures LLC, d.b.a In the Wood Grill and Bar for Nonexclusive Use of Elmwood Parking Lot Pedestrian Paseo**  
**From: City Manager**  
**Recommendation:** Adopt first reading of an Ordinance authorizing the City Manager to execute a ground lease agreement with RM Ventures LLC d.b.a., In the Wood Grill and Bar for the nonexclusive use of a portion of the Elmwood Parking Lot Pedestrian Access Path (“Paseo”), a City-owned midblock pedestrian path connecting the City’s Elmwood Parking Lot to College Avenue in the Elmwood Neighborhood Shopping District, for an initial term of ten (10) years with one optional ten (10) year lease extension.  
**Financial Implications:** See report  
 Contact: Liam Garland, Public Works, (510) 981-6300  
**Action:** Item removed from the agenda by the City Manager.



## Consent Calendar

- 38. SteelWave donation for pedestrian safety improvements in West Berkeley**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution accepting \$40,000 cash donation for the Addison Bike Boulevard project and Vision Zero traffic safety improvements in West Berkeley from SteelWave LLC.  
**Financial Implications:** See report  
Contact: Liam Garland, Public Works, (510) 981-6300  
**Action:** Adopted Resolution No. 70,922–N.S.
- 39. goBerkeley SmartSpace Pilot Program Evaluation & Next Steps**  
**From: City Manager**  
**Recommendation:**  
1. Adopt a Resolution directing staff to maintain SmartSpace visitor paid parking in the Southside and employee parking permits in the Elmwood; and  
2. Adopt a Resolution updating existing schedule of parking violations and fines to include parking violations and late payment penalties related to pay-by-plate pay stations in the SmartSpace area and enforcing transit-only lanes, and rescinding Resolution 68,902-N.S. 3. Direct staff to incorporate into existing Residential Preferential Parking (RPP) referral(s) an assessment of the use of visitor paid parking and/or employee parking permits in other RPP areas.  
**Financial Implications:** See report.  
Contact: Liam Garland, Public Works, (510) 981-6300  
**Action:** Adopted Resolution No. 70,923–N.S. (maintain parking), and adopted Resolution No. 70,924–N.S. (schedule of violations and fines).
- 40. Approving Proposed Projects Anticipated to be paid for by the State’s Road Maintenance and Rehabilitation Account Funds for FY 2023-24**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution approving a proposed list of projects that will utilize funding from the State of California’s Road Maintenance and Rehabilitation Account, and authorize the City Manager to submit the proposed list to the California Transportation Commission.  
**Financial Implications:** See report  
Contact: Liam Garland, Public Works, (510) 981-6300  
**Action:** Adopted Resolution No. 70,925–N.S. including supplemental materials from the City Manager accepted at the meeting regarding the estimated timelines for proposed paving segments.

## Consent Calendar

**41. Extending the Community Workforce Agreement with Building & Construction Trades Council, et al., for Construction Projects Over \$500,000**

**From: City Manager**

**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a contract amendment to the Community Workforce Agreement with the Alameda County Building & Construction Trades Council, and twenty-two labor organizations on City capital improvement projects with an estimated value in excess of \$500,000 to extend the agreement through June 30, 2026.

**Financial Implications:** See report

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

**Action:** Adopted Resolution No. 70,926–N.S.

**42. Request That City Council Strongly Recommend That HUD-Owned Harriet Tubman Terrace Apartments Install Solar Battery Back-up Battery Capability To Meet Medical Needs Of Their Residents During Loss Of Electrical Power And Consider Same Action For Other HUD Properties In Berkeley**

**From: Disaster and Fire Safety Commission**

**Recommendation:** The Disaster and Fire Safety Commission (DFSC) is requesting that Berkeley City Council strongly recommend that The Department of Housing and Urban Development (HUD) owned Harriet Tubman Terrace Apartments install solar battery back-up battery capability to meet the medical needs of their residents during loss of electrical power and consider the same action for other HUD properties in Berkeley.

**Financial Implications:** None

Contact: Keith May, Commission Secretary, (510) 981-3473

**Action:** Approved recommendation.

**43. Establishment of a Sister City Relationship with Las Vegas, Santa Bárbara, Honduras**

**From: Peace and Justice Commission**

**Recommendation:** Adopt a Resolution establishing a sister city relationship with the municipality of Las Vegas in the Santa Bárbara department of Honduras.

**Financial Implications:** None

Contact: Okeya Vance-Dozier, Commission Secretary, (510) 981-7100

**Action:** Adopted Resolution No. 70,927–N.S.

## Council Consent Items

### 44. **Contract No. 32000196 Amendment: Szabo & Associates for Communications Consulting Services**

**From: Mayor Arreguin (Author)**

**Recommendation:** Adopt a Resolution authorizing the City Manager to amend Contract No. 32000196 with Szabo & Associates for communications consulting services for the Mayor's Office, increasing the contract amount by \$78,000 for a new total not to exceed \$303,500, and extending the contract term to June 30, 2024.

**Financial Implications:** General Funds - \$78,000

Contact: Jesse Arreguin, Mayor, (510) 981-7100

**Action:** Adopted Resolution No. 70,928–N.S.

**Vote:** Ayes – Taplin, Bartlett, Harrison, Hahn, Wengraf, Robinson, Humbert, Arreguin; Noes – Kesarwani.

### 45. **Berkeley Food Utility and Access Resilience Measure (FARM)** *(Reviewed by the Health, Life Enrichment, Equity, & Community Committee)*

**From: Councilmember Bartlett (Author), Mayor Arreguin (Co-Sponsor), Councilmember Harrison (Co-Sponsor), Councilmember Hahn (Co-Sponsor)**

**Recommendation:**

1. Refer to the City Manager the task of protecting the City's food supply from natural disasters and economic disruptions by promoting the efforts of community-based organizations to design and implement an integrated local food production and distribution system for the City of Berkeley.

2. Refer to the City Manager and the Office of Economic Development resources to research and return to the Council potential economic incentives for non-profits, agricultural producers, and small businesses to partner with the City of Berkeley to support the implementation of FARM.

3. Adopt a resolution to support the goals of the FARM initiative and the development of hyperlocal urban food production with community-based organizations.

*Policy Committee Recommendation: To send the item to Council with a positive recommendation.*

**Financial Implications:** See report

Contact: Ben Bartlett, Councilmember, District 3, (510) 981-7130

**Action:** Approved as recommended by the Health, Life Enrichment, Equity, & Community Committee and adopted Resolution No. 70,929–N.S.

**Vote:** Ayes – Taplin, Bartlett, Harrison, Hahn, Wengraf, Robinson, Humbert, Arreguin; Noes – Kesarwani.

## Council Consent Items

- 46. Street Pavement Painting: Relinquishment of Council Office Budget Funds to General Fund and Grant of Such Funds**  
**From: Councilmember Bartlett (Author)**  
**Recommendation:** Adopt a Resolution approving the expenditure of funds, including \$1000.00 from Vice Mayor Bartlett, to Healthy Black Families, Inc. for the Ellis Street art renovation. The funds will be relinquished to the City's General Fund from the discretionary council office budget of Vice Mayor Ben Bartlett and the discretionary council office budgets of any other City Councilmembers who would like to contribute.  
**Financial Implications:** See report  
Contact: Ben Bartlett, Councilmember, District 3, (510) 981-7130  
**Action:** Adopted Resolution No. 70,930–N.S. revised to include contributions from the following Councilmembers up to the amounts listed: Councilmember Harrison - \$500; Councilmember Robinson - \$500; Councilmember Hahn - \$300; Councilmember Kesarwani - \$100; Councilmember Humbert - \$250.
- 47. Reparations Now Community Art Mural Restoration and Preservation**  
**From: Councilmember Bartlett (Author), Councilmember Hahn (Co-Sponsor)**  
**Recommendation:** Direct the City Manager to authorize, preserve, protect, and authorize the Reparations Now mural on Ellis Street (next to Malcolm X Elementary School) to continue the legacy of educational spaces for all community members to view it in the City of Berkeley.  
**Financial Implications:** None  
Contact: Ben Bartlett, Councilmember, District 3, (510) 981-7130  
**Action:** Approved recommendation.
- 48. Support for AB-660 Food Labeling (Assemblymember Irwin)**  
**From: Councilmember Wengraf (Author), Councilmember Hahn (Co-Sponsor)**  
**Recommendation:** Adopt a Resolution in support of AB-660 Food Labeling: quality dates, safety dates, and sell by dates (Assemblymember Jacqui Irwin), and send copies to Assembly Members Irwin and Wicks and Senator Skinner.  
**Financial Implications:** None  
Contact: Susan Wengraf, Councilmember, District 6, (510) 981-7160  
**Action:** Adopted Resolution No. 70,931–N.S.

## Action Calendar – Public Hearings

### 49. Public Hearing on Zero Waste Five-Year Rate Schedule

**From: City Manager**

**Recommendation:** Conduct a public hearing, complete the majority protest process required by Proposition 218, and upon the conclusion of the public hearing, if there is no majority protest, adopt a Resolution setting FY 2024-2028 rates for residential and commercial refuse, compost, and recycling collection.

**Financial Implications:** See report

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

**Public Testimony:** The Mayor opened the public hearing. 9 speakers.

M/S/C (Arreguin/Hahn) to close the public hearing.

**Vote:** Ayes – Kesarwani, Taplin, Harrison, Hahn, Wengraf, Robinson, Humbert, Arreguin; Noes – None; Abstain – None; Absent – Bartlett.

Councilmember Bartlett absent 9:15 p.m. – 9:27 p.m.

**Action:** M/S/C (Harrison/Arreguin) to adopt Resolution No. 70,932–N.S., with the amended fifth Whereas clause below, setting FY 2024-2028 rates for residential and commercial refuse, compost, and recycling collection.

*WHEREAS, on April 25, 2023, the City Council also requested that the City Manager return to Council in two years, after the Strategic Plan is completed, to review the rates; referred to the City Manager the four alternatives from the staff report (opt out of service, bi-weekly, or shared collection, eliminate 64 or 96 gallon bins, and/or surcharge for 64- and 96-gallon bins); consider cost reduction and the Strategic Plan's impact on rates; and referred to the City Manager analysis of possible solutions for subsidizing smaller bin sizes; and*

**Vote:** All Ayes.

### 50. Biennial Syringe Services Report

**From: City Manager**

**Recommendation:** Conduct a public hearing and upon conclusion, accept the Biennial Syringe Services Report.

**Financial Implications:** See report

Contact: Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400

**Public Testimony:** The Mayor opened the public hearing. 0 speakers.

M/S/C (Arreguin/Harrison) to close the public hearing.

**Vote:** All Ayes.

**Action:** M/S/C (Arreguin/Hahn) to accept the Biennial Syringe Services Report.

**Vote:** All Ayes.

## Action Calendar – Public Hearings

### 51. Approval and Levy of 2018 Clean Stormwater Fee in FY 2024

**From: City Manager**

**Recommendation:** Conduct a public hearing and upon conclusion adopt a Resolution approving the proposed adjusted fees for the 2018 Clean Stormwater Fee and ordering the levy of the fees in Fiscal Year 2024.

**Financial Implications:** See report.

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

**Public Testimony:** The Mayor opened the public hearing. 0 speakers.

M/S/C (Arreguin/Hahn) to close the public hearing.

**Vote:** All Ayes.

**Action:** M/S/C (Arreguin/Hahn) to adopt Resolution No. 70,933–N.S. approving the proposed adjusted fees for the 2018 Clean Stormwater Fee and ordering the levy of the fees in Fiscal Year 2024.

**Vote:** All Ayes.

### 52. Levy and Collection of Fiscal Year 2024 Street Lighting Assessments

**From: City Manager**

**Recommendation:** Conduct a public hearing and upon conclusion adopt Resolutions confirming the assessments for the Berkeley Street Lighting Assessment District No. 1982-1 and the Street Lighting Assessment District 2018, approving the Engineer's Reports, and authorizing the levying and collection of assessments in Fiscal Year 2024.

**Financial Implications:** See report

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

**Public Testimony:** The Mayor opened the public hearing. 0 speakers.

M/S/C (Arreguin/Wengraf) to close the public hearing.

**Vote:** All Ayes.

**Action:** M/S/C (Arreguin/Hahn) to adopt Resolution No. 70,934–N.S. confirming the assessments for the Berkeley Street Lighting Assessment District No. 1982-1 and adopt Resolution No. 70,935–N.S. for the Street Lighting Assessment District 2018, approving the Engineer's Reports, and authorizing the levying and collection of assessments in Fiscal Year 2024.

**Vote:** All Ayes.

## Action Calendar – New Business

### Action Calendar – New Business

#### 53. FY 2024 Proposed Budget Update Adoption

**From: City Manager**

**Recommendation:** Adopt a Resolution: 1. Adopting the FY 2024 Proposed Budget Update (“FY 24 Proposed Budget”) as presented to Council on May 16, 2023, and as amended by subsequent Council action. 2. Authorizing the City Manager to provide applicable advances to selected community agencies receiving City funds in FY 2024, as reflected in Attachment 2 to the report, and as amended by subsequent Council action.

**Financial Implications:** See report

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

**Action:** M/S/C (Arreguin/Hahn) to suspend the rules and extend the meeting to 11:30 p.m.

**Vote:** All Ayes.

**Action:** M/S/C (Arreguin/Hahn) to suspend the rules and extend the meeting to 12:00 a.m.

**Vote:** All Ayes.

**Action:** M/S/C (Arreguin/Hahn) to suspend the rules and extend the meeting to 12:20 a.m.

**Vote:** All Ayes.

**Action:** M/S/Failed (Harrison/Bartlett) to:

1. Adopt Resolution No. 70,936–N.S. adopting the FY 2024 Proposed Budget Update (“FY 24 Proposed Budget”) as presented to Council on May 16, 2023, and as revised in Supplemental Communications Packet #2 from the City Manager’s Office, including Exhibit C – The Mayor’s Recommended Budget Allocations; and as amended by subsequent Council action;

2. Authorizing the City Manager to provide applicable advances to selected community agencies receiving City funds in FY 2024, as reflected in Attachment 2 to the report, and as amended by subsequent Council action;

3. To adopt the proposed resolutions to approve the allocations for the Harold Way placemaking and Martin Luther King, Jr. Way at Haste Street traffic safety upgrades from the SOSIP fund.

4. To refer the Tier 1 requests for the Re-Imagining Public Safety Process to the November 2023 Annual Appropriations Ordinance #1 process.

5. Approve an allocation of \$50,000 for a Mobility Justice Consultant for the analysis of the impacts of fines and fees.

**Vote:** Ayes – Bartlett, Harrison; Noes – Kesarwani, Taplin, Hahn, Wengraf, Humbert, Arreguin; Abstain – Robinson.

**Action:** 24 speakers. M/S/Carried (Arreguin/Taplin) to:

1. Adopt Resolution No. 70,936–N.S. adopting the FY 2024 Proposed Budget Update (“FY 24 Proposed Budget”) as presented to Council on May 16, 2023, and as

## Action Calendar – New Business

revised in Supplemental Communications Packet #2 from the City Manager's Office, including Exhibit C – The Mayor's Recommended Budget Allocations; and as amended by subsequent Council action;

2. Authorizing the City Manager to provide applicable advances to selected community agencies receiving City funds in FY 2024, as reflected in Attachment 2 to the report, and as amended by subsequent Council action;

3. Adopt Resolution No. 70,937-N.S. (Harold Way) and Resolution No. 70,938-N.S. (MLK Jr. Way) approving the allocations for the Harold Way placemaking and Martin Luther King, Jr. Way at Haste Street traffic safety upgrades from the SOSIP fund.

4. To refer the Tier 1 requests for the Re-Imagining Public Safety Process to the November 2023 Annual Appropriations Ordinance #1 process.

**Vote:** All Ayes.

### 54. FY 2024 Annual Appropriations Ordinance

**From:** City Manager

**Recommendation:** Adopt first reading of an Ordinance adopting the FY 2024 Annual Appropriations Ordinance (AAO) in the amount of \$718,932,025 (gross appropriations) and \$610,760,531 (net appropriations).

**Financial Implications:** See report

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

**Action:** 0 speakers. M/S/C (Arreguin/Wengraf) to adopt first reading of Ordinance No. 7,879–N.S. as revised in Supplemental Communications Packet #2 by the City Manager. Second reading scheduled for July 11, 2023.

**Vote:** All Ayes.

### 55. Borrowing of Funds and the Sale and Issuance of FY 2023-24 Tax and Revenue Anticipation Notes

**From:** City Manager

**Recommendation:** Adopt a Resolution approving the borrowing of \$25,000,000 and the sale and issuance of Fiscal Year 2023-24 Tax and Revenue Anticipation Notes.

**Financial Implications:** See report

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

**Action:** 0 speakers. M/S/C (Arreguin/Hahn) to adopt Resolution No. 70,939–N.S.

**Vote:** Ayes – Kesarwani, Taplin, Harrison, Hahn, Wengraf, Robinson, Humbert, Arreguin; Noes – None; Abstain – None; Absent – Bartlett.

Councilmember Bartlett absent 8:27 p.m. – 8:32 p.m.



## Action Calendar – Old Business

- 56. Adopting a temporary exemption from the collection of taxes under BMC Chapter 9.04.136(D): Tax Rate for Non-Medical and Medical Cannabis Businesses** *(Continued from May 23, 2023)*  
**From: Councilmember Bartlett (Author), Mayor Arreguin (Co-Sponsor), Councilmember Harrison (Co-Sponsor), Councilmember Humbert (Co-Sponsor)**  
**Recommendation:**
1. Adopt a temporary exemption (per 9.04.136(D)) on the collection of the taxes for all non-medical and medical cannabis businesses, retroactive to January 2023 and ending July 2025; Waive any late penalties that may have accrued since January 2023; any and all tax payments already made to the City for Q1 2023 will apply as a credit against a future tax or fee payment to the City; and
  2. Refer to the City Manager and Cannabis Commission and/or its successor, the Planning Commission, to analyze and develop an ordinance adjusting local cannabis business tax rates by February 2025 that are in balance with the state cannabis tax rates, with an eye to the ability for the cannabis industry to become a sustainable economic driver for the City of Berkeley.
  3. Licensed cannabis businesses in Berkeley will pay the business license tax that applies to their respective area of the market during the moratorium, like retail, manufacturing, etc.
- Financial Implications:** Loss of tax revenue  
 Contact: Ben Bartlett, Councilmember, District 3, (510) 981-7130  
**Action:** Moved to Consent Calendar. Councilmembers Harrison and Humbert added as co-sponsors.
1. Adopt first reading of Ordinance No. 7,880–N.S. as written in Supplemental Communications Packet #1. Second reading scheduled for July 11, 2023.
  2. Approved recommendation.
  3. Approved recommendation.

## Information Reports

- 57. Voluntary Time Off Program for Fiscal Year 2024**  
**From: City Manager**  
 Contact: Sharon Friedrichsen, Budget Manager, (510) 981-7000  
**Action:** Received and filed.
- 58. Status Report - Berkeley's Financial Condition (FY 2012 – FY 2021): Pension Liabilities and Infrastructure Need Attention**  
**From: City Manager**  
 Contact: Sharon Friedrichsen, Budget Manager, (510) 981-7000  
**Action:** Referred to the Agenda & Rules Committee for scheduling at a City Council Worksession.

## Information Reports

59. **FY 2023 Third Quarter Investment Report: Ended March 31, 2023**  
**From: City Manager**  
Contact: Henry Oyekanmi, Finance, (510) 981-7300  
**Action:** Received and filed.
60. **Update on the Implementation of Fair and Impartial Policing Task Force Recommendations**  
**From: City Manager**  
Contact: Jennifer Louis, Police, (510) 981-5900  
**Action:** Received and filed.
61. **Zero Waste Commission Fiscal Year 2023-24 Work Plan**  
**From: Zero Waste Commission**  
Contact: Julia Heath, Commission Secretary, (510) 981-6300  
**Action:** Received and filed.

**Public Comment – Items Not Listed on the Agenda - 4 speakers.**

## Adjournment

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

**Vote:** Ayes – Kesarwani, Taplin, Hahn, Robinson, Humbert, Arreguin; Noes – None; Abstain – None; Absent – Bartlett, Harrison, Wengraf.

Councilmember Bartlett absent 12:09 am – 12:17 a.m.

Councilmember Harrison absent 12:09 am – 12:17 a.m.

Councilmember Wengraf absent 12:09 am – 12:17 a.m.

Adjourned at 12:17 a.m.

I hereby certify that the forgoing is a true and correct record of the regular meeting held on June 27, 2023.

---

Mark Numainville, City Clerk

## Communications

### **Item #49: Public Hearing on Zero Waste Five-Year Rate Schedule**

1. Gail Greenwood
2. Sabina McMurtry
3. Mariane Conchita Ferme
4. Gerhard Blendstrup
5. Barbara Gilbert

6. Keith Winnard
7. Michelle Falise
8. Dorothea Dorenz
9. Gran Haselsteiner
10. Glen Hauer
11. Robert Lauriston
12. Keith Winnard

**Police Accountability Board (PAB)**

13. Councilmember Humbert

**BART Development**

14. Lana Golden
15. Victoria Kahn
16. Carol Hirth

**The Multicultural Institute**

17. Eduardo Rosas

**\$100,000 Budget Referral for Harold Way Schematic Design**

18. Downtown Berkeley Association

**Elliott Halpern's Memorial Program**

19. Boona cheema
20. Councilmember Harrison

**Abatement Notice: 1510 Rose Street #A**

21. Sara Kershner

**Crime and Safety in Berkeley**

22. Judy Bertelsen
23. Cara and Brad
24. Alexander Merenkov
25. Eric Friedman

**BUSD Students Are Climate Scholars?**

26. Walter Wood

**Disability Commissions Meeting Locations and Zoom**

27. Kelly Hammargren

**Cities Charge for Responding to DUI Accidents**

28. David Lerman

**Marina Docks in Need of Replacement**

29. Dan Bohn (2)

**Gender Disparities in City Contracting**

30. Commission on the Status of Women

**Ferry Idea**

31. Dorothea Dorenz

**U Visa Processes**

32. Prerna Lal

**Work on 9<sup>th</sup> Street**

33. Margret Elliott

**Bird Safe Windows**

34. Barbara Gilbert

**Repaving Hopkins Corridor and more**

35. Edward Opton

36. Ross Bernet

37. Phyllis Orrick

38. Lucy Laird

39. Helen Hallberg

40. Lee Bishop

41. Marcus Daniels

42. Jordan Burns

43. Pablo Diza-Gutierrez

44. Cindi Goldberg

45. Howard Goldberg

46. Carol Hirth

47. Marc Hedlund

48. Julia Moss

49. Laura Fujii

50. Lisa Chow

51. Ray Freeman

52. Walter Wood

53. Nancy Rader

54. Henry Pinkard

55. David Gilbert

56. Barry Fike

57. Alyssa Plese

58. Heath Maddox

59. Leni Siegel

60. Matt Weber

61. David Shere

62. Cathy Edwards

63. Tom Lent

64. Diane Garcia

65. Derrick Johnson

- 66. Bill Hoffmann
- 67. Sheila Newbery
- 68. Corey Busay
- 69. Tracee Farrell
- 70. Max Gara
- 71. S. Entwistle
- 72. Donna DeDiemar

**Bus Transit Development Along University Avenue**

- 73. Nicola Spence and Hans Reinhardt, owners of Alpha Design Custom Furniture

**Homelessness Solutions via the City of Houston**

- 74. Bryan Bowman

**Disgruntled**

- 75. Steve Byerly

**Rights Are Based On Me**

- 76. Benjamin Stein

**MLK Civic Center Park**

- 77. Erik Fowle

**Horse Racing Deaths**

- 78. Carole Kalous
- 79. Wanda Warkentin

**Cell Tower at 1321 Gilman Street**

- 80. Carol Hirth

**URL's Only**

- 81. Vivian Warkentin (3)
- 82. Bob Flasher

**Supplemental Communications and Reports 1**

**Item #44: Contract No. 32000196 Amendment: Szabo & Associates for Communications Consulting Services**

- 83. Barbara Gilbert

**Item #49: Public Hearing on Zero Waste Five-Year Rate Schedule**

- 84. Lance Williams
- 85. Councilmember Harrison
- 86. Barbara Gilbert

**Item #56: Adopting a temporary exemption from the collection of taxes under BMC Chapter 9.04.136(D): Tax Rate for Non-Medical and Medical Cannabis Businesses**

- 87. Revised material, submitted by Councilmember Bartlett and Mayor Arreguin

## **Supplemental Communications and Reports 2**

### **Item 21: Contract: ZOLL Medical Corporation for ECG Monitor/Defibrillator Support**

88. Revised material, submitted by Fire Department

### **Item 26: Dell Computers, Inc.: Using County of Riverside Amendment No. 1 to the Licensing Solution Provider Agreement with Dell Marketing L.P. for Computer Hardware and Software Purchases**

89. Revised material, submitted by Information Technology Department

### **Item #47: Reparations Now Community Art Mural Restoration and Preservation**

90. Gary Miguel

91. Masha Albrecht

92. Lynn Cooper

93. Priscilla Hine

94. Linda Olivenbaum

95. Catherine Huchting

### **Item #49: Public Hearing on Zero Waste Five-Year Rate Schedule**

96. Rafael Paschoal

97. Summer Brenner

98. Gael Alcock

99. Diane Kanegae

100. Sally Nelson

101. Bruce Flushman

102. Alexander Saldanha

103. Berkeley Neighborhood Council

### **Item #53: FY 2024 Proposed Budget Update Adoption**

104. Revised material, submitted by the City Manager's Office

105. Cristina Ibarra

106. George Lippman

### **Item 54: FY 2024 Annual Appropriations Ordinance**

107. Revised material, submitted by the City Manager's Office

### **Memorandum of Understanding with Alameda County for Temporary Coverage for Public Health Officer**

108. Urgent item submitted by Health, Housing and Community Services

## **Supplemental Communications and Reports 3**

### **Item #40: Approving Proposed Projects Anticipated to be paid for by the State's Road Maintenance and Rehabilitation Account Funds for FY 2023-24**

109. Revised material, submitted by Public Works

**Item #41: Extending the Community Workforce Agreement with Building & Construction Trades Council, et al, for Construction Projects Over \$500,000**

- 110. Alycia Singh, on behalf of Associated Builder and Contractors of Northern California

**Item #47: Reparations Now Community Art Mural Restoration and Preservation**

- 111. Phuoc Le
- 112. Sally Hindman
- 113. Johanna

**Item #53: FY 2024 Proposed Budget Update Adoption**

- 114. Presentation, submitted by the City Manager's Office
- 115. Berkeley People's Budget Coalition (2)
- 116. David Brandon
- 117. Angela Jernigan
- 118. Laura Cornwall

**Urgent Item**

**Memorandum of Understanding with Alameda County for Temporary Coverage for Public Health Officer**

- 119. Eric Friedman
- 120. Todd Andrew

**Miscellaneous Communications**

- 121. Message from EID







Office of the City Manager

CONSENT CALENDAR  
July 25, 2023

To: Honorable Mayor and Members of the City Council  
From: Dee Williams-Ridley, City Manager  
Submitted By: Mark Numainville, City Clerk  
Subject: Voting Delegates – League of California Cities Annual Conference

RECOMMENDATION

Designate, by motion, a voting delegate and alternate for the business meeting of the Annual League of California Cities conference to be held on Friday, September 22, 2023, in Sacramento.

FISCAL IMPACTS OF RECOMMENDATION

Conference fees of approximately \$650 for the full conference or \$350 for a one-day pass.

BACKGROUND

The League laws allow for any official of a member city, with the approval of the city council, to be designated the city’s voting delegate or alternate at the annual business meeting.

As designated in Resolution No. 70,630-N.S. Councilmember Taplin is the City’s representative for the League and Councilmember Humbert is the alternate.

This year’s conference is being held in Sacramento from Wednesday, September 20 through Friday, September 22, 2023. Each city is allowed to cast one vote on matters pertaining to League policy. The voting delegate or alternate must be registered for the conference.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

There are no identifiable environmental effects or climate impacts associated with the recommendation of this report.

CONTACT PERSON

Mark Numainville, City Clerk, 981-6900

Attachments

- 1: Voting Delegate Information



Council Action Advised by August 28, 2023

**DATE:** Wednesday, June 21, 2023

**TO:** Mayors, Council Members, City Clerks, and City Managers

**RE:** DESIGNATION OF VOTING DELEGATES AND ALTERNATES  
 League of California Cities Annual Conference and Expo, Sept. 20-22, 2023,  
 Sacramento SAFE Credit Union Convention Center

Every year, the League of California Cities convenes a member-driven General Assembly at the [Cal Cities Annual Conference and Expo](#). The General Assembly is an important opportunity where city officials can directly participate in the development of Cal Cities policy.

Taking place on Sept. 22, the General Assembly is comprised of voting delegates appointed by each member city; every city has one voting delegate. Your appointed voting delegate plays an important role during the General Assembly by representing your city and voting on resolutions.

To cast a vote during the General Assembly, your city must designate a voting delegate and up to two alternate voting delegates, one of whom may vote if the designated voting delegate is unable to serve in that capacity. Voting delegates may either be an elected or appointed official.

**Please complete the attached voting delegate form and email it to Cal Cities office no later than Monday, August 28.**

**New this year, we will host a pre-conference information session for voting delegates to explain their role.** Submitting your voting delegate form by the deadline will allow us time to establish voting delegate/alternate records prior to the conference and provide pre-conference communications with voting delegates.

Please view Cal Cities' [event and meeting policy](#) in advance of the conference.

**Action by Council Required.** Consistent with Cal Cities bylaws, a city's voting delegate and up to two alternates must be designated by the city council. When completing the attached Voting Delegate form, please attach either a copy of the council resolution that reflects the council action taken or have your city clerk or mayor sign the form affirming that the names provided are those selected by the city council.

Please note that designating the voting delegate and alternates **must** be done by city council action and cannot be accomplished by individual action of the mayor or city manager alone.



**Conference Registration Required.** The voting delegate and alternates must be registered to attend the conference. They need not register for the entire conference; they may register for Friday only. Conference registration is open on the [Cal Cities](#) website.

For a city to cast a vote, one voter must be present at the General Assembly and in possession of the voting delegate card and voting tool. Voting delegates and alternates need to pick up their conference badges before signing in and picking up the voting delegate card at the voting delegate desk. This will enable them to receive the special sticker on their name badges that will admit the voting delegate into the voting area during the General Assembly.

**Transferring Voting Card to Non-Designated Individuals Not Allowed.** The voting delegate card may be transferred freely between the voting delegate and alternates, but *only* between the voting delegate and alternates. If the voting delegate and alternates find themselves unable to attend the General Assembly, they may *not* transfer the voting card to another city official.

**Seating Protocol during General Assembly.** At the General Assembly, individuals with a voting card will sit in a designated area. Admission to the voting area will be limited to the individual in possession of the voting card and with a special sticker on their name badge identifying them as a voting delegate.

The voting delegate desk, located in the conference registration area of the SAFE Credit Union Convention Center in Sacramento, will be open at the following times: Wednesday, Sept. 20, 8:00 a.m.- 6:00 p.m. and Thursday, Sept. 21, 7:30 a.m.- 4:00 p.m. On Friday, Sept. 22, the voting delegate desk will be open at the General Assembly, starting at 7:30 a.m., but will be closed during roll calls and voting.

The voting procedures that will be used at the conference are attached to this memo. Please share these procedures and this memo with your council and especially with the individuals that your council designates as your city's voting delegate and alternates.

Once again, thank you for completing the voting delegate and alternate form and returning it to Cal Cities office by Monday, Aug. 28. If you have questions, please contact Zach Seals at [zseals@calcities.org](mailto:zseals@calcities.org).

Attachments:

- General Assembly Voting Guidelines
- Voting Delegate/Alternate Form
- Information Sheet: Cal Cities Resolutions and the General Assembly



## General Assembly Voting Guidelines

1. **One City One Vote.** Each member city has a right to cast one vote on matters pertaining to Cal Cities policy.
2. **Designating a City Voting Representative.** Prior to the Cal Cities Annual Conference and Expo, each city council may designate a voting delegate and up to two alternates; these individuals are identified on the voting delegate form provided to the Cal Cities Credentials Committee.
3. **Registering with the Credentials Committee.** The voting delegate, or alternates, may pick up the city's voting card at the voting delegate desk in the conference registration area. Voting delegates and alternates must sign in at the voting delegate desk. Here they will receive a special sticker on their name badge and thus be admitted to the voting area at the General Assembly.
4. **Signing Initiated Resolution Petitions.** Only those individuals who are voting delegates (or alternates), and who have picked up their city's voting card by providing a signature to the credentials committee at the voting delegate desk, may sign petitions to initiate a resolution.
5. **Voting.** To cast the city's vote, a city official must have in their possession the city's voting card and voting tool; and be registered with the credentials committee. The voting card may be transferred freely between the voting delegate and alternates but may not be transferred to another city official who is neither a voting delegate nor alternate.
6. **Voting Area at General Assembly.** At the General Assembly, individuals with a voting card will sit in a designated area. Admission to the voting area will be limited to the individual in possession of the voting card and with a special sticker on their name badge identifying them as a voting delegate.
7. **Resolving Disputes.** In case of dispute, the credentials committee will determine the validity of signatures on petitioned resolutions and the right of a city official to vote at the General Assembly.



CITY: \_\_\_\_\_

2023 ANNUAL CONFERENCE  
VOTING DELEGATE/ALTERNATE FORM

Please complete this form and return it to Cal Cities office by Monday, August 28, 2023. Forms not sent by this deadline may be submitted to the Voting Delegate Desk located in the Annual Conference Registration Area. Your city council may designate one voting delegate and up to two alternates.

To vote at the General Assembly, voting delegates and alternates must be designated by your city council. Please attach the council resolution as proof of designation. As an alternative, the Mayor or City Clerk may sign this form, affirming that the designation reflects the action taken by the council.

**Please note:** Voting delegates and alternates will be seated in a separate area at the General Assembly. Admission to this designated area will be limited to individuals (voting delegates and alternates) who are identified with a special sticker on their conference badge. This sticker can be obtained only at the voting delegate desk.

**1. VOTING DELEGATE**

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

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

**2. VOTING DELEGATE - ALTERNATE**

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

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

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

**3. VOTING DELEGATE - ALTERNATE**

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

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

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

**ATTACH COUNCIL RESOLUTION DESIGNATING VOTING DELEGATE AND ALTERNATES OR**

**ATTEST:** I affirm that the information provided reflects action by the city council to designate the voting delegate and alternate(s).

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

Mayor or City Clerk: \_\_\_\_\_ Date: \_\_\_\_\_ Phone: \_\_\_\_\_  
(circle one) (signature)

Please complete and email this form to [votingdelegates@calcities.org](mailto:votingdelegates@calcities.org) by Monday, August 28, 2023.

# How it works: Cal Cities Resolutions and the General Assembly

Developing League of California Cities policy is a dynamic process that engages a wide range of members to ensure that we are representing California cities with one voice. These policies directly guide Cal Cities advocacy to promote local decision-making, and lobby against statewide policy that erodes local control.

The resolutions process and General Assembly is one way that city officials can directly participate in the development of Cal Cities policy. If a resolution is approved at the General Assembly, it becomes official Cal Cities policy. Here's how Resolutions and the General Assembly works.

## Prior to the Annual Conference and Expo

### General Resolutions



Sixty days before the Annual Conference and Expo, Cal Cities members may submit policy proposals on issues of importance to cities. The resolution must have the concurrence of at least five additional member cities or individual members.



### Policy Committees



The Cal Cities President assigns general resolutions to policy committees where members review, debate, and recommend positions for each policy proposal. Recommendations are forwarded to the Resolutions Committee.



## During the Annual Conference and Expo

### Petitioned Resolutions



The petitioned resolution is an alternate method to introduce policy proposals during the annual conference. The petition must be signed by



voting delegates from 10% of member cities, and submitted to the Cal Cities President at least 24 hours before the beginning of the General Assembly.

### Resolutions Committee



The Resolutions Committee considers all resolutions. General Resolutions approved<sup>1</sup> by either a policy committee or the Resolutions Committee are next considered by the General Assembly. General resolutions not approved, or referred for further study by both a policy committee and the Resolutions Committee do not go the General Assembly. All Petitioned Resolutions are considered by the General Assembly, unless disqualified.<sup>2</sup>



### General Assembly



During the General Assembly, voting delegates debate and consider general and petitioned resolutions forwarded by the Resolutions Committee. Potential Cal Cities bylaws amendments are also considered at this meeting.

## Who's who

Cal Cities policy development is a member-informed process, grounded in the voices and experiences of city officials throughout the state.

The **Resolutions Committee** includes representatives from each Cal Cities diversity caucus, regional division, municipal department, policy committee, as well as individuals appointed by the Cal Cities president.

**Voting delegates** are appointed by each member city; every city has one voting delegate.

The **General Assembly** is a meeting of the collective body of all voting delegates — one from every member city.

Seven **Policy Committees** meet throughout the year to review and recommend positions to take on bills and regulatory proposals. Policy committees include members from each Cal Cities diversity caucus, regional division, municipal department, as well as individuals appointed by the Cal Cities president.

## What's new in 2023?



- Voting delegates will receive increased communications to prepare them for their role during the General Assembly.
- The General Assembly will take place earlier to allow more time for debate and discussion.
- Improvements to the General Assembly process will make it easier for voting delegates to discuss and debate resolutions.

<sup>1</sup> The Resolution Committee can amend a general resolution prior to sending it to the General Assembly.

<sup>2</sup> Petitioned Resolutions may be disqualified by the Resolutions Committee according to Cal Cities Bylaws Article VI. Sec. 5(f).



Office of the City Manager

CONSENT CALENDAR  
July 25, 2023

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: Eleanor Hollander, Manager, Office of Economic Development  
 Subject: Contract: Berkeley Convention and Visitor's Bureau, d.b.a. Visit Berkeley

RECOMMENDATION

Adopt a Resolution allowing the City Manager to execute a sole source contract and any amendments with the Berkeley Convention and Visitors' Bureau, d.b.a. Visit Berkeley, to distribute one-twelfth of annual Berkeley Transient Occupancy Tax funds to support tourism marketing and promotion for the period from July 1, 2023 through June 30, 2027 for a not to exceed amount of \$3,500,000.

FISCAL IMPACTS OF RECOMMENDATION

Transient Occupancy Tax (TOT) is assessed on the room charge for rental of transient lodging when the period of occupancy is 30 days or less. Hotel guests pay the tax and it is often referred to as a "hotel tax" or fee.

In 1991, the TOT collected by the City of Berkeley was raised from 11% to 12% in order to create and fund a Convention and Visitors Bureau (CVB). The City retained their original 11% TOT to the general fund and there was no out-of-pocket expense to the City for the organization's creation. Simultaneously, the lodging industry agreed to raise the TOT 1% with a goal that citywide strategic marketing and sales outreach would increase revenues to lodging businesses and financially benefit the City by increasing general fund revenues, sales tax, and overall economic impacts from visitor spending.

Every year, the City of Berkeley collects twelve percent (12%) TOT from lodging establishments' short-term room rental revenues and distributes one-twelfth of the amount collected via a "TOT contract" with the Berkeley CVB, d.b.a. Visit Berkeley. The revenues are collected and the funds are expended from the General Fund using the budget code 011-21-208-251-0000-000-446-636110-. Separately, the city also maintains a Tourism Business Improvement District (or "Tourism BID") wherein revenues realized from lodging establishments are also distributed to Visit Berkeley.<sup>1</sup>

---

<sup>1</sup> Berkeley City Council, *Assessments: Berkeley Tourism Business Improvement District*, Item 8, May 23, 2023.



While historically, two new separate contracts were signed every fiscal year with a Not to Exceed (NTE) amount provided by the Budget Office based on the City's projections for TOT and Tourism BID revenues, during the COVID-19 pandemic, the City entered into a multi-year contract (approved by Council on September 14, 2021) with Visit Berkeley to distribute both true-up payments to Visit Berkeley for FY21 and pass-through TOT payments for FYs 2022-2023. Similarly, in FY20, the City entered into a contract (approved by Council on October 29, 2019) with Visit Berkeley to administer the Berkeley Tourism Business Improvement District (Tourism BID) through FY 2027 for destination promotion and tourism marketing.

It is observed that the multi-year contract format enables the Office of Economic Development (OED) to efficiently distribute TOT revenues collected by the City of Berkeley to Visit Berkeley. While the new contract will initially include the NTE amount of \$3,500,000 (based on City staff's FY 2023-27 projected general fund revenue collections for TOT), the actual funds distributed will be based on actual TOT revenues received and thus contract amendments will be executed as necessary such that the actual TOT revenues collected by the City of Berkeley can be passed through efficiently to the city's convention and visitor's bureau (CVB), Visit Berkeley.

#### CURRENT SITUATION AND ITS EFFECTS

The concept of a Berkeley CVB was presented to and approved by City Council as a Consent Item on September 24, 1991 and the CVB was incorporated as a 501(c)6, Not for Profit Mutual Benefit Corporation, known as "Visit Berkeley" that same year. Ever since, there has been a contract between the City of Berkeley and Visit Berkeley to enable the pass-through of TOT funds collected.

Council is requested to empower the City Manager to enter into a sole source contract with the Berkeley Convention and Visitors' Bureau, d.b.a. Visit Berkeley, for NTE \$3,500,000, where the amount requested reflects that:

- Visit Berkeley will be owed one twelfth of the TOT collected in Q4 FY 2023 (April - June) which has not yet been paid and is estimated to be \$150,000-\$250,000 based on quarterly FY23 averages (this amount is referred to as the "true-up" and is paid in the subsequent fiscal year)
- A new contract is needed to distribute one-twelfth of the FYs 2024-27 TOT revenues to Visit Berkeley for each of the four years (the City's *FY 2023 Third Quarter Revenue Report* projects that TOT collections in FYs 2024-27 will result in \$3,111,281 funding for Visit Berkeley over the four-year period)
- Since the COVID-19 pandemic, the amount of TOT collections projected by the Finance Department has been less than the actual amount collected and thus a buffer of approximately \$200,000 has been added to the not to exceed contract amount, such that a contract amendment will not be required should the actual collections exceed the TOT revenues projected for the FY24-27 period.



The multi-year nature of the contract will make it more efficient for the City to issue “true-up” TOT payments for past and upcoming fiscal years, as tax collections for the prior fiscal year are not usually tallied until several months after the close of the prior fiscal year. While the total contract amount may be amended throughout the multi-year period, the cumulative funds distributed to Visit Berkeley will always be reconciled so they equal one twelfth of the TOT revenues collected by the City of Berkeley. For example, if an advance payment to enable Visit Berkeley’s operations in any given year exceeds the TOT amount due to Visit Berkeley for that year, the following year’s distributions will be adjusted to reflect the prior year’s overpayment.

### BACKGROUND

Transient Occupancy Tax or “TOT” is levied on all lodging establishments in Berkeley. As of May 2023, there were 19 such establishments, as some of the hotels previously involved had closed or were converted into homeless shelters. The origin of the arrangement with Visit Berkeley is detailed in the March 1991 *Convention and Visitors Bureau Creation Documents* and Berkeley City Council Consent Calendar, September 24, 1991. Each year, the forecasted TOT collection amount is codified in the Annual Budget (with the most recent adopted for FY 2024 on June 27, 2023) and one-twelfth of the TOT collected annually is devoted to Visit Berkeley. Office of Economic Development (OED) staff receives the annual TOT revenue projection from Budget staff in the City Manager’s Office, calculates one-twelfth of that number, and produces a contract with Visit Berkeley for that amount with a corresponding scope of work and payment schedule.

### ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

Visit Berkeley works to promote the Bay Area Green Business certification program with Berkeley’s hotel owners, thereby encouraging the local lodging industry to take considerable action to meet environmental sustainability objectives.

### RATIONALE FOR RECOMMENDATION

The FY 2024-2027 TOT contract will enable the City to distribute funds owed to Visit Berkeley over a multi-year period, as per the 1991 *Convention and Visitors Bureau Creation Documents*.

### ALTERNATIVE ACTIONS CONSIDERED

No alternative actions were considered.

### CONTACT PERSON

Elizabeth Redman Cleveland, Office of Economic Development, (510) 981-7532.  
Eleanor Hollander, Office of Economic Development, (510) 981-7534

Attachments:

1: Resolution

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

EMPOWER THE CITY MANAGER TO EXECUTE A SOLE SOURCE CONTRACT WITH THE BERKELEY CONVENTION AND VISITORS' BUREAU D.B.A. VISIT BERKELEY, TO DISTRIBUTE ONE-TWELFTH OF ANNUAL BERKELEY TRANSIENT OCCUPANCY TAX (TOT) FUNDS TO SUPPORT TOURISM MARKETING AND PROMOTION FOR THE PERIOD FROM JULY 1, 2023 THROUGH JUNE 30, 2027 FOR A NOT TO EXCEED AMOUNT OF \$3,500,000.

WHEREAS, the City of Berkeley collects Transient Occupancy Tax (TOT) on room charges for rental of transient lodging every year; and

WHEREAS, TOT was raised from 11% to 12% to create and fund a Convention and Visitors Bureau (d.b.a. Visit Berkeley) in 1991 so strategic marketing and sales outreach would increase revenues to lodging businesses and financially benefit the City by increasing general fund revenues, sales tax, and overall economic impacts from visitor spending; and

WHEREAS, the City of Berkeley Office of Economic Development (OED) distributes one-twelfth of the TOT amount collected annually for the General Fund via a "TOT contract" with Visit Berkeley; and

WHEREAS, Visit Berkeley will not have adequate operating funds for FY 2024 activities and beyond until a new contract is signed; and

WHEREAS, the City has concurrently entered into a multi-year contract (approved by Council on October 29, 2019) with Visit Berkeley to administer the Berkeley Tourism Business Improvement District (Tourism BID) through FY 2027 for similar tourism marketing activities; and

WHEREAS, payments due to Visit Berkeley for FY23, the City's FY 2024-27 budget revenue projections for TOT, and Visit Berkeley's estimates for FY 2024-27 project equal approximately \$3,500,000 of TOT funds for Visit Berkeley; and

WHEREAS, the actual funds distributed to Visit Berkeley will be based on actual TOT revenues collected by the City of Berkeley.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is empowered to execute a sole source contract and any amendments with Visit Berkeley to distribute one-twelfth of annual Berkeley TOT funds to support tourism marketing and promotion for the period from July 1, 2023 through June 30, 2027 for a not to exceed amount of \$3,500,000.



Office of the City Manager

CONSENT CALENDAR  
July 25, 2023

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: Eleanor Hollander, Economic Development Manager  
 Subject: Contracts: Turtle Island Monument, Scott Parsons and Artworks Foundry LLC

RECOMMENDATION

Adopt two Resolutions authorizing the City Manager to execute the following artwork contracts and any amendments for the City of Berkeley's Turtle Island Monument at Martin Luther King Jr. Civic Center Park with contract periods of July 1, 2023 through March 30, 2025:

1. Scott Parsons - for fabrication of three new stone medallions, purchase of twelve selected boulders into which seven existing art medallions will be installed, purchase of granite base stone material for mounting of five bronze turtles for an amount not to exceed \$236,000.
2. Artworks Foundry - for fabrication of a large central bronze turtle sculpture for Turtle Island Monument for an amount not to exceed \$350,000.

FISCAL IMPACTS OF RECOMMENDATION

The \$236,000 contract with Scott Parsons will be funded by two sources: \$36,000 through the Cultural Trust Fund (Fund 148), set aside in the Public Art in Private Development Budget for FY 2024, and \$200,000 through the Measure T-1 Funds approved by Council on June 13, 2023.

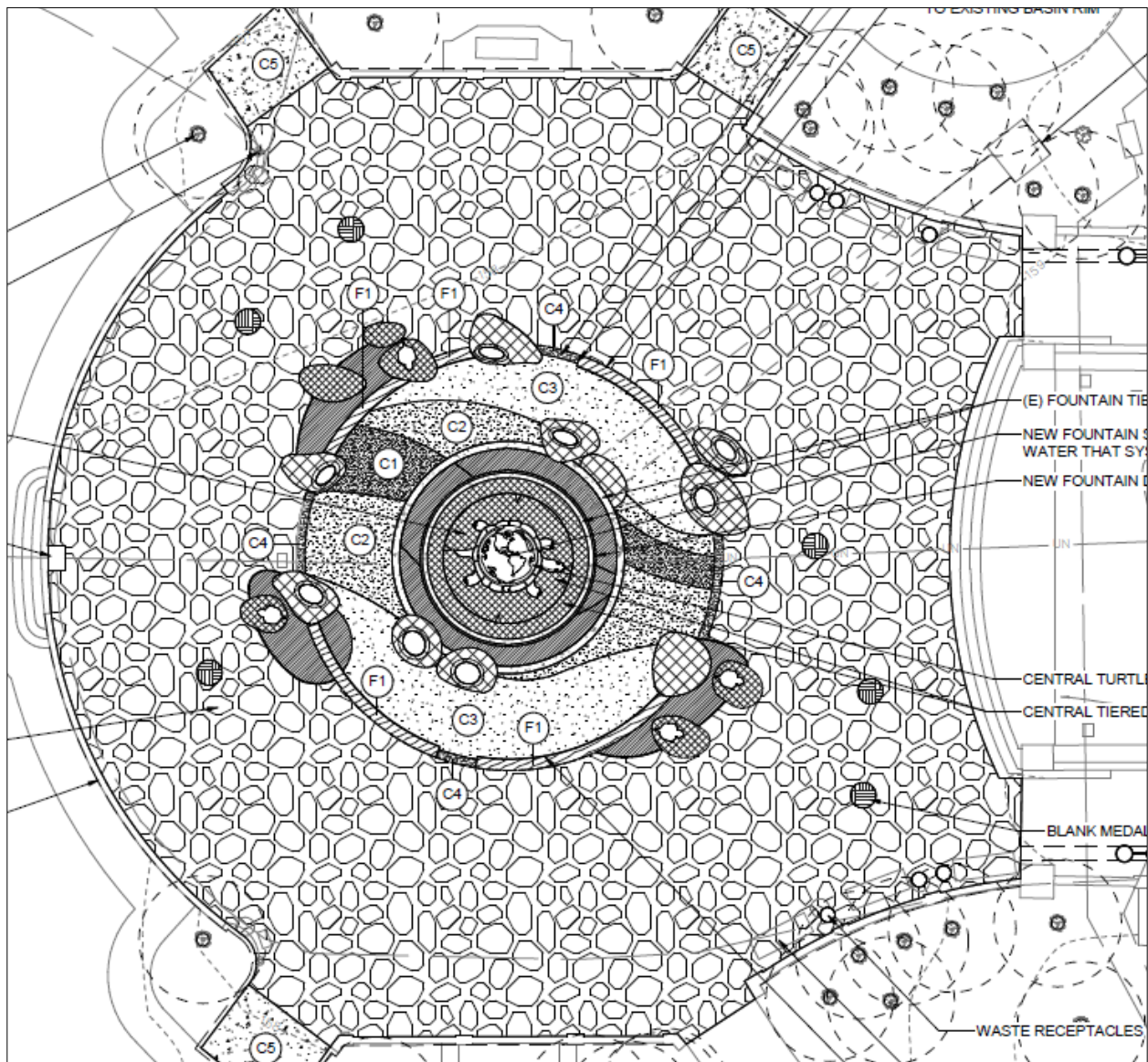
The \$350,000 contract with Artworks Foundry will be funded through the Cultural Trust Fund (Fund 148). Funding for this public art project is set aside in the Public Art in Private Development Budget for FY 2024.

CURRENT SITUATION AND ITS EFFECTS

The City of Berkeley Civic Arts Program along with Parks, Recreation & Waterfront (PRW) Department, Indigenous artists Lee Sprague and Marlene Watson, artist Scott Parsons, and PGA design landscape architects (Project Team) are in the design phase for the renovation of the upper plaza and fountain area at Civic Center Park. These renovations will include Turtle Island Monument, a commemorative artwork to the

Indigenous peoples of this hemisphere (the Americas) through an interpretation of the Indigenous creation story of Turtle Island, as envisioned in the 1992 dedication of the site for this purpose. In March of 2023, this project received approval from the Landmarks Preservation Commission for a Structural Alteration Permit and construction is planned to commence in FY24 and be completed by June 2024. The design includes four existing bronze turtles created by Scott Parsons in 2006 (currently in residence at 2180 Milvia Street) and new large central bronze turtle to be fabricated by Artworks Foundry, pending approval of this contract.

Figure 1: Turtle Island Monument design (2023)



The current 2023 Turtle Island Monument design reflects the voice and vision of Indigenous People led by Lee Sprague and Marlene Watson, incorporates the four existing bronze turtles and seven existing medallion artwork elements by Scott Parsons through consultation with him, and integrates the monument design into the historic Civic Center Park and the former fountain. In addition to the existing artwork elements developed by Scott Parsons in 2006, the 2023 Turtle Island Monument design calls for the creation of a new large central bronze turtle (to be fabricated by Artworks Foundry) and for three additional stone medallions created by Scott Parsons. Additionally, Scott Parsons will purchase twelve granite boulders and five granite sculpture bases where artwork elements will be mounted. Two granite boulders may not have medallions installed on them and instead might be engraved with information about Turtle Island. The new large central bronze turtle will be designed by the original Indigenous artists Lee Sprague and Marlene Watson through separate design contracts, which include coordination and consultation with the foundry throughout the production of the bronze artwork.

#### *Turtle Island Creation Story*

The design of Turtle Island Monument is based upon the Indigenous creation story depicting Turtle Island is common to different indigenous communities around the world. In the story, the world was covered with water and all the animals were swimming. They were getting tired, so they respectfully asked the muskrat to go under the water to see if there was any earth. So, the muskrat went down to find the earth. All the animals were waiting for the muskrat to reappear. They were worried for the muskrat. Finally, his body floated to the surface. The animals looked in his paw and they found some earth. They put the earth on the back of the turtle. The rest of the animals now knew that there was earth under the water so they each went down to get some earth. They all put the Earth on the turtle's back. This is how Turtle Island was created.

#### *Embodying the Turtle Island Creation Story in the Monument's Design*

The conceptual design represents this origin story with an east-facing freshwater snapping turtle at the center of the monument symbolizing the creation of Turtle Island, and includes a time capsule to be preserved for seven generations. The stone medallions represent peoples who are Indigenous to Turtle Island. There will also be blank stone medallions embedded in the paving to represent the Indigenous communities that have been lost to the history of colonial violence, and who are no longer here. The four bronze loggerhead oceanic turtles, commissioned in 2006, are to be positioned around Turtle Island.

The Turtle Island Monument at the former MLK Jr. Civic Center Park fountain invites all people to enter and engage with sculpture, mosaics, fountain walls, natural stones and plantings. Interpretive signage will narrate the Indigenous origin story and history of the Monument. People are invited to sit and linger while facing the central turtle or outwards toward the park. The intention of the Turtle Island Monument is to authentically tell this story, to illuminate this park's intangible asset that is its role in the founding and

celebration of Indigenous People's Day, to respect and contribute to the history and evolution of MLK Jr. Civic Center Park, and to engage the people of Berkeley on a physical, emotional, and cultural level.

The Monument's palette of materials and forms represent water as a sacred resource, the true cardinal directions and their axes, and the experience of asymmetry and symmetry in the natural world. There is also a reference to four sacred colors representing the four directions, and cardinal points are marked at the entries into the monument. The resulting circulation and layout will create a dynamic, immersive, and accessible experience for Turtle Island Monument visitors.

### BACKGROUND

Turtle Island Monument has been in development for over 30 years. In the 1990s, it was first proposed by Lee Sprague as artist and Marlene Watson as project designer. They worked with both the City of Berkeley and Indigenous communities internationally to develop the monument's design – merging an Indigenous ethic and aesthetic with the requirements provided by the City and its Commissions.

On July 7, 1992, Berkeley City Council approved the recommendation from the Berkeley Peace and Justice Commission for *“the creation of the Turtle Island Project, as the native Nation's monument within the Peace Wall circle at Martin Luther King Civic Center Park, as adopted by the Berkeley City Council in the Resistance 500 Task Force Proposal and with the support of the Landmarks Preservation and the Civic Arts Commissions.”* In 1992, the City of Berkeley became the first city in the U.S. to declare and institute Indigenous Peoples Day, to coincide with the 500th anniversary of the arrival of Columbus in the Americas on October 12, 1492. The City included a designation of the Turtle Island Monument and Time Capsule at the fountain at Civic Center Park as part of the declaration.

The original proposal for the Turtle Island Monument included *“a round base of granite with entry from the East. In the center of the circle will be a bronze turtle ... Around Turtle Island will be a circle of water... round tiles with the names of Indigenous nations and people engraved on them. Many of the tiles will be blank, to represent the people who are no longer with us, languages that are not heard anymore, and nations that have ceased to exist since 1492.”* In 2005, the City underwent a public process to commission artist Scott Parsons to create four bronze oceanic loggerhead turtle sculptures and facilitate the creation of stone art medallions by North, Central and South American Indigenous artists and international tribal representatives. The medallion art pieces have been in storage to be installed as part of the Turtle Island Monument. The four bronze turtles are currently displayed on the first and fifth floors of the Martin Luther King Jr Civic Center Building at 2180 Milvia Street.

In 2018, the Berkeley City Council made a referral to the City Manager to develop a plan to revitalize the fountain at Martin Luther King, Jr. Civic Center Park. With this direction, City staff began the process to re-engage the community and further develop the conceptual design. In 2022, the City received a “Clean California Local Grant Program” from Caltrans for \$591,666 (to be spent by June 30, 2024) to make improvements to the former fountain area located in the Upper Plaza of Civic Center Park.

In July of 2022, the City entered into contract with the Indigenous artists Lee Sprague and Marlene Watson who had originally proposed Turtle Island Monument in 1992. The City also contracted with Scott Parsons to integrate the artwork elements, that he created and fabricated in 2006–2008, into the monument design and to compensate the contemporary Native American artists for the additional and existing medallion designs. The current design effort has involved a series of over 15 meetings including: stakeholder engagement meetings, a listening session, project meetings, design workshops, and design iterations discussion. In August 2022 a two-day design charrette was conducted in which Indigenous leaders and supporters from across the United States attended including creators of the existing art elements, Lee Sprague and Marlene Watson and Scott Parsons.

To date, this project has received the following approvals:

Civic Arts Commission meeting, December 7, 2022

Turtle Island Monument Conceptual Design: M/S/C (Anno/Passmore) to approve the Conceptual Design of the Turtle Island Monument. Vote: Ayes — Anno, Blecher, Bullwinkel, Covarrubias, Dhesi, Ibarra, Passmore, Woo; Nays — None; Abstain — None; Absent — Ozol. Public Comment: 13

Parks Recreation and Waterfront Commission meeting, January 11, 2023

Civic Center Turtle Island Monument / Fountain Project  
(The commission M/S/C to support the project as presented with the inclusion of creative water elements to consider: Kawczynska/Floyd/U) (M/S/C: Avellar/Cox/U): Ayes: Abshez; Avellar; Birnbach; Cox; Floyd; Kawczynska; Wozniak; Noes: none; Absent: Diehm, Srioudom.

Landmarks Preservation Commission for a Structural Alteration Permit, March 30, 2023.

#LMSAP2023-0001 to install a Turtle Island Monument at the Civic Center Park Fountain, located on a City Landmark property within the Civic Center Historic District. Commission Vote: 5-1-0-3 Yes: Crandall, Enchill, Finacom, Linvill, Twu No: Adams, Abstain: None. Absent: Leuschner, Montgomery, Schwartz.

On February 24, 2021, Civic Arts Program staff issued Request for Qualifications (RFQ) Specification No. 21-11438-C, for a Prequalified Pool of Fine Art Services Providers, including “Fine Art Fabrication” services (Attachment 3). A panel comprised of City staff

and an outside arts professional evaluated and scored 30 applicants to establish a prequalified pool of contractors that met the requirements for each service category. The prequalified service providers with the highest scores for Fine Art Fabrication services have been determined to be: Artworks Foundry, LLC; Barnacle Bros. Sculpture & Custom Fabrication Inc.; DEKA; and Gizmo Art Production, Inc. Of these qualified firms, Artworks Foundry, LLC has been determined to be the best fit for fabrication of cast bronze sculpture.

#### ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

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

#### RATIONALE FOR RECOMMENDATION

Scott Parsons is the artist who created the existing stone medallions that will be installed as part of Turtle Island Monument. Any additional stone medallions need to be created by Scott Parsons as these new elements are part of the same artwork series. Additionally, these stone medallions will be embedded into a series of granite boulders to be installed within the new Turtle Island Monument. Likewise, the four bronze turtles Scott Parsons created for the City in 2006 will be mounted on new granite bases for integration into the new Turtle Island Monument. In order to ensure a consistent look across all granite elements for the new monument, Scott Parsons will also purchase from the same quarry the granite base for the new central turtle.

Artworks Foundry LLC is a local pre-qualified Artwork Fabrication company and they have particular expertise in casting large-scale bronze sculptures.

#### ALTERNATIVE ACTIONS CONSIDERED

There were no alternative actions considered.

#### CONTACT PERSON

Jennifer Lovvorn, Office of Economic Development, (510) 981-7533

#### Attachments:

- 1: Resolution for contract with Scott Parsons
- 2: Resolution for contract with Artworks Foundry, LLC
- 3: Request for Qualifications (RFQ) Specification No. 21-11438-C: *FOR PRE-QUALIFIED POOL OF FINE ART SERVICES PROVIDERS*



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

CONTRACT WITH SCOTT PARSONS FOR CREATION OF THREE STONE  
MEDALLIONS AND PURCHASE OF GRANITE BOULDERS AND BASES FOR  
ARTWORK ELEMENTS FOR TURTLE ISLAND MONUMENT

WHEREAS, The City of Berkeley's Arts and Culture Plan calls for the enhancement of Berkeley's environment by placing temporary and permanent public art in public spaces throughout the city; and

WHEREAS, The City of Berkeley underwent a public process in 2005 to commission artist Scott Parsons to create four bronze oceanic turtle sculptures and facilitate the creation of stone art medallions by North, Central and South American Indigenous artists and international tribal representatives; and

WHEREAS, the 2023 Turtle Island Monument design calls for the creation of three additional stone medallions created by Scott Parsons to be embedded along with the existing stone medallions into twelve granite boulders; and

WHEREAS, the 2023 Turtle Island Monument design also calls for the four bronze turtles Scott Parsons created for the City in 2006 to be mounted on new granite bases for integration into the new Turtle Island Monument, and

WHEREAS, in order to ensure a consistent look across all granite elements for the new monument, Scott Parsons will also purchase from the same quarry the granite base for the new central turtle, and

WHEREAS, Funding for the artwork contract was set aside in the Public Art in Private Development Budget for FY 2024 (\$36,000) and \$200,000 from Measure T-1 as approved by Council on June 13, 2023; and

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to execute a contract and any amendments thereto with Scott Parsons for the creation of three stone medallions and purchase of granite boulders and bases for artwork elements for Turtle Island Monument with the contract period of July 1, 2023 through March 30, 2025 in an amount not to exceed \$236,000. A record signature copy of said contract and any amendments are to be on file in the Office of the City Clerk.

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

CONTRACT WITH ARTWORKS FOUNDRY LLC FOR ON-CALL FINE ART SERVICES

WHEREAS, The City of Berkeley's Arts and Culture Plan calls for the enhancement of Berkeley's environment by placing temporary and permanent public art in public spaces throughout the city; and

WHEREAS, The City of Berkeley's Civic Arts Program issued Request for Qualifications Specification No. 21-11438-C, and established a Prequalified Pool of Fine Art Service Providers that includes Artworks Foundry LLC; and

WHEREAS, Funding for the artwork fabrication contract was set aside in the Public Art in Private Development Budget for FY 2024; and

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to execute a contract and any amendments thereto with Artworks Foundry LLC for on-call fine art services for the contract period of July 1, 2023 through March 30, 2025 in an amount not to exceed \$350,000. A record signature copy of said contract and any amendments are to be on file in the Office of the City Clerk.



**Civic Arts Program**  
Office of Economic Development

**REQUEST FOR QUALIFICATIONS (RFQ)**  
**Specification No. 21-11438-C**  
**FOR**  
**PRE-QUALIFIED POOL OF FINE ART SERVICES PROVIDERS**

**RFQ Issue Date:** February 24, 2021  
**Applicant Questions Due:** March 10, 2021  
**Application Deadline:** April 6, 2021 (by 5 PM)

**I. INTRODUCTION**

The City of Berkeley's public art enlivens and beautifies its civic buildings, parks, streetscapes, and other public spaces. Since its inception in 1967, Berkeley's Civic Arts Program has acquired approximately 50 outdoor permanent public artworks, including works of sculpture, integrated design elements, mosaics, tile artworks, and painted murals. Also included in the City's artwork collection are over 50 small portable, and mostly framed, artworks such as drawings, etchings, paintings, textiles and prints displayed in City buildings. The Civic Arts Program is also actively commissioning between three to five new public artworks a year, requiring artwork fabrication and installation services.

The City of Berkeley's Civic Arts Program is responsible for documenting, cataloguing, and maintaining the artwork in this collection. These responsibilities require the Civic Arts Program to install, de-install, transport and store large scale artwork, as well as to frame and install smaller works, provide didactic signage, photograph and video document artworks as installed, and catalogue artwork in the collection. All of the artwork in the collection has been evaluated within the last two years and the Civic Arts Program intends to conserve the artworks in most need of treatment as funding becomes available. In addition to scheduled maintenance, artworks in the collection also occasionally require emergency repair.

By issuing a Request for Qualifications for individuals and firms that are qualified within any one or all of the art service categories described below, the Civic Arts Program will be able to establish a pre-qualified pool of firms with whom the City of Berkeley may contract for services without having further general bidding requirements.

The art service categories are as follows:

- A. Contractors to install and de-install large-scale works of public art
- B. Fine Art Conservators
- C. Art Care Technicians, Audio Visual Technicians, and Artwork Preparators
- D. Fine Art Transportation and Storage
- E. Art Photography, Videography, Graphic Design, Computer Aided Design (CAD) for Artwork Placement Renderings, Digital Imaging, and Sign Makers
- F. Fine Art Framing Services
- G. Fine Art Fabrication
- H. Public Art Curation and Project Management
- I. Art Collection Registrar Services

Firms may apply for qualification in one or more categories. The scope of work and qualifications for each of these categories are described below.

The Civic Arts Program will review applications and establish a pool of qualified firms for the purpose of awarding contracts as needed. The Pre-qualified Pool of Fine Art Services Providers will remain active for three years with an option by the City to renew the pre-qualified pool for another three years. Work will occur throughout the City of Berkeley. Being approved for the pre-qualified pool does not guarantee that a firm will be awarded a contract. Contracts will range in length from one to three years and the City shall have the option to extend the term of a contract for a period of up to an additional three years, which the City may exercise in its sole, absolute discretion. Contractors will work on a task order basis. City staff will request a quote prior to service and provide an approved task order prior to work being scheduled.

## **II. SCOPE OF SERVICES**

Through this RFQ, the City of Berkeley's Civic Arts Program will identify a number of firms qualified within one or more art service categories, each of which require different qualifications and experience. The Scope of Work and Qualifications are to be used as a general guide for each of the art service categories, and are not intended to be a complete list of all work that may be performed in any category, or to be complete or specific to any particular project.

### **ART SERVICE CATEGORIES AND ASSOCIATED WORK/QUALIFICATIONS:**

#### **A. Contractors to install and de-install large-scale works of public art**

Sample Services: Installing, removing, and transporting large scale works of art and artwork integrated into architecture, or repair/re-fabrication of associated features such as foundations, sculptural bases, or hardscape. Work may include subcontracting with other firms to provide entire scope of services needed for a particular project. Sample subcontracts might include conservators, structural engineers, electrical work, masons, welders, rigging, and other trades. Work in this category may include use of lifts, scaffolding, and other equipment as necessary.

Qualifications:

1. Five (5) years' experience performing the work described above.
2. Ability to provide qualified personnel with substantial experience in installing and moving large scale works of art.
3. Demonstrated sensitivity to the artistic integrity and cultural impact of artworks.

#### **B. Fine Art Conservators**

Sample Services: Ability to provide full conservation and restoration services in the media of the Conservator's specialization. Typical needs include providing a wide variety of services for the care and maintenance of the City's art collection, cultural artifacts and properties under the Civic Arts Program's jurisdiction. Typical projects include providing specialized consulting, performing material investigations on the condition of artworks in the collection and providing the City with reports and recommendations; preparing conservation/restoration work project specifications; on-site cleaning, graffiti removal, conservation and restoration of the City's sculptures in various media, cleaning and conservation of paintings, murals; conservation of photographs, prints, and other works on paper. Repair and/or replacement of missing or damaged portions of sculptures. Work may include subcontracting with other firms to provide entire scope of services needed for a particular project. Sample subcontracts might include structural engineers, electrical work, masons, welders, rigging, and other trades. Work in this category may include use of lifts, scaffolding, and other equipment as necessary.

Qualifications:

1. Team Lead Conservator for conservation projects must hold a degree from a recognized Conservation Program identified by the American Institute for Conservation and Cultural Properties (AIC) and must adhere to the AIC Code of Ethics and Guidelines of Practice.
2. Five (5) years' experience performing the work described above.
3. Ability to provide full conservation and restoration services in the media of the Conservator's specialization.
4. Conservator must have a minimum of five (5) years professional conservation experience specializing in objects conservation with direct experience with the media of the sculpture to be restored.
5. Demonstrated sensitivity to the artistic integrity and cultural impact of artworks.

### **C. Art Care Technicians, Audio Visual Technicians, and Artwork Preparators**

Sample Services: Surface cleaning, waxing and applying anti-graffiti coatings on sculptures and other public artworks, graffiti removal and minor repairs of contemporary artworks in a variety of media. Artwork may include audio visual installations utilizing digital projectors, monitors, data players, computer programs, and multi-channel speaker systems. Work may include installing and de-installing paintings and small to medium size sculptures. Must be able to provide lifts, scaffolding, equipment and other subcontractors as necessary.

The Civic Arts Program is also looking for technicians to maintain specialty media and related systems for audio, video, lighting, and electronic media.

Qualifications:

1. Five (5) years of experience in the field. Past experience and qualifications may include course work in subjects related to care and conservation of artwork at a recognized college or university; work in a foundry or working as an assistant to a conservator or museum preparator, museum or gallery work with audio and visual media art installations, or other related experience.
2. Demonstrated background in working with media and system maintenance for material specialization in audio, video, lighting, and electronic media.
3. Adherence to the American Institute of Conservators (AIC) Code of Ethics.
4. Demonstrated sensitivity to the artistic integrity and cultural impact of artworks.

### **D. Fine Art Transportation and Storage**

Sample Services: Secure climate and non-climate storage areas; domestic and international transportation; including blanket-wrap and soft-packing services and specialty crates. May act as shipping agent; make courier arrangements, administer bills of lading, provide proper documentation and additional insurance as-needed. Provide air-ride, secure, climate controlled vehicles and oversized lift gates and other equipment as needed.

Qualifications:

1. Five (5) years of experience providing the services listed above. Past experience and qualifications may include course work in subjects related to care and conservation of artwork at a recognized college or university; work in a foundry or working as an assistant to a conservator or museum preparator or other related experience
2. Ability to provide secure storage site with climate control if required.
3. Ability to provide experienced and qualified personnel.
4. Demonstrated sensitivity to the artistic integrity and cultural impact artworks.

### **E. Art Photography, Videography, Graphic Design, Computer Aided Design (CAD) for Artwork Placement Renderings, Digital Imaging, and Sign Makers**

Sample Services: Photography, videography, design, color correction, typography and fine art reproductions in multiple formats. Photography services may include photographing and providing images in multiple formats, including the ability to provide color corrections. Videography services may include documenting artwork installations in video. Graphic Designers and Computer Aided Design (CAD) for Artwork Placement Renderings and may include production of vector files for artwork production or digital images showing an artwork in a potential location from many angles. Sign makers scope of work may incorporate digital images and may include

digital file production, typography and design services as well as the fabrication and installation of integral hardware, pedestals, and plaques in different materials and media, some that may require special engineering. All will provide their own equipment, transportation, and may be asked to scout locations and conditions of artworks sited indoors and outdoors, previous to commencing work. Work may include subcontracting with other firms to provide entire scope of services needed for a particular or large-scale projects. Sample subcontracts might include structural engineers, electrical work, welders, rigging, and other trades. Work in this category may include use of lifts, scaffolding, and other equipment as necessary.

Qualifications:

1. Five (5) years of experience providing the services listed above.
2. Ability to provide experienced and qualified personnel.
3. Demonstrated sensitivity to the artistic integrity and cultural impact of artworks.

#### **F. Fine Art Framing Services**

Sample Services: Full range of professional framing services and archival materials with the capacity for managing high volume projects including the delivery, packing and storing of artworks.

Qualifications:

1. Five (5) years of experience providing the services listed above.
2. Ability to provide experienced and qualified personnel.
3. Demonstrated sensitivity to the artistic integrity and cultural impact of artworks.

#### **G. Fine Art Fabrication**

Sample Services: Fabrication of artwork as designed by an artist. An art fabrication company has access to the resources, specialized machinery and technologies, and labor necessary to execute large scale artworks beyond the capacity of an individual artist's studio. An example of this is a metal casting foundry. Work may include subcontracting with other firms to provide entire scope of services needed for a particular project. Sample subcontracts might include structural engineers, electrical work, masons, welders, rigging, and other trades. Work in this category may include use of lifts, scaffolding, and other equipment as necessary.

Qualifications:

1. Five (5) years' experience performing the work described above.
2. Ability to provide qualified personnel with substantial experienced in artwork fabrication in the techniques specified in the artist's design.
3. Demonstrated sensitivity to the artistic integrity and cultural impact of artworks.

#### **H. Public Art Curation and Project Management**

Sample Services: Develop the project's public art plan, facilitate artist and artwork selection, interface with the City of Berkeley on approvals, provide expert artwork curation and project management, develop and manage artwork fabrication and installation, and manage the art budget. A qualified Public Art consultant may be a curator or art consultant with proven experience of overseeing artist selection and management of art in public places.

Qualifications:

1. Five (5) years of experience providing the services listed above.
2. Ability to provide experienced and qualified personnel.
3. Demonstrated sensitivity to the artistic integrity and cultural impact of artworks.

#### **I. Art Collection Registrar Services**

Sample Services: Develop and maintain records management systems related to artwork documentation with individual files for each object in the collection. Documentation includes information about an artwork's

condition, its identification number, provenance, materials, treatment reports, and its physical location. Services might include ensuring the completeness of records within an on-line collection data base and corollary paper records.

Qualifications:

1. Five (5) years of experience providing the services listed above.
2. Working knowledge of American Association of Museum's Code of Ethics as well as the Collecting Guidelines for Museums.
3. Skilled in object handling.
4. Knowledgeable about collection management software for cataloging and record keeping.
5. Ability to provide experienced and qualified personnel.
6. Demonstrated sensitivity to the artistic integrity and cultural impact of artworks.

### **III. APPLICATION SUBMISSION REQUIREMENTS**

In order to be considered for the pre-qualified pool of arts service providers, applicants must submit a fully completed application and provide all required application materials. The application consists of the following components:

A. Consultant Identification:

Provide the name of the firm, the firm's principal place of business, the name and telephone number of the contact person and company tax identification number.

Applicants will select the art service categories for which they are qualified on the application form.

B. Firm Experience:

Provide an executive summary of your experience and qualifications and listing of projects completed by the firm within the past five (5) years for each of the Art Service categories for which you are qualified. This listing should include a brief description of each project the firm has completed that require the same experience and expertise described under the qualifications listed for each of the Art Service categories, including the client, the project location, date, and name, email address and telephone number of a contact person.

C. Individual Staff Experience:

Provide a listing of each key staff person in the firm who will be assigned to the project and background information demonstrating their capabilities and qualifications to perform the assigned task. For each individual, provide current professional registrations, related experience, educational background, and years of experience with the team.

D. Client References:

Provide a minimum of three client references. At least on references should be a California city or other large public sector entity. Provide the designated person's name, title, organization, address, telephone number, and the project(s) that were completed under that client's direction.

E. Contract Terminations:

**If your organization has had a contract terminated in the last five (5) years**, describe such incident. Termination for default is defined as notice to stop performance due to the vendor's non-performance or poor performance and the issue of performance was either (a) not litigated due to inaction on the part of the vendor, or (b) litigated and such litigation determined that the vendor was in default.

Submit full details of the terms for default including the other party’s name, address, and phone number. Present the vendor’s position on the matter. The City will evaluate the facts and may, at its sole discretion, reject the application on the grounds of the past experience.

If the firm has not experienced any such termination for default or early termination in the past five (5) years, so indicate.

F. Fee Structure:

Fees will remain in effect for the duration of the contract. With proper documentation, the City will reimburse only for pre-approved equipment rentals and supply purchases that are unique to our artworks. We do not reimburse for routine supplies, travel, lodging, per diem, or other ad-hoc miscellaneous expenses. Please take that into account with your rates.

Provide the following:

- a. Hourly rate for principals and any staff or employees most likely to work on Civic Arts Program projects.
- b. Firm overhead rate or mark-up rate, if applicable.
- c. Equipment Rental

**IV. CONSULTANT SELECTION PROCESS**

**Evaluation and Selection Criteria**

Firms will be rated in each of the Art Service categories they submit under as either being:

1) Highly Qualified, 2) Qualified or 3) Not Qualified. A firm must receive the ranking of Qualified in at least one of the Art Service categories for which they wish to be considered to be included in the pre-qualified pool. The City intends to evaluate qualifications in accordance with the criteria listed below.

| <b>Evaluation Categories</b>   | <b>Evaluation Criteria</b>                                                                                                                                                                                                | <b>Points Possible</b> |
|--------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------|
| I. Professional Qualifications | a) Minimum (5) years of experience in the field                                                                                                                                                                           | 10 pts.                |
|                                | b) Demonstrated sensitivity to the artistic integrity and cultural impact of artworks.                                                                                                                                    | 10 pts.                |
|                                | c) Meets required qualifications as described in RFQ for specific art service category for which they are applying.                                                                                                       | 20 pts.                |
| II. Demonstrated Experience    | a) Demonstrated recent experience of individual or team working with media they claim expertise.                                                                                                                          | 20 pts.                |
|                                | b) Quality of recently completed projects, including evidence of care to maintain the integrity of the artwork, adherence to the AIC Code of Ethics (where applicable) and adherence to schedules, deadlines and budgets. | 20 pts.                |



|                               |                                                                                                               |          |
|-------------------------------|---------------------------------------------------------------------------------------------------------------|----------|
|                               | c) Evidence of experience as an Art Service Provider and relative scale and complexity of projects completed. | 10 pts.  |
| III. Reasonable Fee Structure | a) Proposed fees are set within industry standard.                                                            | 10 pts.  |
| TOTAL POSSIBLE POINTS         |                                                                                                               | 100 pts. |

The Civic Arts Program will select a pre-qualified pool of firms within each of the Art Service categories which the Civic Arts Program staff may consider for “as-needed” contracts or for specific projects as the need arises. The inclusion of any firm in the pre-qualified pool shall not imply any obligation on the part of the City of Berkeley to enter into an agreement with the firm. In selecting a firm for a contract, the Civic Arts Program staff may consider any one, or a combination, of the criteria listed below:

1. The firm has the highest ranking of all the firms in its category.
2. The firm is the most qualified within its Art Service category to perform the work on a specific type of project.
3. The firm is available to perform the work in a timely manner.
4. The firm offers the most favorable cost estimate to perform the work.
5. The Civic Arts Program requests proposals from the pre-qualified firms for a specific project and selects a firm based on its proposal and the selection criteria for that project.

The City reserves the right to reject any and all submissions.

## V. QUESTIONS REGARDING RFQ

For questions concerning the anticipated work, or scope of the project, please contact Jennifer Lovvorn, Chief Cultural Affairs Officer, via email at [JLovvorn@CityofBerkeley.info](mailto:JLovvorn@CityofBerkeley.info) no later than **January 26, 2021**. Answers to questions will not be provided by telephone or email. Answers to all questions or any addenda will be posted on the City of Berkeley’s Civic Art site at <https://www.cityofberkeley.info/civic-arts/>. It is the vendor’s responsibility to check this site. For general questions concerning the submittal process, contact purchasing at 510-981-7320.

## VI. CITY CONTRACTING REQUIREMENTS

Firms receiving contracts with the City shall comply with the following requirements:

### A. Non-Discrimination Requirements:

Ordinance No. 5876-N.S. codified in B.M.C. Chapter 13.26 states that, for contracts worth more than \$3,000 bids for supplies or bids or proposals for services shall include a completed Workforce Composition Form. Businesses with fewer than five employees are exempt from submitting this form. (See B.M.C. 13.26.030)

Under B.M.C. section 13.26.060, the City may require any bidder or vendor it believes may have discriminated to submit a Non-Discrimination Program. The Contract Compliance Officer will make this determination. This applies to all contracts and all consultants (contractors). Berkeley Municipal Code section 13.26.070 requires that all contracts with the City contain a non-discrimination clause, in which the contractor agrees not to discriminate and allows the City access to records necessary to monitor compliance. This section also applies to all contracts and all consultants. **Bidders must submit the attached Non-Discrimination Disclosure Form with their proposal**

**B. Nuclear Free Berkeley Disclosure Form:**

Berkeley Municipal Code section 12.90.070 prohibits the City from granting contracts to companies that knowingly engage in work for nuclear weapons. This contracting prohibition may be waived if the City Council determines that no reasonable alternative exists to doing business with a company that engages in nuclear weapons work. If your company engages in work for nuclear weapons, explain on the Disclosure Form the nature of such work. **Bidders must submit the attached Nuclear Free Disclosure Form with their proposal.**

**C. Oppressive States:**

The City of Berkeley prohibits granting of contracts to firms that knowingly provide personal services to specified Countries. This contracting prohibition may be waived if the City Council determines that no reasonable alternative exists to doing business with a company that is covered by City Council Resolution No. 59,853-N.S. If your company or any subsidiary is covered, explain on the Disclosure Form the nature of such work. **Bidders must submit the attached Oppressive States Disclosure Form with their proposal.**

**D. Sanctuary City Contracting Ordinance:**

Chapter 13.105 of the Berkeley Municipal Code prohibits the City from granting and or retaining contracts with any person or entity that provides Data Broker or Extreme Vetting services to the U.S. Immigration and Customs Enforcement Division of the United States Department of Homeland Security ("ICE"). **Bidders must submit the attached Sanctuary City Compliance Statement with their proposal.**

**E. Conflict of Interest:**

In the sole judgment of the City, any and all proposals are subject to disqualification on the basis of a conflict of interest. The City may not contract with a vendor if the vendor or an employee, officer or director of the proposer's firm, or any immediate family member of the preceding, has served as an elected official, employee, board or commission member of the City who influences the making of the contract.

Furthermore, the City may not contract with any vendor whose income, investment, or real property interest may be affected by the contract. The City, at its sole option, may disqualify any proposal on the basis of such a conflict of interest. **Please identify any person associated with the firm that has a potential conflict of interest.**

**F. Berkeley Living Wage Ordinance:**

Chapter 13.27 of the Berkeley Municipal Code requires that contractors offer all eligible employees with City mandated minimum compensation during the term of any contract that may be awarded by the City. If the Contractor is not currently subject to the Living Wage Ordinance, cumulative contracts with the City within a one-year period may subject Contractor to the requirements under B.M.C. Chapter 13.27. A certification of compliance with this ordinance will be required upon execution of a contract. The current Living Wage rate can be found here: [https://www.cityofberkeley.info/Finance/Home/Vendors\\_Living\\_Wage\\_Ordinance.aspx](https://www.cityofberkeley.info/Finance/Home/Vendors_Living_Wage_Ordinance.aspx). The Living Wage rate is adjusted automatically effective June 30<sup>th</sup> of each year commensurate with the corresponding increase in the Consumer Price Index published in April of each year. If the Living Wage rate is adjusted during the term of your agreement, you must pay the new adjusted rate to all eligible employees, regardless of what the rate was when the contract was executed.

**G. Berkeley Equal Benefits Ordinance:**

Chapter 13.29 of the Berkeley Municipal Code requires that contractors offer domestic partners the same access to benefits that are available to spouses. A certification of compliance with this ordinance will be required upon execution of a contract.

**H. Statement of Economic Interest:**

The City's Conflict of Interest Code designates "consultants" as a category of persons who must complete Form 700, Statement of Economic Interest, at the beginning of the contract period and again at the termination of the contract. The selected contractor will be required to complete the Form 700 before work may begin.

**I. Insurance**

The selected contractor will be required to maintain general liability insurance in the minimum amount of \$2,000,000, automobile liability insurance in the minimum amount of \$1,000,000 and a professional liability insurance policy in the amount of \$2,000,000 to cover any claims arising out of the performance of the contract. The general liability and automobile insurance must name the City, its officers, agents, volunteers and employees as additional insureds.

***Insurance not Necessary: If the services are such that the risk of exposure to liability is very low, insurance may not be required. An example of such a service is an individual using his/her computer at home to lay out a newsletter for the City. This determination must be made by the Risk Manager in writing before the RFP is issued.***

***Insurance Waiver: A situation in which insurance is not necessary is different from a case in which insurance may be waived. An insurance waiver is appropriate where insurance would usually be necessary but when, as a policy matter, the City is willing to take the risk of allowing an uninsured or under-insured individual or business to perform the work (usually when the risk of liability is low). An insurance waiver may be granted only by the Risk Manager in writing with the approval of the City Manager. If a potential bidder expresses an inability to meet the insurance requirement, he or she should be encouraged to contact the Project Manager & Risk Manager for assistance in obtaining insurance.)***

**J. Worker's Compensation Insurance:**

A selected contractor who employs any person shall maintain workers' compensation insurance in accordance with state requirements. Sole proprietors with no employees are not required to carry Worker's Compensation Insurance.

(Worker's Compensation Insurance cannot be waived for any person who employs others.)

**K. Business License**

Virtually every contractor that does business with the City must obtain a City business license as mandated by B.M.C. Ch. 9.04. The business license requirement applies whether or not the contractor has an office within the City limits. However, a "casual" or "isolated" business transaction (B.M.C. section 9.04.010) does not subject the contractor to the license tax. Warehousing businesses and charitable organizations are the only entities specifically exempted in the code from the license requirement (see B.M.C. sections, 9.04.295 and 9.04.300). Non-profit organizations are granted partial exemptions (see B.M.C. section 9.04.305). Persons who, by reason of physical infirmity, unavoidable misfortune, or unavoidable poverty, may be granted an exemption of one annual free license at the discretion of the Director of Finance. (see B.M.C. sections 9.04.290).

Vendor must apply for a City business license and show proof of application to Purchasing Manager within seven days of being selected as intended contractor.

The Customer Service Division of the Finance Department located at 1947 Center Street, Berkeley, CA 94704, issues business licenses. Contractors should contact this division for questions and/or information on obtaining a City business license, in person, or by calling 510-981-7200.

**L. Recycled Paper**

**Any printed reports for the City required during the performance of the work shall be on 100% recycled paper, and shall be *printed on both sides of the page* whenever practical.**

**M. State Prevailing Wage**

Certain labor categories under this project may be subject to prevailing wages as identified in the State of California Labor Code commencing in Section 1770 et. seq. These labor categories, when employed for any “work performed during the design and preconstruction phases of construction including, but not limited to, inspection and land surveying work,” constitute a “Public Work” within the definition of Section 1720(a)(1) of the California Labor Code requiring payment of prevailing wages.

Wage information is available through the California Division of Industrial Relations web site at: [http://www.dir.ca.gov/OPRL/statistics\\_and\\_databases.html](http://www.dir.ca.gov/OPRL/statistics_and_databases.html)

**VII. SCHEDULE (dates are subject to change)**

- Issue RFQ to Potential Bidders: February 24, 2021
- Questions Due March 10, 2021
- Application Deadline April 6, 2021 (by 5 PM)
- Complete Selection Process May 1, 2021
- Council Approval of Contract (over \$50k) June 15, 2021

**VIII. PAYMENT**

**Invoices:** Invoices must be fully itemized, and provide sufficient information for approving payment and audit. Invoices must be accompanied by receipt for services in order for payment to be processed. Mail invoices to the Project Manager and reference the contract number.

City of Berkeley Civic Arts Program  
2180 Milvia Street, 5th Floor  
Berkeley, CA 94706  
Attn: **Jennifer Lovvorn**

**Payments:** The City will make payment to the vendor within 30-days of receipt of a correct and complete invoice.

Thank you for your interest in working with the City of Berkeley for this service. We look forward to receiving your Statement of Qualifications.



Office of the City Manager

CONSENT CALENDAR  
July 25, 2023

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams Ridley, City Manager  
 Submitted by: Peter Radu, Assistant to the City Manager  
 Subject: Contract No. 117596-1 Amendment: Animal Fix Clinic (formerly Fix Our Ferals) for Spay and Neuter Services

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 117596-1 with Animal Fix Clinic (formerly Fix Our Ferals) to provide no-cost spay and neuter surgeries to eligible pet owners for FY 2024, increasing the contract amount by \$35,000 for a new total contract amount not to exceed \$102,218 and extending the terms of the contract to July 25, 2026.

FISCAL IMPACTS OF RECOMMENDATION

The “Spay Neuter Your Pet” (SNYP) grant comes from the General Fund and is a community agency allocation that is given by Animal Services each year. The SNYP program provided \$23,812 to Animal Fix Clinic (formerly Fix Our Ferals) for FY 2018, \$11,906 for FY 2021, \$14,000 for FY 2022, \$17,500 for FY 2023, for a total of \$67,218. Staff propose to award the amount of \$35,000 to Animal Fix Clinic in FY 2024, for a total amount not to exceed \$102,218.

CURRENT SITUATION AND ITS EFFECTS

The current contract between the City of Berkeley and Animal Fix Clinic expires on October 11, 2023. Animal Fix Clinic has contracted with the City of Berkeley to provide no-cost spay and neuter surgeries to eligible pet owners since FY 2018. By providing no-cost spay and neuter surgeries, Animal Fix Clinic decreases the number of unwanted pet offspring and reduces the number of homeless animals entering the Dona Spring Animal Shelter.

BACKGROUND

Many low-income pet owners would like to access spay and neuter services for their pets but are unable to afford the cost of surgery through local veterinary clinics. Animal Fix Clinic consistently works with low-income pet owners and is able to reach out to eligible pet owners whose animals need spay and neuter surgeries. The SNYP program provides 175 free spay or neuter surgeries each year which decreases

unwanted litters of pets and decreases the number of unwanted pets entering the Dona Spring Animal Shelter.

RATIONALE FOR RECOMMENDATION

Animal Fix Clinic is well equipped and capable of providing the services under the SNYP program. If this funding is not authorized, it would prevent 60 animals belonging to low-income pet owners from being spayed or neutered at no cost to the owner.

ALTERNATIVE ACTIONS CONSIDERED

The alternative to providing free spay and neuter surgeries to low-income residents is to refer them to low-cost spay and neuter clinics in the surrounding area. Prices in these clinics range from \$150 to \$500 and waiting lists for appointments are four months which is prohibitive to many pet owners

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

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

CONTACT PERSON

Michael St. Pierre, Animal Care Services Manager, (510) 981-6603

Attachment:

1. Resolution

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

CONTRACT NO. 117596-1 AMENDMENT: ANIMAL FIX CLINIC (FORMERLY FIX OUR FERALS) TO PROVIDE NO-COST SPAY AND NEUTER SURGERIES TO ELIGIBLE PET OWNERS FOR FY 2024, WITH A TOTAL CONTRACT AMOUNT NOT TO EXCEED \$102,218

WHEREAS, The City of Berkeley SNYP program funds no-cost spay and neuter surgeries to eligible low-income pet owners; and

WHEREAS, The Animal Fix Clinic is able to reach eligible low-income pet owners, and to provide no-cost spay and neuter services; and

WHEREAS, The 'Spay Neuter Your Pet' (SNYP) grant comes from the General Fund and is a community agency allocation that is given by Animal Services each year.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to execute an amendment to Contract No. 117569-1 with Animal Fix Clinic for spay and neuter services for FY 2024, increasing the amount of the contract by \$35,000 for a new not-to-exceed total of \$102,218, and extending the terms of the contract to July 25, 2026.







Office of the City Manager

CONSENT CALENDAR  
July 25, 2023

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Henry Oyekanmi, Director, Finance

Subject: Formal Bid Solicitations and Request for Proposals Scheduled for Possible Issuance After Council Approval on July 25, 2023

RECOMMENDATION

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

FISCAL IMPACTS OF RECOMMENDATION

Total estimated cost of items included in this report is \$885,000.

| <u>PROJECT</u>                                             | <u>Fund</u>              | <u>Source</u>                                                                          | <u>Amount</u>    |
|------------------------------------------------------------|--------------------------|----------------------------------------------------------------------------------------|------------------|
| FY 2023 Retaining Wall and Storm Drain Improvement Project | 147<br>501<br>616<br>127 | UC Settlement<br>Capital Improvements<br>Clean Storm Water<br>State Transportation Tax | \$885,000        |
| <b>Total:</b>                                              |                          |                                                                                        | <b>\$885,000</b> |

CURRENT SITUATION AND ITS EFFECTS

On May, 6, 2008, Council adopted Ordinance No. 7,035-N.S. effective June 6, 2008, which increased the City Manager's purchasing authority for services to \$50,000. As a result, this required report submitted by the City Manager to Council is now for those purchases in excess of \$100,000 for goods; and \$200,000 for playgrounds and construction; and \$50,000 for services. If Council does not object to these items being sent out for bid or proposal within one week of them appearing on the agenda, and upon final notice to proceed from the requesting department, the IFB (Invitation for Bid) or RFP (Request for Proposal) may be released to the public and notices sent to the potential bidder/respondent list.

Formal Bid Solicitations and Request for Proposals  
Scheduled for Possible Issuance After Council  
Approval on July 25, 2023

CONSENT CALENDAR  
July 25, 2023

BACKGROUND

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

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

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

RATIONALE FOR RECOMMENDATION

Need for the goods and/or services.

ALTERNATIVE ACTIONS CONSIDERED

None.

CONTACT PERSON

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

Attachments:

1: Formal Bid Solicitations and Request for Proposals Scheduled for Possible Issuance After Council Approval on July 25, 2023

- a. FY 2023 Retaining Wall and Storm Drain Improvement Project

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

| SPECIFICATION NO.  | DESCRIPTION OF GOODS / SERVICES BEING                      | APPROX. RELEASE DATE | APPROX. BID OPENING DATE | INTENDED USE                                                                                                                              | ESTIMATED COST   | BUDGET CODE TO BE CHARGED                                                                                                                                                                                                  | DEPT. / DIVISION                 | CONTACT NAME & PHONE                                       |
|--------------------|------------------------------------------------------------|----------------------|--------------------------|-------------------------------------------------------------------------------------------------------------------------------------------|------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------|------------------------------------------------------------|
| 23-11616-C         | FY 2023 Retaining Wall and Storm Drain Improvement Project | 7/26/23              | 8/29/2023                | Improvement work on various existing storm drain structures, retaining walls, traffic circle and extension of existing pedestrian pathway | \$ 885,000.00    | FY2023:<br><br>147-54-623-673-0000-000-431-665110-PWENST2310;<br><br>\$175,000<br><br>501-54-623-673-0000-000-431-665110-PWENRW2301<br><br>\$230,000<br><br>616-54-623-675-0000-000-473-665120-PWENRW2301<br><br>\$230,000 | Public Works/<br><br>Engineering | Srinivas Muktevi<br>981-6402<br><br>Ron Nevels<br>981-6439 |
| <b>DEPT. TOTAL</b> |                                                            |                      |                          |                                                                                                                                           | <b>\$885,000</b> |                                                                                                                                                                                                                            |                                  |                                                            |
| <b>TOTAL</b>       |                                                            |                      |                          |                                                                                                                                           | <b>\$885,000</b> |                                                                                                                                                                                                                            |                                  |                                                            |





Office of the City Manager

CONSENT CALENDAR  
July 25, 2023

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: David Sprague, Fire Chief  
 Jennifer Louis, Police Chief  
 Subject: Contract: Cooke and Associates for Applicant Background Investigations

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to execute a contract amendment with Cooke and Associates to expand capacity to perform background investigation services from \$50,000 to an amount not to exceed \$300,000 from August 1, 2023 through July 31, 2026.

FISCAL IMPACTS OF RECOMMENDATION

Funding will be recommended through the first amendment in the FY24 appropriations ordinance using funds from the fire and police department budgets who have a need for this service including the Fire Department using funds from Measure M, Measure GG, Measure FF, and the General Fund. The Police Department, from the General Fund. Other departments may utilize this contract in the future as needed.

CURRENT SITUATION AND ITS EFFECTS

The City has an increased need for background investigation services for multiple Departments including Fire and Police. As part of the Employer of Choice Initiative, both departments are working to create efficiencies in their hiring processes. The background investigation step is one identified component of the process where capacity of current investigatory resources has created bottleneck. In what is the most challenging and competitive labor market that current staff have ever experienced, increasing the capacity of investigators is an important step in moving applicants through the process efficiently from application to job offer.

Both departments are in a near continuous recruitment cycle and have a need for immediate investigation support. Thus, a request was made to waive the competitive procurement process, which was approved by the General Services Manager and the City Manager.

### BACKGROUND

As the number of internal police officers available for this assignment has been drastically reduced over the past three years due to staffing challenges related to recruitment and retention, the Police Department has relied on a greater number of vendors to provide this service. At the same time, recent successes from the newly formed Recruitment and Retention Team has placed more applicants in the process. The time from application to job offer has been delayed by availability of investigators – which can have the result of an applicant accepting employment elsewhere.

The Fire Department has historically relied on external investigators. These resources are also strained by the number of organizations that are attempting to hire emergency workers of various classifications.

### ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

There were no identified environmental impacts.

### RATIONALE FOR RECOMMENDATION

Background investigations are an essential component of the recruitment and selection process for some classifications including public safety personnel. Conducting comprehensive and thorough background checks is crucial to maintaining the safety and integrity of our community.

### ALTERNATIVE ACTIONS CONSIDERED

Maintain the current level of investigator capacity while a full procurement process is undertaken which will cause further delays in filling of vacancies, increase voluntary and forced overtime and impact employee morale.

### CONTACT PERSON

David Sprague, Fire Chief, (510) 981-3473  
Jennifer Louis, Police Chief, (510) 981-5900

Attachments:

1: Resolution

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

CONTRACT: COOKE AND ASSOCIATES FOR APPLICANT BACKGROUND INVESTIGATIONS

WHEREAS, background investigations are an essential component of the recruitment and selection process for some classifications including public safety personnel, and

WHEREAS, conducting comprehensive and thorough background checks is crucial to maintaining the safety and integrity of our community, and

WHEREAS, as part of the Employer of Choice Initiative, departments are working to create efficiencies in their hiring processes, and

WHEREAS, the background investigation step is one identified component of the hiring process where capacity of current investigatory resources has created bottleneck, and

WHEREAS, in what is the most challenging and competitive labor market that current staff have ever experienced, increasing the capacity of investigators is an important step in moving applicants through the process efficiently from application to job offer, and

WHEREAS, thus a request was made to waive the competitive procurement process, which was approved by the General Services Manager and the City Manager.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to execute a contract amendment with Cooke and Associates to expand capacity to perform background investigation services from \$50,000 to an amount not to exceed \$300,000 from August 1, 2023 through July 31, 2026.







Office of the City Manager

CONSENT CALENDAR  
July 25, 2023

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

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

Subject: Contract Amendments: Mental Health Services Act Community Services and Supports, and Prevention and Early Intervention

RECOMMENDATION

Adopt ten Resolutions authorizing the City Manager or her designee to execute the following contracts, which are funded through Mental Health Services Act (MHSA) Community Services and Supports (CSS) and Prevention and Early Intervention (PEI), increasing the contract amounts as outlined below, and extending the contracts through June 30, 2026:

1. Increasing CSS Contract No. 108800-1 with Bay Area Hearing Voices Network by \$46,941 per year from Mental Health Services Act (Fund #315) for a total contract amount not to exceed \$325,678 for hearing voices support groups;
2. Increasing CSS Contract No. 31900132 with Building Opportunities for Self-Sufficiency by \$100,000 per year from Mental Health Services Act (Fund #315), for a total contract amount not to exceed \$700,000 for representative payee services;
3. Increasing CSS Contract No. 32200130 with Alameda County Behavioral Health Care Services by \$491,933 per year from Mental Health Services Act (Fund #315) for a total contract amount not to exceed \$2,459,665 for Wellness Center operations;
4. Increasing CSS Contract No. 32000117 with Insight Housing (formerly Berkeley Food and Housing Project) for \$626,616 per year for three years from Mental Health Services Act (Fund #315), for a total contract amount not to exceed \$5,286,488 for supportive housing services;
5. Increasing CSS Contract No. 32000094 with Youth Spirit Artworks by \$132,046 per year for three years for Transition Age Youth case management and trauma support services from Mental Health Services Act (Fund #315), and \$78,000 for

Fiscal Year 2024 for Tiny House Village housing services from Measure P (Fund #011), for a total contract amount not to exceed \$1,211,230;

6. Increasing PEI Contract No. 32000240 with Berkeley Unified School District by \$401,389 per year from Mental Health Services Act (Fund #315), for a total contract amount not to exceed \$2,598,334 for services to support Berkeley students;
7. Increasing PEI Contract No. 088999-1 with Center for Independent Living by \$32,046 per year from Mental Health Services Act (Fund #315) for a total contract amount not to exceed \$448,860 for services to support older adults;
8. Increasing PEI Contract No. 052129-1 with Pacific Center for Human Growth by \$100,000 per year from Mental Health Services Act (Fund #315) for a total contract amount not to exceed \$815,150 for services to support the Lesbian, Gay, Bisexual, Transgender, Queer/Questioning, Agender, Plus (LGBTQIA+) population;
9. Increasing PEI Contract No. 32200146 with ONTRACK Program Resources by \$100,000 per year from Mental Health Services Act (Fund #315) for a total contract amount not to exceed \$475,000 for services to support African Americans;
10. Increasing PEI Contract No. 3200111 with East Bay Sanctuary Covenant by \$100,000 per year from Mental Health Services Act (Fund #315) for a total contract amount not to exceed \$500,000 for services to support the Latinx, Latina, Latino population.

#### FISCAL IMPACTS OF RECOMMENDATION

Funding from MHSAs revenue received from the State of California is available in the Fiscal Year 2024 budget in the following ERMA GL Accounts: Mental Health Services Act Community Services and Supports programs \$1,365,490 (Fund #315) and Mental Health Services Act Prevention and Early Intervention programs \$765,481 (Fund #315). In addition, funding in the amount of \$78,000 for Tiny House Village housing services will be available in the Fiscal Year 2024 budget in Measure P (Fund #011). Funding will be available in the Fiscal Years 2025 and 2026 Budgets in the Funding accounts listed above.

#### CURRENT SITUATION AND ITS EFFECTS

The table below outlines some of the City's current commitments of MHSAs funds for CSS and PEI that are recommended to be continued:

| <b>MHSA Funding Component</b>              | <b>Vendor</b>                                 | <b>Funds Added with Recommendation (3 yrs)</b> | <b>New Contract Total</b> |
|--------------------------------------------|-----------------------------------------------|------------------------------------------------|---------------------------|
| CSS                                        | Bay Area Hearing Voices Network               | \$140,823                                      | \$325,678                 |
| CSS                                        | Building Opportunities for Self-Sufficiency   | \$300,000                                      | \$700,000                 |
| CSS                                        | Alameda County Behavioral HealthCare Services | \$1,475,799                                    | \$2,459,665               |
| CSS                                        | Insight Berkeley                              | \$1,879,848                                    | \$5,286,488               |
| CSS<br>PEI<br>Non MHSA Funds:<br>Measure P | Youth Spirit Artworks                         | \$300,000<br>\$96,138<br>\$78,000              | \$1,211,230               |
| PEI                                        | Berkeley Unified School District              | \$1,204,167                                    | \$2,598,334               |
| PEI                                        | Center for Independent Living                 | \$96,138                                       | \$448,860                 |
| PEI                                        | Pacific Center for Human Growth               | \$300,000                                      | \$815,150                 |
| PEI                                        | ONTRACK Program Resources, Inc.               | \$300,000                                      | \$475,000                 |
| PEI                                        | East Bay Sanctuary Covenant                   | \$300,000                                      | \$500,000                 |

The MHSA Fiscal Year's 2024-2026 Three Year Program and Expenditure Plan (Three Year Plan) is the local plan that, informed by area stakeholders, details the uses of MHSA funds. Development of the Three-Year Plan included conducting community program planning, writing a draft plan, providing a 30-day public review period from May 17 through June 15, 2023, and conducting a public hearing on June 15 at the Mental Health Commission. At the close of the Public Hearing the Mental Health Commission made the following motion:

M/S/C (Prichett, Appel) Motion that the Mental Health Commission write a letter that explains why we are not taking an action and that includes that we didn't have enough time to make a thoughtful and constructive recommendation and there are points which we feel that the policies pursued by the City Manager are at odds with the budgeting priorities described in this document. Point 1. They take no recommendation 2. Ran out of time and will revise our time line for reviewing the MHSA report. 3. We have

concern's that portions of the policies currently being pursued by the City Manager conflict with the priorities expressed in this budget.

Ayes: Appel, Prichett, Turner Noes: None; Abstentions: Fine, Opton; Absent: Harrison, Jones, Kimber-Smith

### BACKGROUND

Since the passage of Proposition 63 in 2004, the Health, Housing & Community Services Department, Mental Health Division, has received annual MHSA funding. This funding is used to expand and transform the mental health service delivery system to better meet the needs of underserved and inappropriately served communities, among others. MHSA provides annually recurring funding for the following areas: Community Services and Supports; Prevention and Early Intervention; and Innovations. Some examples of the programs and services that MHSA funding supports include:

Community Services and Supports (CSS): A portion of MHSA Community Services and Supports (CSS) funds are allocated to community-based organizations to provide case management services for Transition Age Youth; housing supports; Hearing Voices support groups; and to support a Wellness Center, operated in collaboration with Alameda County.

Prevention and Early Intervention (PEI): Some of the MHSA Prevention and Early Intervention (PEI) funds have been utilized to provide services and supports for students in the Berkeley Unified School District, and for support services for individuals who are underserved or inappropriately served in the mental health system including the following populations: African Americans; Latinx; Older Adults; Transition Age Youth; and Lesbian, Bisexual, Gay, Transgender, Queer/Questioning, Intersex and Gender (LBGTQIA) individuals.

This initiative has provided new opportunities for the Mental Health Division to further develop and expand its system of care, adding new programs to the Division's own program and utilizing non-profit providers in the planning and delivery of comprehensive mental health services. The contracts this report seeks to extend, advance this goal and provide improved coordination between the City and its partner system of care agencies. The City Council has previously amended these contracts.

### ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

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

### RATIONALE FOR RECOMMENDATION

Each of the vendors listed here are trusted partners in the implementation of programs to ensure the community's mental health needs are met in the most effective manner possible. The programs funded by these contracts were developed as a result of

feedback from stakeholders and went through a lengthy community input process before being presented to City Council as part of the MHSA Plan Annual Update.

ALTERNATIVE ACTIONS CONSIDERED

Staff did not identify an alternative action that would be consistent with the adopted MHSA Three-Year Program and Expenditure Plans.

CONTACT PERSON

Karen Klatt, Community Services Specialist III, HHCS, (510) 981-7644  
Conor Murphy, Associate Management Analyst, HHCS, (510) 981-7611  
Jeffrey Buell, Manager of Mental Health Services, HHCS, (510) 981-7682

Attachments:

- 1: Resolution – Contract No. 108800-1 Amendment: Bay Area Hearing Voices Network
- 2: Resolution – Contract No. 31900132 Amendment: Building Opportunities for Self-Sufficiency
- 3: Resolution – Contract No. 32200130 Amendment: Alameda County Behavioral Health Care Services
- 4: Resolution – Contract No. 32000117 Amendment: Insight Housing
- 5: Resolution – Contract No. 32000094 Amendment: Youth Spirit Artworks
- 6: Resolution – Contract No. 32000240 Amendment: Berkeley Unified School District
- 7: Resolution – Contract No. 088999-1 Amendment: Center for Independent Living
- 8: Resolution – Contract No. 052129-1 Amendment: Pacific Center for Human Growth
- 9: Resolution – Contract No. 32200146 Amendment: ONTRACK Program Resources
- 10: Resolution – Contract No. 3200111 Amendment: East Bay Sanctuary Covenant

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

CONTRACT NO. 108800-1 AMENDMENT: BAY AREA HEARING VOICES NETWORK  
FOR HEARING VOICES SUPPORT GROUPS

WHEREAS, Mental Health Services Act (MHSA) funds are allocated to mental health jurisdictions across the state for the purposes of transforming the mental health system into one that is consumer and family driven, culturally competent, wellness and recovery oriented, includes community collaboration, and implements integrated services; and

WHEREAS, on July 23, 2019 by Resolution No. 69,033-N.S., City Council authorized the City Manager to approve the MHSA Plan FY2019-2020 Annual Update; and

WHEREAS, on December 3, 2019 by Resolution No. 69,193-N.S., City Council authorized the City Manager to amend Contract No. 10209C for an expenditure limit not to exceed \$68,442; and

WHEREAS, on July 14, 2020 by Resolution No. 69,493-N.S., City Council authorized the City Manager to amend Contract No. 10209D for an expenditure limit not to exceed \$103,178; and

WHEREAS, on September 14, 2021 by Resolution No. 70,011-N.S., City Council authorized the City Manager to amend Contract No. 10209E for an expenditure limit not to exceed \$137,914; and

WHEREAS, on July 26, 2022 by Resolution No. 70,465-N.S., City Council authorized the City Manager to amend Contract No. 10209F for an expenditure limit not to exceed \$184,855; and

WHEREAS, funding for this contract from the Mental Health Services Act (Fund #315) in the amount of \$46,941 is available in the Fiscal Year 2024 Budget; and

WHEREAS, funding for this contract from the Mental Health Services Act (Fund #315) in the amount of \$46,941 per year will be available in the Fiscal Years 2025 and 2026 Budgets.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager or her designee is authorized to execute a contract amendment with the Bay Area Hearing Voices Network for Hearing Voices Support Groups through June 30, 2026 increasing the contract by \$46,941 per year for a new total amount not to exceed \$325,678. A record signature copy of said contract and any amendments to be on file in the City Clerk Department.

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

CONTRACT NO. 31900132 AMENDMENT: BUILDING OPPORTUNITIES FOR SELF-SUFFICIENCY FOR REPRESENTATIVE PAYEE SERVICES

WHEREAS, Mental Health Services Act (MHSA) funds are allocated to mental health jurisdictions across the state for the purposes of transforming the mental health system into one that is consumer and family driven, culturally competent, wellness and recovery oriented, includes community collaboration, and implements integrated services; and

WHEREAS, on May 26, 2015 by Resolution No. 67,026-N.S., the City Council authorized the City Manager to approve the MHSA Fiscal Years 2015 through 2017 Three Year Program and Expenditure Plan; and

WHEREAS, within the City Council approved MHSA Fiscal Years 2015 through 2017 Three Year Program and Expenditure Plan was the goal of contracting with a community-based organization to provide Representative Payee Services; and

WHEREAS, on May 29, 2018 City Council approved the Finance Department's request to issue a Request for Proposals for Representative Payee Services; and

WHEREAS, the City of Berkeley's Mental Health Division issued a Request for Proposals for Representative Payee Services, and selected Building Opportunities for Self-Sufficiency as the vendor; and

WHEREAS, on February 26, 2019 by Resolution No. 68,768-N.S., the City Council authorized the City Manager to execute contract No. 31900132 with Building Opportunities for Self Sufficiency for Representative Payee services; and

WHEREAS, on January 21, 2020 by Resolution No. 69,249-N.S., the City Council authorized the City Manager to amend contract No. 31900132; and

WHEREAS, on June 30, 2020 by Resolution No. 69,470-N.S., the City Council authorized the City Manager to amend contract No. 31900132; and

WHEREAS, on September 28, 2021 by Resolution No. 70,036-N.S., the City Council authorized the City Manager to amend contract No. 31900132; and

WHEREAS, on July 26, 2022 by Resolution No. 70,466-N.S., the City Council authorized the City Manager to amend contract No. 31900132; and

WHEREAS, Building Opportunities for Self-Sufficiency has been the vendor for Representative Payee services for the City of Berkeley since March 1, 2019, and has acted in a satisfactory capacity; and

WHEREAS, funding for this contract from the Mental Health Services Act (Fund #315) in the amount of \$100,000 is available in the Fiscal Year 2024 Budget; and

WHEREAS, funding for this contract from the Mental Health Services Act (Fund #315) in the amount of \$100,000 per year will be available in the Fiscal Years 2025 and 2026 Budgets.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager or her designee is authorized to execute a contract amendment with Building Opportunities for Self-Sufficiency for Representative Payee services through June 30, 2026 increasing the contract by \$100,000 per year for a new total amount not to exceed \$700,000. A record signature copy of said contract and any amendments to be on file in the City Clerk Department.



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

MOU WITH ALAMEDA COUNTY BEHAVIORAL HEALTH CARE SERVICES  
(ACBHCS) FOR WELLNESS CENTER OPERATIONS

WHEREAS, as part of the Mental Health Services Act (MHSA), the State of California designated a process for all mental health jurisdictions for expenditures from Community Services and Supports (CSS); and

WHEREAS, on October 13, 2015, via Resolution No. 67,228-N.S., City Council approved a Memorandum of Understanding with Alameda County Behavioral Health Care Services to implement, manage, and evaluate a Mental Health Wellness Center (Wellness Center); and

WHEREAS, on January 29, 2019, via Resolution No. 68,749-N.S. City Council approved funding the construction of the Wellness Center located in Berkeley in partnership with Alameda County Behavioral Health Care Services; and

WHEREAS, on September 15, 2020 via Resolution No. 69,549-N.S. City Council approved funding operational costs of the Wellness Center located in Berkeley in partnership with Alameda County Behavioral Health Care Services; and

WHEREAS, on September 28, 2021 via Resolution No. 70,038-N.S. City Council approved funding operational costs of the Wellness Center located in Berkeley in partnership with Alameda County Behavioral Health Care Services; and

WHEREAS, on July 26, 2022 via Resolution No. 70,467-N.S. City Council approved funding operational costs of the Wellness Center located in Berkeley in partnership with Alameda County Behavioral Health Care Services; and

WHEREAS, a Memorandum of Understanding will provide the mechanism whereby the City of Berkeley Mental Health Services Act CSS funds can be transferred to the lead agency, Alameda County Behavioral Health Care Services, to be utilized for the operational costs of the Mental Health Wellness Center; and

WHEREAS, funding for this contract from the Mental Health Services Act (Fund #315) in the amount of \$491,933 is available in the Fiscal Year 2024 Budget; and

WHEREAS, funding for this contract from the Mental Health Services Act (Fund #315) in the amount of \$491,933 per year will be available in the Fiscal Years 2025 and 2026 Budgets.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager or her designee is authorized to adopt a MOU between the City of Berkeley and Alameda County Behavioral Health Care Services through June 30, 2026 increasing the contract by \$491,933 per year for a new total not to exceed amount of \$2,459,665 to fund the operational costs of a Mental Health Wellness Center.

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

CONTRACT NO. 32000117 AMENDMENT: INSIGHT HOUSING (FORMERLY NAMED BERKELEY FOOD AND HOUSING PROJECT) FOR SUPPORTIVE HOUSING SERVICES

WHEREAS, City Council approved the MHSA Plan Fiscal Year 2019-2020 Annual Update on July 23, 2019 by Resolution No. 69,033-N.S., which included funding for the programs to be included in the contract here; and

WHEREAS, City Council approved participation in the Homeless Mentally Ill Outreach and Treatment allocation funding on September 13, 2018 by Resolution No. 68,592-N.S.; and

WHEREAS, on December 3, 2019 via Resolution No. 69,192-N.S., City Council approved a contract with Berkeley Food and Housing Project for Flexible Spending Programs and the Russell Street Residence; and

WHEREAS, on May 26, 2020 via Resolution No. 69,404-N.S., City Council approved amending Contract No. 32000117; and

WHEREAS, on July 14, 2020 via Resolution No. 69,492-N.S. City Council approved amending Contract No. 32000117; and

WHEREAS, on January 18, 2022 via Resolution No. 70,180-N.S. City Council approved amending Contract No. 32000117; and

WHEREAS, community input and stakeholder feedback has determined a need for the programs being funded; and

WHEREAS, on January 18, 2022 via Resolution No. 70,180-N.S. City Council approved amending Contract No. 32000117; and

WHEREAS, the Berkeley Food and Housing Project changed their name to "Insight Housing"; and

WHEREAS, funding for this contract from the Mental Health Services Act (Fund #315) in the amount of \$626,616 is available in the Fiscal Year 2024 Budget; and

WHEREAS, funding for this contract from the Mental Health Services Act (Fund #315) in the amount of \$626,616 per year is available in the Fiscal Years 2025 and 2026 Budgets.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager or her designee is authorized to execute an amendment to Contract No. 32000117 with Insight Housing in the amount of \$626,616 per year for administrative services through June 30, 2026 in an amount not to exceed \$5,286,488. A record

signature copy of said contract and any amendments to be on file in the City Clerk Department.

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

CONTRACT NO. 32000094 AMENDMENT: YOUTH SPIRIT ARTWORKS FOR TRANSITION AGE YOUTH CASE MANAGEMENT AND TRAUMA SUPPORT SERVICES

WHEREAS, Mental Health Services Act (MHSA) funds are allocated to mental health jurisdictions across the state for the purposes of transforming the mental health system into one that is consumer and family driven, culturally competent, wellness and recovery oriented, includes community collaboration, and implements integrated services; and

WHEREAS, on July 23, 2019 by Resolution No. 69,033-N.S., City Council authorized the City Manager to approve the MHSA Plan FY2019-2020 Annual Update; and

WHEREAS, within the City Council approved MHSA Plan FY2019-2020 Annual Update was an allocation of \$100,000 for contracted Transition Age Youth (TAY) Case Management and Linkage Services; and

WHEREAS, on December 3, 2019 by Resolution No. 69,194-N.S., City Council authorized the City Manager to approve amending Contract No. 32000094 through June 30, 2020 in an amount not to exceed \$100,000; and

WHEREAS, on June 2, 2020 by Resolution No. 69,436-N.S., City Council authorized the City Manager to approve amending Contract No. 32000094 through June 30, 2021 in an amount not to exceed \$217,000; and

WHEREAS, on July 28, 2020 by Resolution No. 69,511-N.S., City Council authorized the City Manager to approve amending Contract No. 32000094 through June 30, 2021 in an amount not to exceed \$317,000; and

WHEREAS, on November 30, 2021 by Resolution No. 70,121-N.S., City Council authorized the City Manager to approve amending Contract No. 32000094 through June 30, 2022 in an amount not to exceed \$527,046; and

WHEREAS, on July 26, 2022 by Resolution No. 70,468-N.S., City Council authorized the City Manager to approve amending Contract No. 32000094 through June 30, 2023 in an amount not to exceed \$737,092; and

WHEREAS, funding for this contract from the Mental Health Services Act (Fund #315) in the amount of \$132,046 and from the Measure P (Fund #011) in the amount of \$78,000 is available in the Fiscal Year 2024 Budget; and

WHEREAS, funding for this contract from the Mental Health Services Act (Fund #315) in the amount of \$132,046 will be available each year in the Fiscal Years 2025 and 2026 Budgets.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager or her designee is authorized to execute a contract amendment with Youth Spirit Artworks for case management and linkage services, and trauma support services for Transition Age Youth and Tiny House case management, increasing the contract by \$210,046 in Fiscal Year 2024 and \$132,046 in Fiscal Years 2025 and 2026 for a new total not to exceed amount of \$1,211,230, and extending the contract through June 30, 2026. A record signature copy of said contract and any amendments to be on file in the City Clerk Department.

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

CONTRACT NO. 32000240 AMENDMENT: BERKELEY UNIFIED SCHOOL DISTRICT  
(BUSD) FOR MENTAL HEALTH MHSA-FUNDED PROGRAMS

WHEREAS, on November 12, 2019 via Resolution No. 69,168-N.S., City Council approved entering into a contract with BUSD to fund the Mental Health Peer Education and Supports Project, the Dynamic Mindfulness Program, the Supportive Schools Program, and the African American Success Project; and

WHEREAS, on May 11, 2021 via Resolution No. 69,836-N.S., City Council approved amending Contract No. 32000240; and

WHEREAS, on February 22, 2022 via Resolution No. 70,221-N.S., City Council approved amending Contract No. 32000240; and

WHEREAS, on November 3, 2022 via Resolution No. 70,579-N.S., City Council approved amending Contract No. 32000240; and

WHEREAS, community input and stakeholder feedback has determined a need for the programs being funded; and

WHEREAS, funding for this contract from the Mental Health Services Act (Fund #315) in the amount of \$401,389 has been included in the Fiscal Year 2024 Budget, subject to approval of the Second Amendment to the FY 2023 Annual Appropriations Ordinance; and

WHEREAS, funding for this contract from the Mental Health Services Act (Fund #315) in the amount of \$401,389 per year will be included in the Fiscal Years 2025 and 2026 Budgets.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager or her designee is authorized to execute a contract amendment with the Berkeley Unified School District for MHSA-funded programs through June 30, 2026 increasing the contract by \$401,389 per year for a new total not to exceed amount of \$2,598,334. A record signature copy of said contract and any amendments to be on file in the City Clerk Department.

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

CONTRACT NO. 088999-1 AMENDMENT: CENTER FOR INDEPENDENT LIVING  
FOR TRAUMA SUPPORT SERVICES FOR OLDER ADULTS

WHEREAS, the City's Department of Health, Housing and Community Services, Mental Health Division, currently receives Mental Health Services Act (MHSA) Prevention and Early Intervention (PEI) Funds on an annual basis to improve early access to services and programs; including the reduction of stigma and discrimination; and for strategies to prevent mental illness from becoming severe and disabling; and

WHEREAS, in order to utilize MHSA Funds, stakeholder informed Three Year Program and Expenditure Plans and Annual Updates that outline how funds will be utilized are required to be developed and locally approved; and

WHEREAS, the Mental Health Division works in partnership with community-based agencies and the Berkeley Unified School District in the provision of such services and supports; and

WHEREAS, since the initial MHSA PEI Plan, funds have been allocated for support services for Older Adults; and

WHEREAS, on April 26, 2011 by Resolution No. 65,237-N.S., City Council authorized a contract with Center for Independent Living to provide mental health services and supports for older adults in an amount not to exceed \$26,520 for the period of February 1, 2011 through June 30, 2011; and

WHEREAS, the City Council authorized amendments each year from June 2012 through June 2019 for a total contract amount not to exceed \$224,538; and

WHEREAS, the original Center for Independent Living Contract (Contract 8801G) became ERMA Contract No. 088999-1; and

WHEREAS, on July 23, 2019 by Resolution No. 69,036-N.S., City Council authorized an amendment to ERMA Contract No. 088999-1 with Center for Independent Living to increase the amount by \$32,046 for a total amount not to exceed \$256, 584 and to extend the term to June 30, 2020; and

WHEREAS, on June 30, 2020 by Resolution No. 69,468-N.S., City Council authorized an amendment to ERMA Contract No. 088999-1 with Center for Independent Living to increase the amount by \$24,035 for a total amount not to exceed \$280,619 and to extend the term to March 31, 2021; and

WHEREAS, on December 1, 2020 by Resolution No. 69,620-N.S., the City Council approved the MHSA FY20/21 – 22/23 Three Year Program and Expenditure Plan, which continued the allocation of PEI funds for Trauma Support Services for the Older Adult population; and



WHEREAS, per the City Council approved MHSA FY20/21 – 22/23 Three Year Program and Expenditure Plan a Request for Proposal (RFP) process was included to be executed for these Trauma Support Services for Older Adults, which had been provided by the Center for Independent Living over a period of time; and

WHEREAS, on March 30, 2021 by Resolution No. 69,768-N.S., City Council authorized an amendment to ERMA Contract No. 088999-1 with Center for Independent Living to increase the amount by \$8,011 for a total not to exceed amount \$288,830 and to extend the term to June 30, 2021; and

WHEREAS, the additional funding and extension of the current contract to June 30, 2021, was to enable the time to execute the RFP and contracting processes and to provide service coverage for individual participants, in the event there was a change in contractors following the RFP process; and

WHEREAS, in March 2021 per Bid Specification number 21-11432, an RFP was issued and the Center for Independent Living submitted a proposal; and

WHEREAS, following proposal review and rating from a panel of reviewers which included a community member, the Center for Independent Living was the chosen vendor to continue implementing these services in Berkeley; and

WHEREAS, on July 27, 2021, by Resolution No. 69,976-N.S., City Council authorized an amendment to ERMA Contract No. 088999-1 with Center for Independent Living to increase the amount by \$31,846 for a total amount not to exceed \$320,676 and to extend the term to June 30, 2022; and

WHEREAS, on July 26, 2022, by Resolution No. 70,470-N.S., City Council authorized an amendment to ERMA Contract No. 088999-1 with Center for Independent Living to increase the amount by \$32,046 for a total amount not to exceed \$352,722 and to extend the term to June 30, 2023; and

WHEREAS, funding for this contract from the Mental Health Services Act (Fund #315) in the amount of \$32,046 is available in the Fiscal Year 2024 Budget; and

WHEREAS, funding for this contract from the Mental Health Services Act (Fund #315) in the amount of \$32,046 per year will be available in the Fiscal Years 2025 and 2026 Budgets.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager or her designee is hereby authorized to execute an amendment to Contract No. 088999-1 with Center for Independent Living to provide mental health services and supports for Older Adults, to increase the contract amount by \$32,046 per year for a total contract amount not to exceed \$448,860 and to extend the term to June 30, 2026. A record signature copy of said contract and any amendments to be on file in the City Clerk Department.

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

CONTRACT NO. 052129-1 AMENDMENT: PACIFIC CENTER FOR HUMAN GROWTH TO PROVIDE MENTAL HEALTH SERVICES AND SUPPORTS FOR LGBTQIA+ INDIVIDUALS

WHEREAS, the City's Department of Health, Housing and Community Services, Mental Health Division, currently receives Mental Health Services Act (MHSA) Prevention and Early Intervention (PEI) Funds on an annual basis to improve early access to services and programs; including the reduction of stigma and discrimination; and for strategies to prevent mental illness from becoming severe and disabling; and

WHEREAS, in order to utilize MHSA Funds, stakeholder informed Three Year Program and Expenditure Plans and Annual Updates that outline how funds will be utilized are required to be developed and locally approved; and

WHEREAS, the Mental Health Division works in partnership with community-based agencies and the Berkeley Unified School District in the provision of such services and supports; and

WHEREAS, since the initial MHSA PEI Plan, funds have been allocated for support services for individuals who identify as Lesbian, Gay, Bisexual, Transgender, Queer/Questioning, Intersex, Agender, Plus (LGBTQIA+); and

WHEREAS, on December 6, 2010, City Council authorized Contract No. 8516 with Pacific Center for Human Growth to provide mental health services and supports to LGBTQIA+ individuals who are suffering from the impact of oppression, trauma, and other life stressors in an amount not to exceed \$26,520 for the period of November 1, 2010 through June 30, 2011; and

WHEREAS, the City Council authorized amendments to Contract 8516 each year from June 2011 through July 2019 for a total contract amount not to exceed \$283,104; and

WHEREAS, Contract No. 8516(I) became ERMA Contract No. 052129-1; and

WHEREAS, on June 30, 2020 by Resolution No. 69,469-N.S., City Council authorized an amendment to ERMA Contract No. 052129-1 with Pacific Center for Human Growth to increase the amount by \$24,035 for a total amount not to exceed \$307,139 and to extend the term to March 31, 2021; and

WHEREAS, on December 1, 2020 by Resolution No. 69,620-N.S., the City Council approved the MHSA FY20/21 – 22/23 Three Year Program and Expenditure Plan, which continued and increased the allocation of PEI Funds for Trauma Support Services for the LGBTQIA+ population; and

WHEREAS, per the City Council approved MHSA FY20/21 – 22/23 Three Year Program and Expenditure Plan a Request for Proposal (RFP) process was included to be executed

for these Trauma Support Services for LGBTQIA+ individuals, which had been provided by the Pacific Center for Human Growth over a period of time; and

WHEREAS, on March 30, 2021 by Resolution No. 69,769-N.S., City Council authorized an amendment to ERMA Contract No. 052129-1 with Pacific Center for Human Growth to increase the amount by \$8,011 for a total amount not to exceed \$315,150 and to extend the term to June 30, 2021; and

WHEREAS, the additional funding and extension of the contract to June 30, 2021, was to enable the time to execute the RFP and contracting processes and to provide service coverage for individual participants, in the event there was a change in contractors following the RFP process; and

WHEREAS, in March 2021 per Bid Specification No. 21-11430-C, and RFP was issued and Pacific Center for Human Growth submitted a proposal; and

WHEREAS, following proposal review and rating from a panel of reviewers which included a community member, the Pacific Center for Human Growth was the chosen vendor to continue implementing these services in Berkeley; and

WHEREAS, on July 27, 2021 per Resolution No. 69,975-N.S., City Council authorized an amendment to ERMA Contract No. 052129-1 with Pacific Center for Human Growth to increase the amount by \$100,000 for a total amount not to exceed \$415,150 and to extend the term to June 30, 2022; and

WHEREAS, on July 26, 2022 per Resolution No. 70,471-N.S., City Council authorized an amendment to ERMA Contract No. 052129-1 with Pacific Center for Human Growth to increase the amount by \$100,000 for a total amount not to exceed \$515,150 and to extend the term to June 30, 2023; and

WHEREAS, funding for this contract from the Mental Health Services Act (Fund #315) in the amount of \$100,000 is available in the Fiscal Year 2024 Budget; and

WHEREAS, funding for this contract from the Mental Health Services Act (Fund #315) in the amount of \$100,000 per year will be available in the Fiscal Years 2025 and 2026 Budgets.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager or her designee is hereby authorized to execute an amendment to Contract No. 052129-1 with Pacific Center for Human Growth to provide mental health services and supports for LGBTQIA+ Individuals, to increase the contract amount by \$100,000 per year for a total contract amount not to exceed \$815,150 and to extend the term to June 30, 2026. A record signature copy of said contract and any amendments to be on file in the City Clerk Department.

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

CONTRACT NO. 32200146 AMENDMENT: ONTRACK PROGRAM RESOURCES INC.,  
FOR SUPPORT SERVICES FOR AFRICAN AMERICANS

WHEREAS, the City's Department of Health, Housing and Community Services, Mental Health Division, currently receives Mental Health Services Act (MHSA) Prevention and Early Intervention (PEI) Funds on an annual basis to improve early access to services and programs; including the reduction of stigma and discrimination; and for strategies to prevent mental illness from becoming severe and disabling; and

WHEREAS, in order to utilize MHSA Funds, stakeholder informed Three Year Program and Expenditure Plans and Annual Updates that outline how funds will be utilized are required to be developed and locally approved; and

WHEREAS, the Mental Health Division works in partnership with community-based agencies and the Berkeley Unified School District in the provision of such services and supports; and

WHEREAS, since the initial MHSA PEI Plan, funds have been allocated for support services for the African American population; and

WHEREAS, these support services for African Americans were previously implemented by the same community partner over a period of time; and

WHEREAS, on December 1, 2020 by Resolution No. 69,620-N.S., the City Council approved the MHSA FY20/21 – 22/23 Three Year Program and Expenditure Plan, which continued and increased the allocation of PEI Funds for support services for the African American population; and

WHEREAS, per the City Council approved MHSA FY20/21 – 22/23 Three Year Program and Expenditure Plan a Request for Proposal (RFP) process was included to be executed for these support services for African Americans, which had been provided by the same community partner over a period of time; and

WHEREAS, in May 2021 per Bid Specification No. 21-11434-C, the RFP was issued and ONTRACK Program Resources Inc., submitted a proposal and was determined to be the chosen bidder; and

WHEREAS; on November 16, 2021 by Resolution No. 70,106-N.S., City Council authorized ERMA Contract No. 32200146 with ONTRACK Program Resources Inc., for support services for African Americans, in an amount not to exceed \$75,000 through June 30, 2022; and

WHEREAS; on July 26, 2022 by Resolution No.70,472-N.S., City Council authorized an amendment to Contract No. 32200146 with ONTRACK Program Resources Inc., for

support services for African Americans, in an amount not to exceed \$175,000 through June 30, 2023; and

WHEREAS, funding for this contract from the Mental Health Services Act (Fund #315) in the amount of \$100,000 is available in the Fiscal Year 2024 Budget; and

WHEREAS, funding for this contract from the Mental Health Services Act (Fund #315) in the amount of \$100,000 per year will be available in the Fiscal Years 2025 and 2026 Budgets.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager or her designee is hereby authorized to execute an amendment to Contract No. 32200146 with ONTRACK Program Resources, Inc., to provide services and supports for African Americans, to increase the contract amount by \$100,000 per year for a total contract amount not to exceed \$475,000 and to extend the term to June 30, 2026. A record signature copy of said contract and any amendments to be on file the City Clerk Department.

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

CONTRACT NO. 32200111 AMENDMENT: EAST BAY SANCTUARY COVENANT  
FOR TRAUMA SUPPORT SERVICES FOR LATINX/LATINAS/LATINOS

WHEREAS, the City's Department of Health, Housing and Community Services, Mental Health Division, currently receives Mental Health Services Act (MHSA) Prevention and Early Intervention (PEI) Funds on an annual basis to improve early access to services and programs; including the reduction of stigma and discrimination; and for strategies to prevent mental illness from becoming severe and disabling; and

WHEREAS, in order to utilize MHSA Funds, stakeholder informed Three Year Program and Expenditure Plans and Annual Updates that outline how funds will be utilized are required to be developed and locally approved; and

WHEREAS, the Mental Health Division works in partnership with community-based agencies and the Berkeley Unified School District in the provision of such services and supports; and

WHEREAS, since the initial MHSA PEI Plan, funds have been allocated for Trauma Support Services for the Latinx/Latina/Latino population; and

WHEREAS, these Trauma Support Services for Latinx/Latinas/Latinos were previously implemented by the same community partner over a period of time; and

WHEREAS, on December 1, 2020 by Resolution No. 69,620-N.S., the City Council approved the MHSA FY20/21 – 22/23 Three Year Program and Expenditure Plan, which continued and increased the allocation of PEI Funds for Trauma Support Services for the Latinx/Latina/Latino population; and

WHEREAS, per the City Council approved MHSA FY20/21 – 22/23 Three Year Program and Expenditure Plan a Request for Proposal (RFP) process was included to be executed for these Trauma Support Services for Latinx/Latinas/Latinos, which previously had been provided by the same community partner over a period of time; and

WHEREAS, in March 2021 per Bid Specification No. 21-11433-C, an RFP was issued and East Bay Sanctuary Covenant submitted a proposal and was determined to be the chosen bidder; and

WHEREAS; on July 27, 2021, by Resolution No. 69,974-N.S., City Council authorized ERMA Contract No. 32200111 with East Bay Sanctuary Covenant for Trauma Support Services for Latinx/Latinas/Latinos, in an amount not to exceed \$100,000 through June 30, 2022; and

WHEREAS; on July 26, 2022, by Resolution No. 70,473-N.S., City Council authorized ERMA Contract No. 32200111 with East Bay Sanctuary Covenant for Trauma Support Services for Latinx/Latinas/Latinos, in an amount not to exceed \$200,000 through June 30, 2023; and

WHEREAS, funding for this contract from the Mental Health Services Act (Fund #315) in the amount of \$100,000 is available in the Fiscal Year 2024 Budget; and

WHEREAS, funding for this contract from the Mental Health Services Act (Fund #315) in the amount of \$100,000 per year will be available in the Fiscal Years 2025 and 2026 Budgets.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager or her designee is hereby authorized to execute an amendment to Contract No. 32200111 with East Bay Sanctuary Covenant to provide Trauma Support Services for Latinx/Latinas/Latinos to increase the contract amount by \$100,000 per year for a total contract amount not to exceed \$500,000 and to extend the term to June 30, 2023. A record signature copy of said contract and any amendments to be on file in the City Clerk Department.







Office of the City Manager

CONSENT CALENDAR  
July 25, 2023

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

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

Subject: Contract No. 32300138 Amendment: Prevention and Early Intervention  
Statewide Project - California Mental Health Services Authority

RECOMMENDATION

Adopt a Resolution authorizing the City Manager or her designee to execute an amendment to Contract No. 32300138 with the California Mental Health Services Authority (CalMHSA) to execute a Participation Agreement for Fiscal Year 2024 for the Prevention and Early Intervention (PEI) Statewide Project and allocate Mental Health Services Act (MHSA) funds in the amount of \$93,027, for a total amount not to exceed \$163,934 through June 30, 2024.

FISCAL IMPACTS OF RECOMMENDATION

Funding in the amount of \$93,027 for this PEI Statewide Project, is available in the Fiscal Year 2024 Budget in the Mental Health Services Act Fund (Fund #315).

CURRENT SITUATION AND ITS EFFECTS

Through the City's approved MHSA Three Year Plans and Annual Updates, 4% of PEI funds have been allocated annually to participate in the PEI Statewide Project. This initiative is administered by the California Mental Health Services Authority (CalMHSA), a Joint Powers Authority (JPA). California mental health jurisdictions can elect to participate in this initiative to benefit locally from these services by allocating a portion of local MHSA PEI funds on an annual basis to CalMHSA; which then contracts for a variety of mental health prevention and early intervention activities to CalMHSA for this initiative.

Since 2018, the City has participated in this initiative. Funded services have included the distribution of information and resources on suicide prevention, stigma and discrimination reduction, and student mental health, to be utilized locally. Mental Health Division staff have also received trainings on client "Sexual Orientation and Gender Identity Expression" (SOGIE) through this project. Most recently, the Mental Health Division has distributed materials in the community on the "Take Action for Mental Health" campaign, a new initiative of this project. Additionally, personal hygiene kits are

part of the resources that were recently provided, which will be distributed to individuals who are experiencing homelessness. This project enables the Mental Health Division to broaden the reach of information and resources to a wider population across the City. MHSA PEI funds are integral in supporting individuals with a variety of mental health needs across the spectrum of care.

In order to continue to receive information and resources from this initiative the Mental Health Division must amend Contract #32300138 to execute a Participation Agreement and allocate funds to CalMHSA for Fiscal Year 2024.

### BACKGROUND

The California Mental Health Services Authority (CalMHSA) is a Joint Powers Authority (JPA) that was formed in 2009 to create a separate public entity to provide administrative and fiscal services in support of Members' Mental/Behavioral Health Departments acting alone or in collaboration with other Departments. CalMHSA is governed by a Board of Directors that is comprised of the participating county or city mental/behavioral health director and a designated alternate for when the director is absent. Contributing counties provide direction into the types of initiatives that are implemented. The amount paid for the PEI Statewide Project on an annual basis varies each year, depending on the amount of local PEI revenue. With projected increases to MHSA, the amount of PEI funds allocated for this initiative in 2024 will be higher than previous years.

### ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

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

### RATIONALE FOR RECOMMENDATION

The City of Berkeley is required to obtain City Council approval to execute a Participation Agreement with CalMHSA to allocate funds and participate in this initiative. PEI funds are an important resource that provides information, services, and supports to individuals with a variety of mental health needs across the system of care.

### ALTERNATIVE ACTIONS CONSIDERED

The City could opt to stop participating in CalMHSA's PEI Initiative. Staff do not recommend this course of action because of the high value of these services to the community.

### CONTACT PERSON

Karen Klatt, Community Services Specialist III, HHCS, (510) 981-7644  
Jeff Buell, Manager of Mental Health Services, HHCS, (510) 981-7682

Statewide PEI Project Fiscal Year 2024 Participation Agreement  
California Mental Health Services Authority

CONSENT CALENDAR  
July 25, 2023

Attachment:  
1: Resolution

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

CONTRACT NO. 32300138 AMENDMENT STATEWIDE PREVENTION AND EARLY INTERVENTION PROJECT - CALIFORNIA MENTAL HEALTH SERVICES AUTHORITY

WHEREAS, the California Mental Health Services Authority (CalMHSA) is a Joint Powers Authority (JPA), that provides administrative and fiscal services in support of Members' Mental/Behavioral Health Departments acting alone or in collaboration with other Departments; and

WHEREAS, CalMHSA Is governed by a Board of Directors that is comprised of the participating County or City Mental/Behavioral Health Director and a designated alternate for when the director is absent and County or City participants provide direction into the types of initiatives that are implemented; and

WHEREAS, the City of Berkeley is a participant in this JPA; and

WHEREAS, during the timeframe of 2011 through 2015, CalMHSA implemented the Statewide Prevention and Early Intervention (PEI) Project through MHSA funds that were allocated to be utilized at the State level for programming in the areas of Suicide Prevention, Stigma and Discrimination Reduction, and Student Mental Health; and

WHEREAS, following 2015 participating counties/cities were required to allocate at least four percent of their annual local MHSA PEI allocation each year to CalMHSA, to continue to receive services through this initiative; and

WHEREAS, since 2018, through City Council approved MHSA Three Year Plans and Annual Updates the City of Berkeley has allocated four percent of local MHSA PEI funds to participate in this initiative; and

WHEREAS, in order to participate and allocate local PEI funds for this initiative, CalMHSA began requiring counties/cities to enter into an annual Participation Agreement; and

WHEREAS, per Resolution No. 70,461-N.S., the City Council approved the City's MHSA FY2023 Annual Update, which allocated \$70,907 of local PEI funds for this initiative; and

WHEREAS, per Resolution No. 70,640-N.S., the City Council approved the execution of a Participation Agreement and any amendments with CalMHSA for the PEI Statewide Project initiative; and

WHEREAS, per the MHSA Fiscal Years 2024-2026 Three Year Program and Expenditure Plan that is on the July 25, 2023 Council Agenda for approval, \$93,027 of local PEI funds are allocated for this initiative; and

WHEREAS, in order to continue to participate in this initiative, Contract No. 32300138 must be amended to execute a Participation Agreement for Fiscal Year 2024 and allocate funds to CalMHSA; and

WHEREAS, funding in the amount of \$93,027 for this PEI Statewide Project, is available in the Fiscal Year 2024 Budget in the Mental Health Services Act Fund (Fund #315).

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager or her designee is hereby authorized to amend Contract No. 32300138 with CalMHSA to execute a Participation Agreement for Fiscal Year 2024 for the PEI Statewide Project and any amendments, and allocate funds in the amount of \$93,027 for this initiative for a total amount not to exceed \$163,934, through June 30, 2024.





Office of the City Manager

CONSENT CALENDAR  
July 25, 2023

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

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

Subject: Contract: 2 Plus 1 Housing Resolution Services for Harriet Tubman Terrace  
Tenant Advocate

RECOMMENDATION

Adopt a Resolution authorizing the City Manager or her designee to execute a contract for professional services with the vendor 2 Plus 1 Housing Resolution Services for a Harriet Tubman Terrace Tenant Advocate for the Department of Health, Housing, and Community Services (HHCS) from August 1, 2023 to July 31, 2024 in an amount not to exceed \$100,000.

FISCAL IMPACTS OF RECOMMENDATION

The term of this contract is from August 1, 2023 to July 30, 2024. Funding in the amount of \$100,000 for a Harriet Tubman Terrace Tenant Advocate is available in the FY 2023 budget in the General Fund (ERMA Fund 011) . HHCS will request to carry over these funds into FY2024.

CURRENT SITUATION AND ITS EFFECTS

On November 3, 2022, the City Council approved funding a tenant advocate for Harriet Tubman Terrace (HTT). The tenant advocate position will be responsible for:

- Documenting and analyzing cases/facts of tenant/property manager/owner disputes; and
- Facilitating communication between tenants and the property manager/owner to develop mutually agreed-upon solutions.

HHCS' Housing and Community Services Division (HHCS/HCS) issued Request for Proposals (RFP) Specification No. 612990 on March 7, 2023. The RFP closed on April 11, 2023. The City received two responses. The selection committee included staff from HHCS/HCS and two members of the HTT Tenant Council.

BACKGROUND

Harriett Tubman Terrace is a 90-unit affordable development subject to requirements from the U.S. Department of Housing and Urban Development and California's tax-

exempt bond program. However, the City has not funded the property through the Housing Trust Fund program or other affordable housing funding and regulatory programs. This means that HHCS does not have authority for monitoring affordable housing compliance or operations at HTT.

HTT residents are older adults (62 or older) and adults with disabilities. In 2021, the property owner obtained affordable housing financing and rehabilitated HTT. The property renovations and construction process resulted in disputes between tenants and the property manager/owner. On July 7, 2022, the Housing Advisory Commission recommended City Council act to investigate the health and safety violations and other grievances identified by the tenants of HTT. On November 3, 2022, City Council approved funding a tenant advocate for HTT. The HTT Tenant Advocate will provide case management, training, and facilitate mutually agreed solutions between the tenants and the property manager.

#### ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

There are no environmental impacts related to this contract.

#### RATIONALE FOR RECOMMENDATION

The City conducted a competitive bid process for the project identified by Council. The 2 Plus 1 Housing Resolution Services application successfully met the bid requirements and ranked highest among all bidders.

#### ALTERNATIVE ACTIONS CONSIDERED

The City also received two proposals. The reviewers concluded that the proposal from 2 Plus 1 Housing Resolution Services best fit the City's needs, and is not recommending an alternative selection.

#### CONTACT PERSON

Mariela Herrick, Community Development Project Coordinator, HHCS, (510) 981-5424

Attachments:  
1: Resolution



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

CONTRACT: 2 PLUS 1 HOUSING RESOLUTION SERVICES FOR HARRIET  
TUBMAN TERRACE ADVOCATE

WHEREAS, the City of Berkeley City Council authorized a Request for Proposals (RFP) to obtain a dedicated Tenant Advocate for Harriet Tubman Terrace (2870 Adeline Street); and

WHEREAS, the City conducted RFP Specifications No. 612990 with proposals due no later than April 11, 2023; and

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

WHEREAS, the application from 2 Plus 1 Housing Resolution Services met the bid requirements and ranked highest among all bidders.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager or her designee is authorized to execute a contract and any amendments with 2 Plus 1 Housing Resolution as a contractor to provide professional services as the Harriet Tubman Terrace Tenant Advocate from August 1, 2023, to July 30, 2024 in an amount not to exceed \$100,000.





Office of the City Manager

CONSENT CALENDAR  
July 25, 2023

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

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

Subject: Mental Health Services Act (MHSA) Fiscal Years 2024-2026 Three Year Program and Expenditure Plan

RECOMMENDATION

Adopt a Resolution approving the Mental Health Services Act Fiscal Years 2024-2026 Three Year Program and Expenditure Plan (MHSA Three Year Plan), which provides information on current and proposed uses of funds for mental health programming, and forwarding the MHSA Three Year Plan to appropriate state officials.

SUMMARY

California MHSA revenues are allocated to mental health jurisdictions across the state on an annual basis to transform the mental health system into one that is peer and family driven, culturally competent, oriented towards wellness and recovery, collaborative with community partners, and inclusive of integrated services. MHSA includes five defined funding components: Community Services and Supports; Prevention and Early Intervention; Innovation; Workforce, Education & Training; and Capital Facilities Technological Needs.

The City utilizes MHSA funds to address various Mental Health needs of the residents of Berkeley. In Fiscal Year 2022 across all MHSA funded programs, approximately 6,086 individuals participated in some level of services and supports. Some of the highlights of MHSA programming have included a reduction in psychiatric inpatient hospital and/or incarceration days for severely mentally ill clients; a decrease in the number of days severely mentally ill clients spent homeless; and a step down to a lower level of care for some clients. Among other programming, MHSA has enabled the Division to provide increased services for family members of individuals who experience mental illness; prevention and intervention services for children and youth in the schools and community; and supportive services for Transition Age Youth, Adults and Older Adults and individuals in unserved, underserved and inappropriately served cultural and ethnic populations. For a limited time, MHSA funding has also enabled free access to the MyStrength and HeadSpace Mental Health Apps for anyone who lives, works or goes to school in Berkeley. In order to utilize MHSA funds, stakeholder informed MHSA

Three Year Program and Expenditure Plans and Annual Updates are required to be developed and locally approved.

**FISCAL IMPACTS OF RECOMMENDATION**

Approval of the MHSA Three Year Plan enables funding for MHSA programs and services. The City of Berkeley receives funding from MHSA revenues (Fund #315) on a monthly basis from the State of California. The total MHSA funding amount the city will receive in any given year is unknown until the end of the year. Therefore, MHSA Three Year Plans and Annual Updates must approximate revenues and expenditures for each year. This MHSA Three Year Plan includes the following estimated revenue and expenditures in each MHSA component over the next three years:

| 2024                                     |                         |                                  |                                            |
|------------------------------------------|-------------------------|----------------------------------|--------------------------------------------|
| MHSA FUNDING COMPONENT                   | Estimated Unspent Funds | Estimated New Funding            | Estimated Expenditures                     |
| Community Services & Supports            | \$8,810,925             | \$9,302,674                      | \$8,415,066<br>(\$170,535 transfer to WET) |
| Prevention & Early Intervention          | \$2,437,727             | \$2,325,669                      | \$2,085,566                                |
| Innovations                              | \$1,858,707             | \$612,018                        | \$1,223,159                                |
| Workforce Education & Training           | \$0                     | \$170,535<br>(Transfer from CSS) | \$170,535                                  |
| Capital Facilities & Technological Needs | \$0                     | \$0                              | \$0                                        |
| <b>TOTALS</b>                            | <b>\$13,107,359</b>     | <b>\$12,410,896</b>              | <b>\$11,894,326</b>                        |
| 2025                                     |                         |                                  |                                            |
| Community Services & Supports            | \$9,827,999             | \$4,605,820                      | \$8,735,316<br>(\$208,654 transfer to WET) |
| Prevention & Early Intervention          | \$2,677,830             | \$1,151,455                      | \$2,066,785                                |
| Innovations                              | \$1,247,566             | \$303,014                        | \$534,334                                  |
| Workforce Education & Training           | \$0                     | \$208,654<br>(Transfer from CSS) | \$208,654                                  |
| Capital Facilities & Technological Needs | \$0                     | \$0                              | \$0                                        |
| <b>TOTALS</b>                            | <b>\$13,753,395</b>     | <b>\$6,268,943</b>               | <b>\$11,336,435</b>                        |

| 2026                                     |             |                                  |                                            |
|------------------------------------------|-------------|----------------------------------|--------------------------------------------|
| Community Services & Supports            | \$5,489,849 | \$4,543,527                      | \$9,037,987<br>(\$217,000 transfer to WET) |
| Prevention & Early Intervention          | \$1,762,499 | \$1,135,882                      | \$2,115,658                                |
| Innovations                              | \$1,016,247 | \$298,916                        | \$534,334                                  |
| Workforce Education & Training           | \$0         | \$217,000<br>(Transfer from CSS) | \$217,000                                  |
| Capital Facilities & Technological Needs | \$0         | \$0                              | \$0                                        |
| TOTALS                                   | \$8,268,595 | \$6,195,325                      | \$11,904,979                               |

The budget provides estimated revenue and expenditures for this Three-Year Plan. The Division obtains financial projections from the state on the amount of MHSA revenue to be allocated in a given year. Financial projections for this Three-Year Plan reflect an increase in MHSA funds in Fiscal Year 2024, followed by estimated decreases in Fiscal Years 2025 and 2026. Savings from previous years (due to staff vacancies, slower start-ups with new programs, etc.), and projected additional revenue in Fiscal Year 2024, will assist in providing funding to support MHSA programs and services over the next couple of years when the MHSA fund is estimated to decrease.

The Division will continue to closely monitor the City of Berkeley MHSA allotments and expenditures to assess whether program changes are needed in the future. Any proposed program changes will be vetted for community input and reflected in the Annual Updates to this Three-Year Plan.

**CURRENT SITUATION AND ITS EFFECTS**

The MHSA Fiscal Years 2024-2026 Three Year Program and Expenditure Plan (Three Year Plan) is the local plan, informed by area stakeholders, that details current mental health programs and services, proposes areas of new programming and/or increased staffing and includes the state required MHSA Fiscal Year 2022 Prevention and Early Intervention Annual Report and the Fiscal Year 2022 Innovation Annual Evaluation Report. Per state legislation, MHSA Three Year Plans and Annual Updates must include the following steps: Conducting a community program planning process with the involvement of area stakeholders; writing a draft plan; initiating a 30-day public review on the Draft Plan; and conducting a public hearing at a Mental Health Commission meeting.

The City of Berkeley MHSA Three Year Plan included a community program planning process to obtain input via multiple Zoom meetings; drafting a plan; incorporating feedback from the planning process; a 30-day Public Review from May 17 through June

15; and a Public Hearing on the evening of June 15 before the Mental Health Commission. The Division received the following comments on the MHSA Three Year Plan during the Community Planning Process, 30 Day Public Review and Public Hearing:

- Provide an ongoing increase for the Trauma Support Project for LGBTQIA;
- Provide a one-time funding amount to support the move of the Pacific Center of Human Growth (an MHSA funded contractor), to a new location;
- Provide an ongoing increase to support the SoulSpace Project;
- Provide funding for the African American Holistic Resource Center, Sankofa Project;
- Implement the Community Mental Health First Aid Program through the Mental Health Division and/or form collaborations with trainers of this program;
- Reach out to local businesses for input on community mental health needs;
- Information on area resources, services and supports is not accessible to individuals in the community, particularly those who experience homelessness who often have vision issues and/or don't have glasses. A Resource Guide should be created of all providers of social services and resources in Berkeley in large font, for distribution in the community;
- Implement a Digital Call Center for information on area resources;
- Services throughout the City should be advertised in multiple languages;
- Want to know how the City is going to be using resources. As a disabled individual and a wheelchair user it makes me feel very vulnerable and it affects my safety when I encounter individuals in a mental health crisis, who sometimes block my way or prevent me from going forward;
- Allocate funds for an "Open Dialogue" Pilot program as a pilot project with the Hearing Voices Network. The Open Dialogue process would occur within 24 hours of a crisis and includes everyone connected to it, including the person at the center, their family and social network, all professional helpers and anyone else closely involved. All discussions and decisions take place with everyone present;
- Mental Health services and supports are needed for individuals who are unhoused around the Berkeley Marina. The 311 number for City services should be advertised on billboards and posters around the City for unhoused individuals at the marina and in Berkeley;
- Utilize funds to implement an Early Intervention in Psychosis program;
- How is the City advertising information on services to individuals who can't read?
- Can MHSA funds be used for reparations for Black/African Americans who have been displaced from Berkeley or are living in poverty?
- Can MHSA funds be utilized for a targeted guaranteed income pilot program?
- What is the City and State doing about vacancies in staff that subsequently create the inability to provide services and/or delays in executing contracts for services?

After the close of the Public Hearing, the Mental Health Commission passed the following motion:

M/S/C (Prichett, Appel) Motion that the MHC write a letter that explains why we are not taking an action and that includes that we didn't have enough time to make a thoughtful and constructive recommendation and there are points which we feel that the policies pursued by the City Manager are at odds with the budgeting priorities described in this document. Point 1. They take no recommendation 2. Ran out of time and will revise our time line for reviewing the MHSA report 3. We have concern's that portions of the policies currently being pursued by the City Manager conflict with the priorities expressed in this budget.

Ayes: Appel, Prichett, Turner Noes: None; Abstentions: Fine, Opton; Absent: Harrison, Jones, Kimber-Smith

### BACKGROUND

California voters adopted the Mental Health Services Act (Proposition 63 – MHSA) on November 2, 2004. The Act places a 1% tax on every dollar of personal income over \$1 million. MHSA revenues are allocated to mental health jurisdictions across the state to transform the mental health system into one that is consumer and family driven, culturally competent, wellness and recovery oriented, collaborative with community partners, and inclusive of integrated services. MHSA includes the following five funding components:

- Community Services and Supports: Primarily for treatment services and supports for Severely Mentally Ill Adults and Seriously Emotionally Disturbed Children.
- Prevention & Early Intervention: For strategies to prevent mental illnesses from becoming severe and disabling.
- Innovations: For short-term pilot projects designed to increase new learning in the mental health field.
- Workforce, Education & Training: Primarily for strategies to identify and remedy mental health occupational shortages, promote cultural competency, and promote the employment of mental health consumers and family members.
- Capital Facilities and Technological Needs: For capital projects on owned buildings and on mental health technology projects.

MHSA also provides funding for local housing development, collaborative programs for suicide prevention, school mental health, programs that combat stigma and discrimination; and training and technical assistance in the areas of cultural competency and prevention/early intervention.

The MHSA Three Year Plan is required by the state to update the previously approved Fiscal Year 2021 – 2023 Three Year Program and Expenditure Plan and the Fiscal Years 2022 and 2023 Annual Updates. Since the inception of MHSA, funds have been

utilized to transform the mental health service delivery system to better meet the needs of underserved and inappropriately served communities, among others. This initiative has also provided the opportunity for the City of Berkeley Mental Health Division to further develop and expand the system of care by adding new programs within the division and utilizing non-profit providers in the planning and delivery of comprehensive mental health services.

#### Past Council Action

Since the inception of the MHSA Program in 2006, Council has taken actions to approve all MHSA Plans and Annual Updates. The most recent actions taken on MHSA Three Year Plans or Annual Updates are as follows:

- December 1, 2020, approval of the MHSA Fiscal Years 2020/2022 – 2022/2023 Three Year Program and Expenditure Plan.
- September 14, 2021, approval of the MHSA Fiscal Year 2021/2022 Annual Update.
- July 26, 2022, approval of the MHSA Fiscal Year 2022/2023 Annual Update.

Council has also previously approved the initial MHSA component plans, Innovation Plans, the uses of MHSA funding for local housing development projects, and contracts with community-based agencies to implement mental health services and supports, housing and vocational services, and translation services.

#### ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

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

#### RATIONALE FOR RECOMMENDATION

State legislation requires mental health jurisdictions to create MHSA Three Year Plans and to provide updates on MHSA Plans on an annual basis. The legislation also requires local approval on MHSA Plans and Annual Updates. Approval of this MHSA Three Year Plan will fulfill state requirements and enable MHSA funded programs and services to continue to be implemented.

#### ALTERNATIVE ACTIONS CONSIDERED

As obtaining approval on MHSA Plans and Annual Updates by the local governing body is a state requirement, there were no other alternative actions considered.

#### CONTACT PERSON

Karen Klatt, Community Services Specialist III, HHCS, (510) 981-7644  
Jeff Buell, Manager of Mental Health Services, HHCS, (510) 981-7682



**Attachments:**

**1: Resolution**

Exhibit A: – MHSA Fiscal Years 2023-2026 Three Year Program and  
Expenditure Plan

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

MENTAL HEALTH SERVICES ACT (MHSA) FISCAL YEARS 2024 THROUGH 2026  
THREE YEAR PROGRAM AND EXPENDITURE PLAN

WHEREAS, Mental Health Services Act (MHSA) funds are allocated to mental health jurisdictions across the state for the purposes of transforming the mental health system into one that is consumer and family driven, culturally competent, wellness and recovery oriented, includes community collaboration, and implements integrated services; and

WHEREAS, MHSA includes five funding components: Community Services & Supports; Prevention & Early Intervention; Innovations; Workforce, Education & Training; and Capital Facilities and Technological Needs; and

WHEREAS, the City's Department of Health, Housing & Community Services, Mental Health Division, receives MHSA Community Services & Supports, Prevention & Early Intervention, and Innovation funds on an annual basis, and received one-time distributions of MHSA Workforce, Education & Training and Capital Facilities and Technological Needs funds; and

WHEREAS, in order to utilize funding for programs and services, the Mental Health Division must have a locally approved Plan; Three Year Program and Expenditure Plan, or Annual Update, in place for the funding timeframe; and

WHEREAS, since 2015 the City Council has authorized multiple Three-Year Plans and Annual Updates, most recently on July 26, 2022 by Resolution No. 70,461-N.S. approving the MHSA Fiscal Year 2022 through 2023 Annual Update; and

WHEREAS, City Council has previously approved MHSA funding for local housing development projects and contracts with community-based agencies to implement mental health services and supports, housing and vocational services, and translation services; and

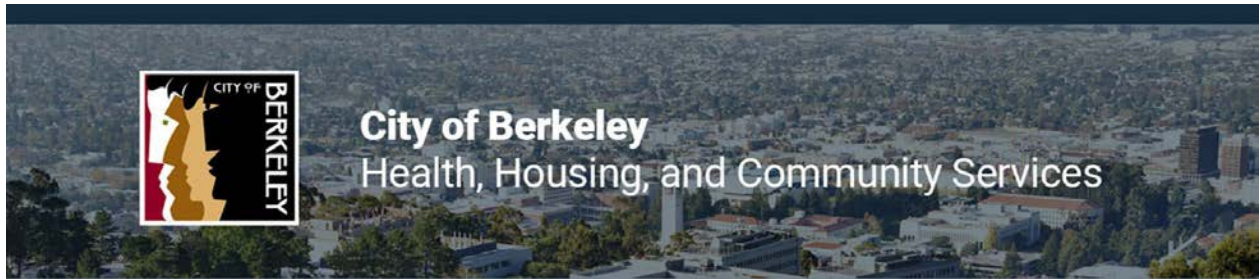
WHEREAS, in order to comply with state requirements, the MHSA Fiscal Years 2024 through 2026 Three Year Program and Expenditure Plan must be approved by City Council.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the MHSA Fiscal Years 2024-2026 Three Year Program and Expenditure Plan that, incorporated herein as Exhibit A, is hereby approved.

BE IT FURTHER RESOLVED that the City Manager is authorized to forward the MHSA Fiscal Years 2024-2026 Three Year Program and Expenditure Plan to appropriate state officials.

Exhibit A: MHSA Fiscal Years 2024-2026 Three Year Program and Expenditure Plan

**EXHIBIT A**  
**Mental Health Services Act (MHSA)**  
**Fiscal Years 2024 – 2026**  
**Three Year Program and Expenditure Plan**



# **City of Berkeley Mental Health Mental Health Services Act (MHSA)**

**FY23/24 – 25/26**

## **Three Year Program and Expenditure Plan**

## TABLE OF CONTENTS

|                                                   |     |
|---------------------------------------------------|-----|
| BACKGROUND AND OVERVIEW                           | 2   |
| MESSAGE FROM THE MENTAL HEALTH MANAGER            | 5   |
| DEMOGRAPHICS                                      | 7   |
| CAPACITY ASSESSMENT                               | 11  |
| MHSA FY24-26 THREE YEAR PLAN                      | 18  |
| PROPOSED NEW FUNDING ADDITIONS                    | 19  |
| PROGRAM DESCRIPTIONS AND FY22 DATA                | 24  |
| COMMUNITY SERVICES & SUPPORTS (CSS)               | 25  |
| PREVENTION & EARLY INTERVENTION (PEI)             | 81  |
| INNOVATION (INN)                                  | 125 |
| WORKFORCE, EDUCATION & TRAINING (WET)             | 132 |
| CAPITAL FACILITIES AND TECHNOLOGICAL NEEDS (CFTN) | 134 |
| FY22 AVERAGE COST PER CLIENT*                     | 135 |
| PRUDENT RESERVE FUNDS                             | 136 |
| BUDGET NARRATIVE                                  | 138 |
| APPENDIX A: PROGRAM BUDGETS                       | 1A  |
| APPENDIX B: CAPACITY ASSESSEMENT DATA             | 1B  |
| APPENDIX C: RESULTS BASED ACCOUNTABILTY DATA      | 1C  |
| APPENDIX D: PEI FY22 ANNUAL EVALUATION REPORT     | 1D  |
| APPENDIX E: INN FY22 ANNUAL EVALUATION REPORT     | 1E  |
| APPENDIX F: PUBLIC INPUT/COMMENTS                 | 1F  |

## **BACKGROUND AND OVERVIEW**

California voters passed Proposition 63, the Mental Health Services Act (MHSA), in November 2004, to expand and transform the public mental health system. This legislation places a 1% tax on personal incomes above \$1 million dollars. Funds are deposited into the MHSA State Treasury Fund and allocations per each mental health jurisdiction are determined based on the total population in a given area.

Through the following five funding components, the MHSA was designed to create the capacity for a broad continuum of prevention, early intervention and treatment services along with the necessary infrastructure, technology, and training elements to support effective mental health system transformation:

- Community Services & Supports (CSS): Primarily provides treatment services and supports for Severely Mentally Ill Adults and Seriously Emotionally Disturbed Children and Youth.
- Prevention & Early Intervention (PEI): For strategies to recognize early signs of mental illness and to improve early access to services and programs, including the reduction of stigma and discrimination, and for strategies to prevent mental illness from becoming severe and disabling.
- Innovation (INN): For short-term pilot projects designed to increase new learning in the mental health field.
- Workforce, Education & Training (WET): Primarily for strategies to identify and remedy mental health occupational shortages, promote cultural competency and the employment of mental health peers and family members in the workplace.
- Capital Facilities and Technological Needs (CFTN): For capital projects on owned buildings and on mental health technology projects.

Among other things, the MHSA provides enhanced services and supports for seriously emotionally disturbed children, youth and Transition Age Youth (TAY), adults, and older adults suffering from severe mental illness through a “no wrong door” approach and aims to move public mental health service delivery from a “disease oriented” system to one that is culturally responsive, consumer informed, and wellness recovery oriented. This is accomplished through implementing programs that focus on the following major components:

- Wellness, recovery and resilience;
- Cultural competency;
- Consumer/family member driven services;
- Consumer/family member integration in the mental health system; and
- Community collaboration.

The MHSA also strives to improve and increase services and supports for individuals and families from cultural and ethnic populations that are traditionally unserved and underserved in the mental health system. In Berkeley these have included: Asian Pacific Islanders (API); Latinos/Latinas/Latinx (Latino/a/x); Lesbian, Gay, Bi-Sexual, Transgender, Queer/Questioning, Inter-Sexed, Agender, Plus others (LGBTQIA+); Older Adults; and Transition Age Youth (TAY). African Americans have been an additional population of focus as data indicates they are overrepresented in the mental health system and hence “inappropriately served”, which could be due to being provided services that are not culturally responsive and/or appropriate.

In order to access MHSA funds, a stakeholder informed plan outlining how funds will be utilized must be developed and locally approved. Development of an MHSA Plan includes: community program planning with the involvement of area stakeholders, writing a draft plan, initiating a 30-day public review, conducting a public hearing at a Mental Health Commission meeting, and obtaining approval on the plan from City Council.

The Community Services & Supports, Prevention & Early Intervention, and Innovation funding components are the only re-occurring MHSA monies that are allocated annually and may be spent over a five-year period. Workforce, Education & Training and Capital Facilities and Technological Needs funds had initial expenditure time periods of 10 years each, and were to be utilized by the end of Fiscal Year 2018 or 2019. Per the City Council approved [MHSA AB114 Reversion Expenditure Plan](#) (which is posted on the City of Berkeley MHSA webpage), some CFTN and WET projects were continued past the original timeframes.

MHSA legislation requires mental health jurisdictions to provide updates on MHSA Plans on an annual basis, and an integrated Program and Expenditure Plan must also be developed every three years. Currently, the City of Berkeley Mental Health (BMH) Division has a City Council approved MHSA Fiscal Years 2020/21 - 2022/23 Three Year Program and Expenditure Plan in place and Annual Updates to that plan which covers each funding component.

Since 2006, MHSA funding has been utilized to provide mental health services and supports in Berkeley. Additionally, from Fiscal Year 2011 (FY11) through FY20, the City of Berkeley also utilized a portion of MHSA funds to provide services in the City of Albany, although Albany is a part of the Alameda County total population. Beginning in FY21, per agreement with Alameda County Behavioral Health Care Services (ACBHCS), the Division transitioned to only using MHSA funds for services and supports in Berkeley, and ACBHCS now provides MHSA funded services in Albany.

As a result of the City’s approved MHSA Plans and Annual Updates, a number of new services and supports have been implemented to address the various needs of the residents of Berkeley. Some of the many programs include the following:

- Intensive services for Children, TAY, Adults, and Older Adults;
- Multi-Cultural Outreach engagement, trainings, projects, and events;
- Increased mental health services and supports for homeless individuals;

- Wellness Recovery services and activities;
- Family Advocacy, Housing services and supports, and Benefits Advocacy;
- Case management and mental health services and supports for TAY;
- Trauma support services for unserved, underserved, and inappropriately served populations;
- Increased mental health prevention, and intervention services for children and youth in area schools and communities;
- A Wellness Recovery Center in collaboration with Alameda County Behavioral Health Care Services (BHCS);
- Funding for increased services for Older adults and the API population; and
- Services for individuals experiencing co-occurring disorders.

Additionally, an outcome of the implementation of the MHSA is that mental health peers, family members and other stakeholders now regularly serve on several of BMH internal decision-making committees. These individuals share their “lived experience” and provide valuable input which has become an integral component that informs the Division on the implementation of MHSA services and supports. Even prior to the passage of Proposition 63, BMH convened (and has since maintained) an MHSA Advisory Committee which serves in an advisory role on MHSA programs and is comprised of mental health peers, family members, and individuals.

This City of Berkeley MHSA FY2024-2026 Three Year Program and Expenditure Plan (Three Year Plan) is a stakeholder informed plan that provides an update to the previously approved FY2021-2023 Three Year Plan. This Three-Year Plan summarizes proposed program additions, descriptions and updates of currently funded MHSA services which the Division is proposing to continue during the plan timeframe, and a reporting on FY22 program data.



## MESSAGE FROM THE MENTAL HEALTH MANAGER

The past several years have been an eye-opening test of our community, our relationships, our resolve. As we emerge from the pandemic landscape and seek longer term equilibrium, our Berkeley community is faced with challenges and uncertainties. Health disparities and inequities keep the playing field uneven for the most vulnerable in our community; rising costs and inflation have eroded the efficacy of our assets; many of us have had our internal resources exhausted by the heavy and constant tolls of the pandemic; the income and wealth gaps continue to widen and propagate inequity before our very eyes; housing and racial injustices continue to disproportionately impact our neighbors with the fewest resources. These are some of the difficult tasks we face as we navigate and rebuild our system to better evolve with the needs of our community.

And yet, this is not a situation out of which one person or entity can bring us to the place where we need to be. This is an important opportunity for us as partners, as leaders, as neighbors to come together so that we can find and share our common strengths and synergies to create the best path forward. The Health Housing and Community Services (HHCS) Department, of which the Mental Health Division is a part, is engaging in a Community Health Assessment and Community Health Improvement Plan, designed to assess and interweave the participation and needs of the community into an overarching plan and response. This is one example of many vital steps before us where we can take a moment, a pause, to lay out our next steps and where we want them to take us.

As the landscape shifts, Mental Health is undergoing a parallel evolution. A reorganization is under way to better align our services, our teams, and our efforts. The ultimate goal of these changes is to right-size workloads and support teamwork and synergy to better address increasing community needs and priorities. Supporting the mental health needs of our most vulnerable residents, youth, and those with co-occurring substance use disorders will be great focuses of the community's needs and priorities. As we all seek to heal from the effects of enormous systems change, Mental Health is looking to prioritize openness, kindness, partnership, and ways to move forward in concert with our community.

Our MHPA FY24-26 Three-Year plan will seek to understand the changing needs of the community and build on the efforts to strengthen the foundations that we have been supporting through important community services and partnerships. A capacity assessment for our jurisdiction will underpin our strategies to focus and grow the services most needed. With results-based accountability, the use of data will be better integrated to inform services. Continued support will be provided for services to our most vulnerable populations, as well as our partners providing culturally responsive services to Latino/Latina/Latinx, African American/Black, Asian Pacific Islander, and LGBTQIA+ communities. Programs providing services to the community through schools, community centers, clinics, and non-traditional settings will continue to receive funding. New funding will be added to increase mental health service capacity for teams serving the most vulnerable, youth, older adults and those with co-

occurring substance use disorders. A commitment to diversity and cultural humility will continue with an enhanced coordinator position within Berkeley Mental Health.

With Governor Newsome's recent proposal to fundamentally shift key components and usage of MHSA, there are some questions about the trajectory of MHSA and its future. It is likely that this Three-Year plan will encompass this process, including great discussion, advocacy, and possible change to MHSA. No matter what the future holds, it is vital that the City continue to deepen its valuable relationships with community and partners, growth and learning from people who use and depend on services, and partnerships with stakeholders, advisory groups, commissioners, and workers. With great appreciation and deep respect, we offer the City of Berkeley's MHSA FY24-26 Three-Year plan.

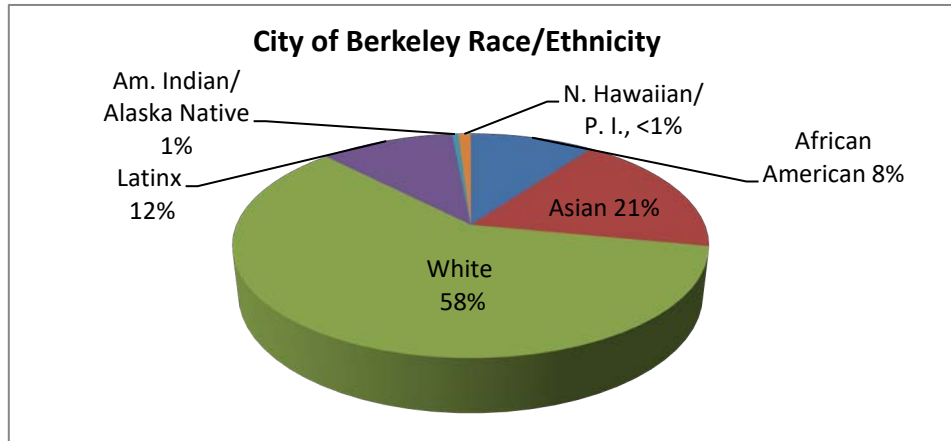
## DEMOGRAPHICS

### Description

Situated in the heart of the San Francisco Bay area, and home to the University of California, Berkeley is an urban city, located in northern Alameda County. With a combined land mass of around 12.2 miles and a total population of approximately 117,145 (US Census estimates since the 2020 census), the City of Berkeley is densely populated and larger than 23 of California's small counties.

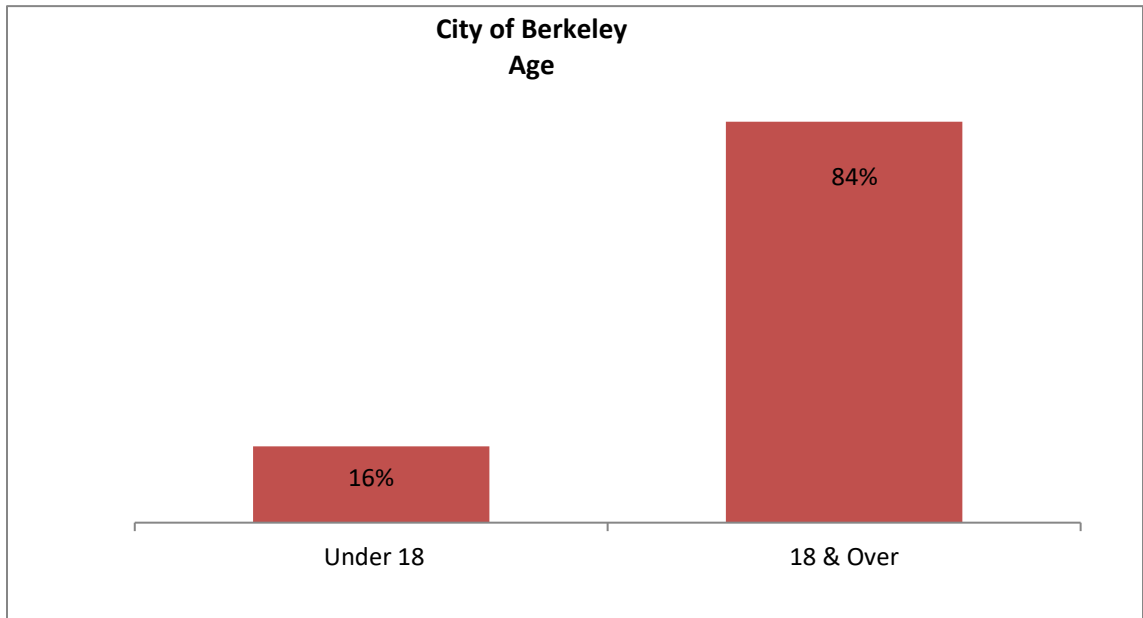
### Race/Ethnicity

Berkeley is a diverse community with changing demographics. The African American population has decreased in recent years while the Latinx and Asian populations have both increased. Berkeley has a large student population, which provides housing for many of University of California's foreign students and their families. Threshold languages include English, Spanish, Farsi, Cantonese, and Vietnamese, and approximately 29% of Berkeley residents speak a language other than English at home. Berkeley is comprised of the following racial and ethnic demographics: African American; Asian; Latino/Latina/Latinx; White; American Indian/Alaska Native; and Native Hawaiian/Pacific Islander (P.I.). Demographics are outlined below:

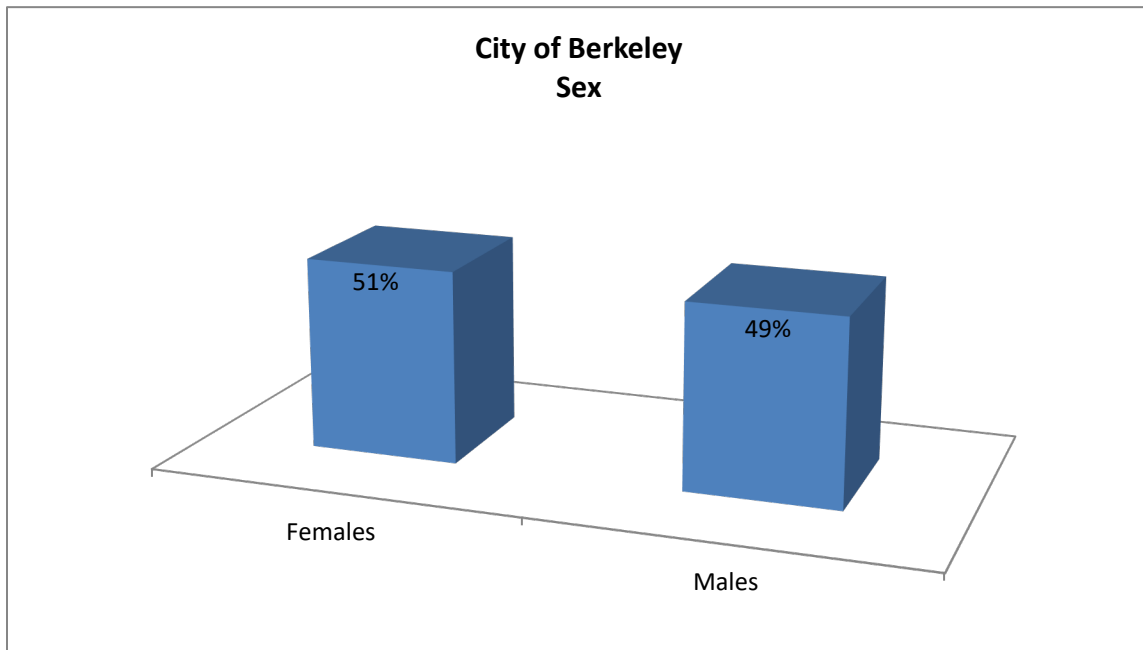


### Age/Sex

As depicted in the table below, a large percentage of individuals in Berkeley are over the age of eighteen:



Sex demographics are as follows:



**Lesbian, Gay, Bisexual, Transgender, Queer/Questioning, Intersexed, Agender, Plus (LBGTQIA+) Population**

Per a brief by the Williams Institute, UCLA, entitled "LGBT Adults in Large US Metropolitan Areas" the LGBT population is 6.7% in the San Francisco Bay Area. According to the Brief, the estimated percentages of adults age 18 and older who identify as LGBT was derived from the Gallup Daily Tracking Survey which is an annual list-assisted random digit dial (70% cell phone,

30% landline) survey, conducted in English and Spanish, of approximately 350,000 U.S. adults ages 18 and up who reside in the 50 states and the District of Columbia. LGBT identity is based on response to the question, “Do you, personally, identify as lesbian, gay, bisexual, or transgender?” Respondents who answered “yes” were classified as LGBT. Respondents who answered “no” were classified as non-LGBT. Estimates derived from other measures of sexual orientation and gender identity may yield different results. (Conron, K.J., Lohur, W., Goldberg, S.K. Estimated Number of US LGBT Adults in Large Metropolitan Statistical Areas (MSA), (December 2020). The Williams Institute, UCLA. Los Angeles, CA.)

### **Income/Housing**

With some of the highest housing costs in the Bay Area, the Berkeley median household income is \$97,834. Nearly 18% of Berkeley residents live below the poverty line and approximately 40% of Berkeley children qualify for free and reduced lunches. While 43% of Berkeley residents own their own homes, there are many individuals experiencing homelessness including women, TAY, and Older Adults.

In order to measure the prevalence and characteristics of homelessness, a comprehensive street count of individuals experiencing homelessness is conducted in communities across the country every two years. According to the 2022 Alameda County Everyone Home Point-in-Time Count, which included a detailed assessment of the City of Berkeley, approximately 1,057 individuals were experiencing homelessness. Of this amount 24% were in some form of shelter, and 76% were unsheltered. Following the street count, the City of Berkeley administered a survey to 147 unsheltered and sheltered individuals experiencing homelessness. The top 5 responses to the primary causes of homelessness were as follows: 33% indicated that family/friends couldn't afford to let them stay; 23% were facing either an eviction or a foreclosure; 17% were experiencing mental health needs; 17% were experiencing domestic violence; and 10% lost their jobs.

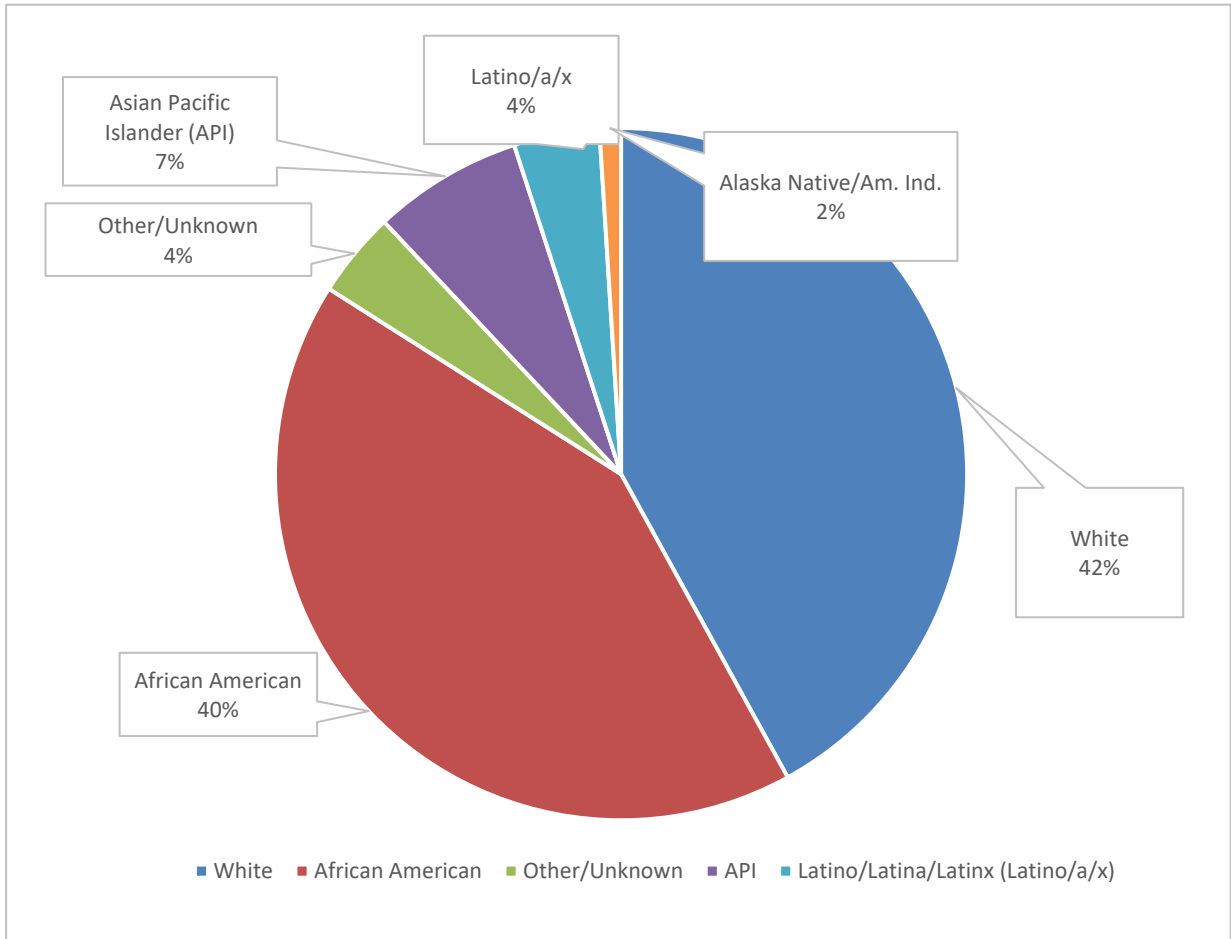
### **Education**

Berkeley has a highly educated population: 96% of individuals aged 25 or older are high school graduates; and approximately 74% possess a bachelor's degree or higher.

### **System Organization**

Berkeley Mental Health (BMH), one of two city-based public mental health programs in the state, provides services for residents in Berkeley. It is a Division of the City of Berkeley Health, Housing & Community Services (HHCS) Department. Services are provided at multiple clinic sites and in the field. BMH has several programs providing services: Crisis; Family, Youth & Children; High School Mental Health, Full Service Partnership Services, and Adult Services. Services include: assessment, assertive community treatment, individual and group therapy, case management, and crisis intervention. In addition to offering treatment, outreach, and support, some services are provided through a variety of community-based agencies and at school sites. As part of the Crisis unit, a Mobile Crisis Team operates seven days a week when fully staffed. The majority of mental health services provided by BMH are aimed towards the Medi-Cal and uninsured population; as such it is important to note the ways in which the Medi-

Cal population demographics differ from the overall demographics in Berkeley. Using data available from Alameda County, the Medi-Cal population in Berkeley in 2022 was as follows:



### CAPACITY ASSESSMENT

Per MHSa State requirements, a Capacity Assessment is to be conducted and included in the Three-Year Plan. The assessment should include:

- The strengths and limitations of the mental health jurisdiction and service providers that impact the ability to meet the needs of racially and ethnically diverse populations;
- An assessment of bilingual proficiency in threshold languages;
- Percentages of diverse cultural, racial/ethnic and linguistic groups represented among direct service providers, as compared to the percentage of the total population needing services and the total population being served; and
- Identification of possible barriers to implementing the proposed programs/services and methods of addressing these barriers.

In preparation for this Three-Year Plan, Division staff created a Capacity Assessment Tool that was submitted to the State Department of Healthcare Services (DHCS) Community Services Division for review and approval. Following approval from DHCS, a Capacity Assessment Survey was created in Survey Monkey, and a link to the survey was emailed to community organizations within the City of Berkeley system of care. The MHSa Capacity Assessment Survey is outlined below:

|                                                                                                                                                                                                                                                                                                                                                                              |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>MHSa CAPACITY ASSESSMENT SURVEY</b>                                                                                                                                                                                                                                                                                                                                       |
| 1.) Please indicate the percentage(s) of the primary age group(s) the organization currently serves:<br>Children/Youth (0-15 years):<br>Transition Age Youth (16-25 years):<br>Adults (26-59 years):<br>Older Adults (60 and above):                                                                                                                                         |
| 2.) Please indicate the percentage of the following diverse cultural, racial/ethnic and linguistic groups that were served in your organization from July 2021 – June 2022.<br>African American/Black:<br>Asian:<br>Caucasian/White:<br>Latinx/Hispanic:<br>American Indian or Alaska Native:<br>Native Hawaiian or Other Pacific Islander:<br>Other:<br>More than one race: |
| 3.) Please indicate the percentage of your staff that are proficient in each threshold language below:<br>Arabic:<br>Cantonese:<br>Mandarin:<br>English:<br>Farsi:<br>Korean:<br>Spanish:<br>Tagalog:<br>Vietnamese:                                                                                                                                                         |

4.) Please indicate the percentage of individuals from the following sexual orientation groups that were served in your organization from July 2021-June 2022.

Heterosexual:  
Lesbian:  
Gay:  
Bisexual:  
Queer:  
Questioning or unsure:  
Other:

5.) Please indicate the percentage of individuals from the following gender identity groups that were served in your organization from July 2021-June 2022.

Male:  
Female:  
Transgender:  
Genderqueer:  
Questioning or unsure:  
Other:

6.) Please indicate the percentage of the following diverse cultural, racial/ethnic and linguistic groups that are currently represented among staff in your organization.

African American/Black:  
Asian:  
Caucasian/White:  
Latinx/Hispanic:  
American Indian or Alaska Native:  
Native Hawaiian or Other Pacific Islander:  
Other:  
More than one race:

7.) Please indicate the percentage of the following sexual orientation groups that are currently represented among staff in your organization.

Heterosexual:  
Lesbian:  
Gay:  
Bisexual:  
Queer:  
Questioning or unsure:  
Other:

8.) Please indicate the percentage of the following gender identity groups that are currently represented among staff in your organization.

Male:  
Female:  
Transgender:  
Genderqueer:  
Questioning or unsure:  
Other:

9.) Please describe any limitations that have impacted the organization's ability to meet the needs of racially and ethnically diverse populations.



10.) Has the organization recently experienced difficulties in recruiting/retaining Behavioral Health staff positions?

11.) Please provide the percentage of Behavioral Health staff positions that have been hard-to-fill and/or retain are within the organization. Enter N/A if this is not applicable.

12.) Please list the titles of the Behavioral Health staff positions that have been hard-to-fill and/or retain within the organization. Enter N/A if this is not applicable.

13.) Are the vacancies in the organizations Behavioral Health staff positions, currently creating barriers to implementing services? If yes, please describe how the vacancies are impacting the delivery of services to affected population. Enter N/A if this is not applicable.

14.) Has the organization recently experienced difficulties in recruiting and/or retaining staff from various diverse cultural, racial/ethnic and linguistic groups?

15.) Are the vacancies in staff from various diverse cultural, racial/ethnic and linguistic groups currently creating barriers to implementing services? If yes, please describe how the vacancies are impacting the delivery of services to each impacted population. Enter N/A if this is not applicable.

16.) Has the organization recently experienced difficulties in recruiting and/or retaining staff from various diverse sexual orientation groups?

17.) Are the vacancies in staff from various diverse sexual orientation groups currently creating barriers to implementing services? If yes, please describe how the vacancies are impacting the delivery of services to each impacted population. Enter N/A if this is not applicable.

18.) Has the organization recently experienced difficulties in recruiting and/or retaining staff from various diverse gender identity groups?

19.) Are the vacancies in staff from various diverse gender identity groups currently creating barriers to implementing services? If yes, please describe how the vacancies are impacting the delivery of services to each impacted population. Enter N/A if this is not applicable.

20.) Please describe any other barriers your organization is currently experiencing in implementing Behavioral Health programs/services.

21.) Please describe how the organization is addressing these barriers to implementing Behavioral Health programs and services.

22.) What do you consider to be the most pressing Behavioral Health needs that the City should focus on within the next three years?

23.) Please share any other comments or input you may have regarding any of your responses on this survey, or anything else you may want to share.

The survey was open for an eight-week period. Despite multiple attempts to engage local providers to fill out the survey, the response rate was very low, and the Division was unable to obtain a comprehensive assessment of the local system of care for this Three-Year Plan. As a result of the low response rate the Division is proposing to allocate funds through this Three-Year Plan to hire a consultant to conduct a Capacity Assessment over the next three years. The consultant will be chosen through a Request for Proposal (RFP) process.

Responses to a question and inquiry on the Capacity Assessment regarding the most pressing mental health needs, and anything else the respondent wanted to share, are outlined below:

-What do you think are the most pressing mental health needs over the next three years?

- High needs clients who do not succeed with regular housing case management or life skills counseling.
- People who need to be in residential programs or who are deemed to be just below this need but still vulnerable and not safe to be on the street
- From our perspective, the scarcity of mental health professionals to fill positions in clinics and nonprofits is a huge challenge. With Medi-Cal soon expanding to cover all income-eligible undocumented people, demand will be greater than ever. Another gap is funding for culturally and linguistically accessible behavioral health programs - not just therapy, but support groups and community building for marginalized populations, especially recently arrived immigrants, LGBTQIA people, women, and youth. There are huge gaps for minority language groups such as Indigenous immigrants.
- The City's unhoused population is growing, and this population's need for high-level mental health services is growing as well. Also, as the percentage of older adults increases in our community, need for mental health services for this sub-population will also increase, including resources and referrals related to dementia.

-Please share any other comments or input you may have regarding any of your responses on this survey, or anything else you may want to share.

- More mental health services, regular engagement, more indoor places people can gather to feel safe and be in the presence of others who have the time and capacity to provide support.
- The City can play a crucial role in expanding services for underserved populations that do not currently have access to services - asylum seekers, LGBTQIA immigrants, unaccompanied minors, immigrant women and children who are survivors of gender-based violence, and Indigenous immigrant communities.

All responses to the MHSA Capacity Assessment are outlined in Appendix B.

## COMMUNITY PROGRAM PLANNING

The Community Program Planning (CPP) process for this City of Berkeley MHSA FY24-26 Three Year Plan Program and Expenditure Plan (Three-Year Plan) was conducted over a two-month period. During this time one MHSA Advisory Committee meeting was held on Tuesday, April 18 and six Community Input Meetings were held on the following dates/times:

- Wednesday April 19<sup>th</sup>: 3:00-4:30pm
- Monday April 24<sup>th</sup>: 6:00pm-7:30pm
- Tuesday April 25<sup>th</sup>: 11:00am-12:30pm
- Thursday April 27<sup>th</sup>: 5:00-6:30pm
- Tuesday, May 2<sup>nd</sup>: 6:00-7:30pm
- Wednesday, May 3<sup>rd</sup>: 3:30pm-5:00pm

Announcements of the meetings were sent to MHSA Advisory Committee members, mental health peers, family members, representatives from community-based organizations, individuals from unserved, underserved and inappropriately served populations, HHCS Staff, City Commissioners, and other MHSA stakeholders.

During the MHSA Advisory and Community Input Meetings which were conducted through the Zoom platform, a presentation was conducted to provide information on MHSA background, funding, program requirements, and the CPP process. The presentation also covered detailed information on the proposed MHSA Three Year Plan and provided opportunities for input from the community.

An anonymous voluntary online survey through Survey Monkey, was administered during each meeting to obtain demographic information on meeting participants. Individuals who joined the meetings by phone were contacted following the meeting to have the opportunity to voluntarily participate in the survey. Survey results of 21 individuals who participated in the CPP Process through meetings or provided input by phone were as follows:

| <b>DEMOGRAPHICS N=21</b>          |                           |                   |
|-----------------------------------|---------------------------|-------------------|
| <i>Gender Identity</i>            | <i>Participant Number</i> | <i>% of total</i> |
| Male                              | 3                         | 14%               |
| Female                            | 14                        | 67%               |
| Genderqueer                       | 1                         | 5%                |
| Other Gender Identity             | 1                         | 5%                |
| Declined to Answer (or Unknown)   | 2                         | 9%                |
| <b>Race/Ethnicity</b>             |                           |                   |
| <i>Race/Ethnicity</i>             | <i>Participant Number</i> | <i>% of total</i> |
| Black or African American         | 9                         | 43%               |
| Asian Pacific Islander            | 1                         | 5%                |
| White                             | 8                         | 38%               |
| Other                             | 1                         | 5%                |
| Declined to Answer (or Unknown)   | 2                         | 9%                |
| <b>Age Category</b>               |                           |                   |
| <i>Age Category</i>               | <i>Participant Number</i> | <i>% of total</i> |
| Transition Age Youth (Ages 16-25) | 1                         | 5%                |
| Adult (Ages 26-59)                | 12                        | 57%               |

|                                                                  |                           |                   |
|------------------------------------------------------------------|---------------------------|-------------------|
| Older Adult (Ages 60+)                                           | 6                         | 29%               |
| Declined to Answer (or Unknown)                                  | 2                         | 9%                |
| <b>Sexual Orientation</b>                                        |                           |                   |
| <i>Sexual Orientation</i>                                        | <i>Participant Number</i> | <i>% of total</i> |
| Heterosexual                                                     | 14                        | 67%               |
| Gay or Lesbian                                                   | 2                         | 9%                |
| Bisexual                                                         | 1                         | 5%                |
| Queer                                                            | 1                         | 5%                |
| Declined to Answer (or Unknown)                                  | 3                         | 14%               |
| <b>Veteran Status</b>                                            |                           |                   |
| <i>Veteran Status</i>                                            | <i>Participant Number</i> | <i>% of total</i> |
| Non-Veteran                                                      | 18                        | 86%               |
| Declined to Answer (or Unknown)                                  | 3                         | 14%               |
| <b>Disability Status</b>                                         |                           |                   |
| <i>Disability Status</i>                                         | <i>Participant Number</i> | <i>% of total</i> |
| Disabled                                                         | 8                         | 38%               |
| Not Disabled                                                     | 10                        | 48%               |
| Declined to Answer (or Unknown)                                  | 3                         | 14%               |
| <b>Representative Categories*</b>                                |                           |                   |
| <i>Representative Status</i>                                     | <i>Participant Number</i> | <i>% of total</i> |
| Consumer                                                         | 4                         | 19%               |
| Family Member of Consumer                                        | 6                         | 29%               |
| Community Member or MHSA Stakeholder                             | 9                         | 43%               |
| Representative of City of Berkeley Commission                    | 1                         | 5%                |
| Parent, Student or Representative of UC Berkeley or City College | 1                         | 5%                |
| Representative of Mental Health or Social Services Agency        | 2                         | 9%                |
| Representative of Health Care Organization                       | 4                         | 19%               |
| City of Berkeley Staff                                           | 4                         | 19%               |
| Other                                                            | 1                         | 5%                |
| Declined to Answer (or Unknown)                                  | 5                         | 24%               |

\*Many participants were in more than one category.

As a method to continue to gather input from the community on this Three-Year Plan, additional Community Input meetings are scheduled during the 30-Day Public Review. As with previous MHSA Plans and Annual Updates, a methodology utilized for conducting CPP for this Three-Year Plan was implemented to enable a collaborative process to occur between BMH staff, MHSA Advisory Committee members and other MHSA stakeholders. Development of this Three-Year Plan began with an internal examination of existing programs, unaddressed needs, and available funding which included a review of input received over the prior year and during previous MHSA planning processes. Following an internal review, proposed new additions were vetted through the MHSA Advisory Committee prior to engaging other stakeholders.

Proposed new additions include the following:

- An increase in staffing and program capacity on all three of the Full Services Partnership programs; Crisis Services; Administration; and the High School Prevention Project;
- A transfer of CSS funds to the Workforce Education & Training to hire a Workforce Development Coordinator;
- A one-time transfer of funds to Insight Housing (previously named Berkeley Food & Housing Project) to support increased costs at the Russell Street Residence;
- A transfer of funds to the Aging Services Division to increase staffing and program capacity;
- Funding to hire a consultant to conduct the state required MHSa Capacity Assessment;
- Provide funding for the African American Holistic Resource Center.

Details on each proposed addition are outlined in the “Proposed New Additions” section of this Three-Year Plan.

During the CPP questions were answered regarding various MHSa programs and funding. Input received during this process was as follows:

- Provide an ongoing increase for the Trauma Support Project for LGBTQIA;
- Provide a one-time funding amount to support the move of the Pacific Center of Human Growth (an MHSa funded contractor), to a new location;
- Provide an ongoing increase to support the SoulSpace Project;
- Provide the maximum amount of funding for the African American Holistic Resource Center;
- Implement the Community Mental Health First Aid Program through the Mental Health Division and/or form collaborations with trainers of this program;
- Reach out to local businesses for input on community mental health needs;
- Information on area resources, services and supports is not accessible to individuals in the community, particularly those who experience homelessness who often have vision issues and/or don't have glasses. A Resource Guide should be created of all providers of social services and resources in Berkeley in large font, for distribution in the community;
- Implement a Digital Call Center for information on area resources;
- Services throughout the City should be advertised in multiple languages;
- What services are being provided for individuals who aren't destitute?
- How is the City advertising information on services to individuals who can't read?
- What is the City and State doing about vacancies in staff that subsequently create the inability to provide services and/or delays in executing contracts for services?

A 30-Day Public Review is currently being held from Wednesday, May 16<sup>th</sup> through Thursday, June 15<sup>th</sup> to invite input on this MHSa Three-Year Plan. A copy of the Three-Year Plan has been posted on the BMH MHSa website, and announcements of the 30-Day Public Review were mailed and/or emailed to community stakeholders and City staff. Individuals interested in providing input on this Three-Year Plan can also attend one of four community meetings that will be held during the 30-Day Public Review. Two meetings will be held in person and two will be held by Zoom as follows:

- Thursday, June 1: 4:30-6:00pm = Zoom Meeting
- Tuesday, June 6: 6:00-7:30pm = In-person Meeting, North Berkeley Senior Center
- Wednesday, June 7: 3:00-4:30pm = Zoom Meeting

- Monday, June 7: 6:00-7:30pm = In-person Meeting, South Berkeley Senior Center

The Community Input Meetings have been posted on the MHSA webpage and on the City's event calendar. Announcements of the meetings have been mailed and/or emailed to community stakeholders and City staff. A Public Hearing on the Three-Year Plan will also be held at 7:00pm on Thursday, June 15<sup>th</sup>, during the Mental Health Commission meeting which will be held at the North Berkeley Senior Center on 1901 Hearst Avenue. If you would like to provide input on this MHSA Three Year Plan or need information on how to access the Community Input Meetings or the Public Hearing, contact Karen Klatt, by phone (510) 981-7644, or email at:

[KKlatt@cityofberkeley.info](mailto:KKlatt@cityofberkeley.info) or [KKlatt@berkeleyca.gov](mailto:KKlatt@berkeleyca.gov)

### **MHSA FY24-26 THREE YEAR PLAN**

This City of Berkeley MHSA FY24-26 Three Year Program and Expenditure Plan (Three Year Plan) is a stakeholder informed plan that provides an update to the previously approved MHSA FY20/21 – 22/23 Three Year Program and Expenditure Plan. This Three-Year Plan summarizes proposed program changes and additions, includes descriptions and updates of currently funded MHSA services that are proposed to be continued in the next three years, and a reporting on FY22 program data. Additionally, per state regulations, this Three-Year Plan includes the Prevention and Early Intervention (PEI) Fiscal Year 2021/2022 (FY22) Annual Evaluation Report (Appendix D), and the Innovations (INN) Fiscal Year 2021/2022 (FY22) Annual Evaluation Report (Appendix E).

As reported in previous MHSA Plans and Annual Updates, the Division has engaged in several initiatives over the past several years to increase data collection and evaluation efforts including the following:

- **Impact Berkeley:** In 2018, the Health Housing and Community Services (HHCS) Department implemented "Impact Berkeley". Central to this initiative is using a highly regarded framework called Results Based Accountability (RBA) to account for the work of the Department. RBA provides a new way of understanding the quality and impact of services provided by collecting data that answer three basic questions:
  1. How much did you do?
  2. How well did you do it?
  3. Is anyone better off?

RBA has been incorporated into selected programs within the Department. This has included community agency programs funded through the MHSA Prevention & Early Intervention (PEI) Community Education & Supports program. Through this initiative the Department worked with each contractor to envision, clarify and develop measures on the outcomes and results each program is seeking to achieve, and used a rigorous framework to measure and enhance progress towards these results. An aggregated summary of some of the results of this initiative are outlined in the PEI Community Education & Supports program section of this Three-Year Plan.

- Results Based Accountability Evaluation for all BMH Programs: Through the approved FY19 Annual Update the Division executed a Request for Proposal (RFP) process to hire a consultant to conduct a Results Based Accountability Evaluation (RBA) for all programs across the Division, and Resource Development Associates (RDA) was the chosen vendor. In FY21 RDA began working with the Division to implement the RBA research methodology. An update of the activities RDA conducted in FY22 on this evaluation is included in this Three Year Plan.

RBA outcomes in FY22 are outlined throughout this Three-Year Plan for the following MHSA funded internal programs: Children/Youth FSP; TAY, Adult and Older Adult; Homeless FSP; Wellness Recovery Services; Crisis Services; Transitional Outreach Team; Social Inclusion Project; and the High School Prevention Project. The complete set of RBA outcomes for all BMH programs is located in Appendix C.

- Program Evaluator: Per the approved FY23 Annual Update, in order to build internal capacity for data collection and reporting, the Division will hire a Program Evaluator who will collect and report on RBA Outcomes and future evaluations.

Future MHSA Plans and Updates will continue to include reporting on the progress of these initiatives.

Per State requirements, Evaluation Report for PEI and INN programs are also included in this Three-Year Plan as follows:

- PEI Data Outcomes: Per MHSA PEI regulations, all PEI funded programs are required to collect state identified outcome measures (specific to the category of services provided) as well as detailed demographic information. PEI Evaluations are required to be included in each MHSA Annual Update or Three-Year Plan. See Appendix D for the Prevention & Early Intervention Fiscal Year 2021/2022 (FY22) Annual Evaluation Report.
- INN Data Outcomes: Per MHSA INN regulations, all INN funded programs are required to collect state identified outcome measures and detailed demographic information. INN Evaluations are required to be included in each MHSA Annual Update or Three-Year Plan. See Appendix E for the Innovation (INN) Fiscal Year 2021/2022 (FY22) Annual Evaluation Report.

### **PROPOSED NEW FUNDING ADDITIONS**

The Division is proposing to add several new positions, and supportive services through this Three-Year Plan. The proposed new staffing additions are a result of a Division re-organization and community needs that have risen since the previous Three-Year Plan was approved. Unless otherwise noted, funding allocations for the proposed additional staffing outlined below are calculated at 85% of the total costs for FY24, which is based on the projected amount of time it will take to recruit and hire for each position. The proposed staffing and services to be added through this Three-Year Plan, are as follows:

### **Increase oversight and synergy of the TAY, Adult, and Older Adult Full Services Partnership (FSP) and the Homeless FSP**

Full Services Partnership (FSP) programs are programs that serve individuals with the highest level of need through a “no-wrong door, do whatever it takes”, wrap-around approach.

The TAY, Adult and Older Adult FSP is the largest program in the MHSA Community Services and Supports funding component. This FSP provides intensive support services to TAY, Adults and Older Adults with severe mental illness using an Assertive Community Treatment (ACT) team approach. The program focuses on serving individuals who have had difficulty with obtaining or maintaining housing; frequent and/or lengthy psychiatric hospitalizations; and/or frequent or lengthy incarcerations. Priority populations also include individuals from un-served, underserved and inappropriately served cultural communities. The Homeless FSP provides the same such services and supports for individuals appropriate for FSP services who are also experiencing or particularly vulnerable to homelessness.

In order to provide oversight, consistency and expertise in managing and connecting these two FSP programs together, the Division is proposing to utilize Community Services and Supports (CSS) FSP funds to expand and consolidate these teams into one program through the addition of the following position:

- 1.0 Mental Health Program Supervisor - \$247,628

### **Increase Program Capacity on the Children/Youth Intensive Support Services FSP**

The Children/Youth Intensive Support Services FSP is for children and youth, age 0-21, and their families who would benefit from, and are interested in participating in a program designed to address the total needs of a family whose child (and possibly other family members) is experiencing significant emotional, psychological or behavioral problems that are interfering with their well-being. This FSP utilizes wraparound as the treatment model. Wraparound differs from many service delivery strategies, in that it provides a comprehensive, holistic, youth and family-driven way of responding when children or youth experience serious mental health or behavioral health challenges.

In order to increase the program capacity of this FSP, the Division is proposing to add the following position through CSS FSP funds:

- 1.0 Behavioral Health Clinician II - \$154,343

### **Increase Program Capacity and Administrative Support for Access Services and the Transitional Outreach Team**

BMH provides Access services, and a Transitional Outreach team for children, youth, TAY, adults and older adults. In order to increase program capacity, and provide administrative support for these services, the Division is proposing to add the following positions through CSS System Development funds:

- 1.0 Behavioral Health Clinician II - \$77,172
- 1.0 Assistant Management Analyst - \$132,705



It is envisioned that the Behavioral Health Clinician II will be hired in FY24 mid-year.

### **Upgrade the Diversity & Multicultural Coordinator Position**

The Diversity & Multicultural Coordinator position provides leadership in identifying, developing, implementing, monitoring, and evaluating services and strategies that lead to continuous cultural, ethnic, and linguistic improvements within the organization's system of care, with a special emphasis on unserved, underserved, inappropriately served, and emerging populations. The Diversity & Multicultural Coordinator also collaborates with the state, regional counties, other city divisions, local agencies, and community groups in order to address mental health inequities and disparities for targeted populations and communities, and the community-at-large in Berkeley.

Since the initial approved MHSA Plan the Health Services Program Specialist City classification has been used for this position. In order to be able to expand services, the Division is proposing to upgrade the classification of this position to the following:

- Community Services Specialist II - \$165,982  
Through this classification the Diversity & Multicultural Coordinator will be able to take on the added role of supervising a staff, and will oversee the community-based Mental Health First Aid Program.

### **Provide Funding to Increase the Program Capacity in the Aging Services Division**

The HHCS Aging Services Division provides a variety of social services for older adults in Berkeley as well as Shelter Plus Care program participants. To provide management of the Shelter Plus Care caseload, and increased clinical services, the Division is proposing to transfer a portion of CSS System Development funds to the Aging Services Division to add the following position:

- 1.0 Behavioral Health Clinician II - \$154,343

### **Increase Administrative Support for Division Contracts**

MHSA provides funding for various services and supports that are implemented by community partners, through contracts with the Division. In order to increase administrative support for the execution, monitoring and oversight of contracts, the Division is proposing to utilize CSS and PEI Administration funds to hire the following position:

- 1.0 Associate Management Analyst - \$182,531  
(.60 will be funded through CSS Administrative Funds, and .40 from PEI Administration Funds).

### **Increase Services for High School Youth**

The High School Prevention Project provides youth with the information and individual support they need to make positive and healthy decisions in their lives. The program includes: outreach activities designed to provide students with basic information around the risks of certain behaviors, and ways to protect themselves and make positive and safer decisions; classroom presentations to enable students to receive more in-depth information around a variety of health

topics and available resources, and to provide the opportunity for students to do a personal assessment of risk and current lifestyle choices; drop-in crisis, counseling services; individual appointments to identify young people who may need more intensive intervention; and short-term treatment.

To order to increase the capacity to provide mental health services for high school youth and program oversight, the Division is proposing to utilize a portion of PEI funds to add the following positions to the High School Prevention Project:

- .80 Mental Health Program Supervisor - \$168,452  
This position will oversee and direct the High School Prevention Project.
- 1.0 Behavioral Health Clinician II - \$77,172  
This position is projected to be hired in mid-year FY24, and will provide mental health services and supports to youth.
- .30 Social Services Specialist - \$39,835  
This position will provide supportive Substance Use Disorder (SUD) services to youth. It will be funded with .30 of MHSA PEI funds, and .70 of Opioid Settlement funds.

#### **Add a Workforce Development Coordinator Position**

The Division is proposing to provide a portion of CSS System Development funds in FY24 to hire the following position:

- 1.0 Community Services Specialist III - \$170,535  
This position will serve as a Workforce Development Coordinator for the Division and will oversee Intern recruitment, and coordinate training and support for graduate level interns

This allocation of funds for this position will involve transferring CSS System Development funds to the Workforce, Education and Training (WET) funding component, through the following process:

*Per MHSA Statute, (Welfare and Institutions Code, Section 5892 (b)): "In any year after 2007 -08, programs for services pursuant to Part 3 (commencing with Section 5800), and Part 4 (commencing with Section 5850) of this division may include funds for technological needs and capital facilities, human resource needs, and a prudent reserve to ensure services do not have to be significantly reduced in years in which revenues are below average of previous years. The total allocation for purposes authorized by this subdivision shall not exceed 20 percent of the average amount of funds allocated to that county for the previous five years pursuant to this section."*

Approximately \$208,654 in FY25 and \$217,000 in FY26 of CSS System Development funds will also be transferred in the Three-Year timeframe to support this position.

#### **Allocate a one-time funding amount to conduct a Capacity Assessment**

Per MHSA legislation, mental health jurisdictions are required to conduct a Capacity Assessment of the local system of care and report out on it in each Three-Year Plan. The purpose of the Capacity Assessment is to understand where there are strengths, limitations,

disparities, gaps and/or barriers in the system in accessing care or meeting local mental health needs.

To meet this requirement, Division staff created a Capacity Assessment Tool, that was reviewed and approved by the Department of Healthcare Services (DHCS) Community services Division. From the Capacity Assessment Tool, a Survey was created that was sent to providers in the local system of care. Despite multiple attempts to engage local providers to fill out the survey, the response rate was very low, and the Division was unable to obtain a comprehensive assessment of the local system of care for this Three-Year Plan.

The Division is proposing through this Three-Year Plan, to allocate \$60,000 of CSS Administration Funds to hire a consultant who will conduct a Capacity Assessment of the local system of care. The consultant will be chosen through a Request for Proposal (RFP) process.

#### **Allocate a one-time funding increase for Berkeley Food & Housing Project**

The Berkeley Food & Housing Project (now named Insight Housing) operates the Russell Street Residence which provides permanent supportive housing for 17 formerly homeless adults who have experienced severe and persistent mental illness. Residents receive the following: supportive services; meals; therapeutic groups, activities and outings; transportation to medical appointments; and assistance with daily activities including laundry and personal hygiene.

Through this Three-Year Plan the Division is proposing to allocate a one-time amount of \$150,000 of CSS System Development funds to Insight Housing to help defray increases to rental costs, and services at the Russell Street Residence.

#### **Allocate funding for the African American Holistic Resource Center**

The African American/Black community in Berkeley has the highest rate of morbidity and mortality of any racial/ethnic group. According to the City of Berkeley's Health Status Summary Report 2018, "African Americans are 2.3 times more likely to die in a given year from any condition compared to Whites, and the COVID-19 virus has increased the morbidity and mortality rates for this population. Socioeconomic factors, birth outcomes, and morbidity rates that stretch across the life span of African Americans indicates they are not thriving in the City of Berkeley. Therefore, it is essential that a paradigm shift take place for this population in the delivery of care and services. Culturally Centered Engagement System of Care that is effective in welcoming, supporting, healing, and empowering the Black community in the City of Berkeley must be developed.

In April 2011, the African American/Black Professionals & Community Network (AABPCN) crafted the report titled A Community Approach for African American/Black Culturally Congruent Services. In the AABPCN report it identified challenges that the African American community faces in areas of education, employment, health, and mental health, housing, and community relationships. A vision and framework were provided in the report for the development of an African American Holistic Resource Center (AAHRC) in South Berkeley. The center will include the use of culturally congruent practices, embedded in an integrated service delivery system, which will help to decrease inequities and disparities in the African American community in

Berkeley. The AAHRC facility as outlined in the Feasibility Study, is stated to be a state-of-the-art green building ranging in size of 6,000 Square feet, that includes but is not limited to a multipurpose room, library, medical screening room, two therapy offices, two classrooms, dance studio, game room, kitchen, offices with a reception area, and a yard/garden area. The delivery of culturally congruent services at the AAHRC will provide African Americans with the support they need to decrease inequities and disparities, and build community. The AAHRC will be a beacon of light and hope for Berkeley's African American community when it is developed.

Per the previously approved FY20-23 Three Year Plan, the HHCS Department and Mental Health Division is very interested in providing funding support for the AAHRC, once specific needs have been determined. During Community Program Planning for this Three Year Plan the AAHRC Steering and Leadership Committees submitted a proposal for funding (see Appendix F: Public Comments). Department and Division leadership will work with the AAHRC Steering and Leadership Committee over the next month to determine proposed MHSA funding amounts for the AAHRC over the next three years.

(Some information was taken from the A Community Approach for African American/Black Culturally Congruent Services and the African American Holistic Resource Center Feasibility Study, 2018 reports)

### **Increase Administrative Support for the Division Manager**

Beginning in FY25, in order to provide the Mental Health Manager with increased staffing support for special projects, data collection and analysis, and assistance with policy, procedure, and budget development, the Division is proposing to allocate CSS System Development and Administration funds to add the following position:

- 1.0 Assistant Management Analyst - \$138,013

Any other future staffing and program additions during the three-year plan timeframe will be proposed through Annual Updates to this plan.

## **PROGRAM DESCRIPTIONS AND FY22 DATA BY FUNDING COMPONENT**

Outlined in this section per each funding component are descriptions of current City of Berkeley MHSA services that are proposed to be continued through this Three-Year Plan and FY22 program data. In FY22, across all MHSA funded programs, approximately 6,086 individuals participated in some level of services and supports. As with FY20 and FY21, among the largest of accomplishments in FY22 is that almost all MHSA funded services were able to continue providing services in some capacity during the COVID-19 pandemic. Some of the FY22 MHSA funded program highlights included: A reduction in psychiatric inpatient hospital and/or incarceration days for severely mentally ill clients; a decrease in the number of days severely mentally ill clients spent homeless; step down to a lower level of care for some clients; services and supports for family members; multicultural trainings, projects and events; Wellness Center services; consumer driven wellness recovery activities; housing, and benefits advocacy services

and supports for clients; augmented prevention and intervention services for children and youth in the schools and community; increased outreach, and supportive services for TAY, Adults and Older Adults and individuals in unserved, underserved and inappropriately served cultural and ethnic populations; and free access to the MyStrength and HeadSpace Mental Health Apps for anyone who lives, works or goes to school in Berkeley.

### **COMMUNITY SERVICES & SUPPORTS (CSS)**

The Community Services & Supports (CSS) funding component primarily provides treatment services and supports for Severely Mentally Ill Adults and Seriously Emotionally Disturbed Children and Youth. Funding is provided in three areas of programming: Full Services Partnerships; Multicultural Outreach & Engagement; and System Development.

Following a year-long community planning and plan development process, the initial City of Berkeley Community Services & Supports (CSS) Plan was approved in September 2006. Since the approval of the original plan, Three Year Plans or Annual Updates outlining proposed CSS funding and programming have been developed and approved on an annual basis. From the original CSS Plan and/or through subsequent plan updates, some of the many services the City of Berkeley has provided through CSS funding are as follows:

- Wrap-around Services for Children and their families;
- TAY, Adult and Older Adult Intensive Treatment Services;
- Supportive Services for Individuals experiencing homelessness;
- Diversity & Multi-cultural Services;
- TAY Case Management and Support Services;
- Consumer Advocacy;
- Wellness and Recovery Services;
- Family Advocacy;
- Transitional Outreach Team;
- Support Groups for individuals;
- A Wellness Recovery Center; and
- Benefits Advocacy.

Descriptions of each CSS funded program that is proposed to be continued through this Three-Year Plan, and FY22 data are outlined below:

## FULL SERVICE PARTNERSHIPS (FSP)

### Children/Youth Intensive Support Services Full Service Partnership

The Intensive Support Services Full Service Partnership (FSP) is for children ages 0-21 and their families. This program is for children, youth and their families who would benefit from, and are interested in participating in a program designed to address the total needs of a family whose child (and possibly other family members) is experiencing significant emotional, psychological or behavioral problems that are interfering with their wellbeing.

Priority populations include children and youth who:

- have substantial impairment in self-care, school functioning, family relationships, the ability to function in the community, and are at risk of or have already been removed from the home and have a mental health disorder and/or impairments that have presented for more than six months or are likely to continue for more than one year without treatment;  
OR
- display psychotic features, or a history of hospitalization due to Danger to Self, Danger to Others, Grave Disability or a recent suicide attempt within the last six months from the date of referral.

The Children/Youth FSP program utilizes wraparound as the treatment model. Wraparound differs from many service delivery strategies, in that it provides a comprehensive, holistic, youth and family-driven way of responding when children or youth experience serious mental health or behavioral health challenges. The model puts the child or youth and family at the center. With the help of the FSP team, the family and young person take the lead in deciding their vision and goals. Team member's work together to put the goals into an action plan, monitor how well it is working, and make changes to it as needed. The projected number of individuals to be served in FY24 by each age category is as follows: 9 individuals aged 6-12; 9 individuals aged 13-17; and 2 individuals aged 18-21.

In FY22, a total of 14 children/youth and their families were served through this program. Demographics on those served were as follows:

| <b>DEMOGRAPHICS N=14</b>         |                      |                   |
|----------------------------------|----------------------|-------------------|
| <i>Age</i>                       | <i>Number Served</i> | <i>% of total</i> |
| 6-12 years                       | 6                    | 43%               |
| 13-17 years                      | 7                    | 50%               |
| 18-21 years                      | 1                    | 7%                |
| <i>Gender Identity</i>           | <i>Number Served</i> | <i>% of total</i> |
| Male                             | 8                    | 57%               |
| Female                           | 6                    | 43%               |
| <b>Race/Ethnicity</b>            |                      |                   |
| <i>Race/Ethnicity</i>            | <i>Number Served</i> | <i>% of total</i> |
| Black or African American        | 5                    | 36%               |
| Alaska Native or American Indian | 1                    | 7%                |
| Asian Pacific Islander           | 2                    | 14%               |
| White                            | 3                    | 21%               |

| Latino/a/x                      | 3                    | 22%               |
|---------------------------------|----------------------|-------------------|
| <b>Sexual Orientation</b>       |                      |                   |
| <i>Sexual Orientation</i>       | <i>Number Served</i> | <i>% of total</i> |
| Heterosexual or Straight        | 8                    | 57%               |
| Gay                             | 1                    | 7%                |
| Questioning                     | 1                    | 7%                |
| Other                           | 1                    | 7%                |
| Declined to Answer (or Unknown) | 3                    | 22%               |

Flex funds are used to provide various supports for FSP program participants and/or the families of program participants. In FY22, flex funds were utilized as follows: 8 individuals/families received funding for food/groceries; 6 individuals/families received funds for clothing/hygiene; 4 individuals/families received funding for Bus Passes or transportation; and 8 individuals/family members received funding for other various needs.

Program Successes:

- Successfully transitioned 10 participants back to in-person care as the pandemic subsided. As school reopened, many of the services were provided on campus or in the community.
- Increased access to other services within the Division to support the acute needs of FSP participants and their families. These included psychiatric medication services and individual/family therapy. One participant who was over the age of 18 was referred to community-based services to support their behavioral health needs.
- Reduced psychiatric hospitalizations and the usage of crisis services.
- Five participants met and/or exceeded stated objectives in their treatment plan.
- Services continued to be provided by clinicians who mirrored the racial/ethnic identity of the populations served.
- The FSP Team was able to provide flex funding to support the felt needs of the program participants as the pandemic eased; this was extremely important as there was an increase in needs due to parental loss of employment and/or the increase costs of goods and services. The flex fund purchases supported the purchase of food, clothing, household items, transportation, and fun activities for program participants and their siblings.
- Successfully on-boarded a bilingual/bicultural Senior Behavioral Health Clinician who assumed primary care coordination for the families in the program. This hire expanded the program's capacity to provide services to mono-lingual Spanish speaking families.

Program Challenges:

- Providing FSP level care to program participants and their families with the ongoing transition of staff was a challenge as individuals who presented with the most acute needs had to be prioritized. This required the Program Supervisor to support staff with providing care and to step down cases to a lower level of care in spite of an individual's ongoing needs.
- A reduction in referrals were accepted due to staff transitions. As a result, some individuals had to be placed on wait lists or were referred to other FSP programs within the county.

- The program was only able to provide services in English until a bi-lingual staff was hired in May 2022.

In FY22, the RBA Measures that were established for this FSP were as follows:

| <b>Process Measures<br/>How much did we do?</b>                                                                                                                                                                                                                                                  | <b>Quality Measures<br/>How well did we do it?</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | <b>Impact Measures<br/>Is Anyone Better off?</b>                                                                                                                                                                                                                                                                                                                                               |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <ul style="list-style-type: none"> <li>• # of clients served</li> <li>• # of new clients opened for ongoing services</li> <li>• Average # of days in FSP for client</li> <li>• Average # of services hours per client per month</li> <li>• Average # of services per client per month</li> </ul> | <ul style="list-style-type: none"> <li>• % of clients who have at least completed one CANS/ANSA for each six-month period that they are in the program</li> <li>• % of clients and/or their caregivers who receive an average of four or more face-to-face outpatient visits per month</li> <li>• % of discharges from hospitalization or subacute who had a follow-up visit with CFSP staff within 7 business days</li> <li>• % of clients with no service gap of over 30 days</li> <li>• #/% of clients closed, by reason closed</li> <li>• % of clients or family members who participate in the survey**</li> </ul> | <ul style="list-style-type: none"> <li>• % of clients with a primary care visit in the last 12 months</li> <li>• % of clients who had a reduction in psychiatric care emergency services/inpatient/ crisis stabilization units in the last 12 months compared to the 12 months before enrollment**</li> <li>• % of clients with a decrease in hospitalizations/hospitalization days</li> </ul> |

\*Demographic data was reported at the program level, where available

\*\*Data not available for baseline reporting period, will be included in future rounds of reporting

| <b>Measure</b>                                  | <b>Definition</b>                                                                                                                             | <b>Data Source</b> |
|-------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------|--------------------|
| # clients served                                | Total clients served                                                                                                                          | Yellowfin          |
| # of new clients                                | Clients who were not served by the program in the previous fiscal year                                                                        | Yellowfin          |
| Average # of days in FSP per client             | Average length of stay for primary program episodes which have closed since the beginning of the reporting period                             | Yellowfin          |
| Average # of service hours per client per month | Average of hours of service in a month divided by clients served in a month. Includes all services recorded for clients. Does not include MAA | Yellowfin          |
| Average # of service hours per client per month | Average of hours of service in a month divided by clients served in a month. Includes all services recorded for clients. Does not include MAA | Yellowfin          |
| Average # of services per client per month      | Average services in a month divided by clients served in a month. Includes all                                                                |                    |



| Measure                                                                                                              | Definition                                                                                                                                                                                                               | Data Source    |
|----------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|
|                                                                                                                      | services recorded for clients. Note: more than one service can be provided during a single contact. Does not include MAA                                                                                                 | Yellowfin      |
| % of clients who have at least one completed CANS/ANSA for each six month period that they are in the program        | Of clients with a completed CANS/ANSA, what percentage of them had an assessment at least every six months?                                                                                                              | Objective Arts |
| % of clients and/or their caregivers who receive an average of four or more face-to-face outpatient visits per month | Clients must be been open to a provider for at least 30 days in order to be included in this metric. Phone contacts are included during the pandemic. Days in subacute or jail not counted, but services are counted.    | Yellowfin      |
| % of clients with no service gap of over 30 days                                                                     | Maximum days each Level 1 client went without service during their episode(s) in the reporting period. Only considered clients open to a provider for at least a total of three months during the reporting fiscal year. | Yellowfin      |
| % of discharges from hospitalization or subacute who had a follow up visit with FSP staff within 7 business days     | Follow-up rates for individuals open to Level 1 providers at the time of MH hospital discharge.                                                                                                                          | Yellowfin      |
| #/% of clients closed, by reason closed                                                                              | Discharge reason for clients discharged during the reporting period                                                                                                                                                      | Yellowfin      |

Data Development Agenda – measures the team is interested in reporting on but for which reliable data was not available:

- Spending: # of Flex Funds spent on a family per year, based on tenure in program;
- Service provision: % of clients who received unscheduled service contacts due to low engagement or necessity/acuity of family needs;
- Staff training:
  - % of staff trained in WRAP;
  - % of staff who are skilled to implement trauma-informed interventions;
- Staff satisfaction: % of staff who report that they have the tools/resources necessary to do their jobs;
- Client satisfaction, specifically in regards to measuring racially responsive care;
- #/% of clients/families who report high quality, racially responsive care on the annual Consumer Perception Survey;
- Client/family outcomes:
  - # of clients/families who can navigate systems better to address their needs;
  - # of clients with improved school attendance and increased engagement in class/school;

-% of clients with improved family relations (communication and stability, problem solving, support);

- Client-to-staff ratio;
- % staff retention year-to-year;
- % of clients who schedule a meeting with FSP team within 14 calendar days of referral;
- % of clients who are referred to other primary services (therapy, TBS, etc.,) within 5 calendar days of agreement in a family team or a provider meeting;
- % of new clients who receive a face-to-face visit within 7 calendar days of the episode opening date;
- % of clients/families discharged from services within 9-12 months because of improved life circumstances.

For context around the RBA Outcomes, the ongoing impact of the COVID-19 pandemic and the shelter in place, as staff were working to rebuild engagement with families/clients, affected service provision. Staff and clients were still contracting the virus which impacted their ability to meet and many families had other priorities that impacted service provision and school attendance. Staffing changes which left the team understaffed, also had an impact on service provision and outcomes.

In FY22, the RBA Outcomes for this FSP were as follows:

## Child Full Service Partnership (FSP) Reporting Period: July 2021-June 2022 (Baseline)

### Process Outcomes ("How much did we do?")



Clients Served

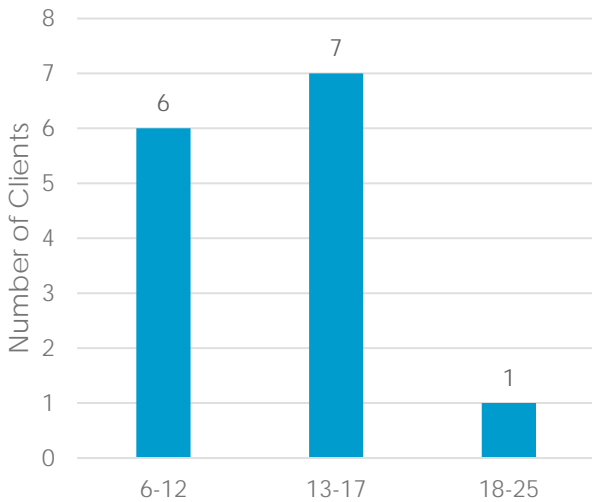


New Clients

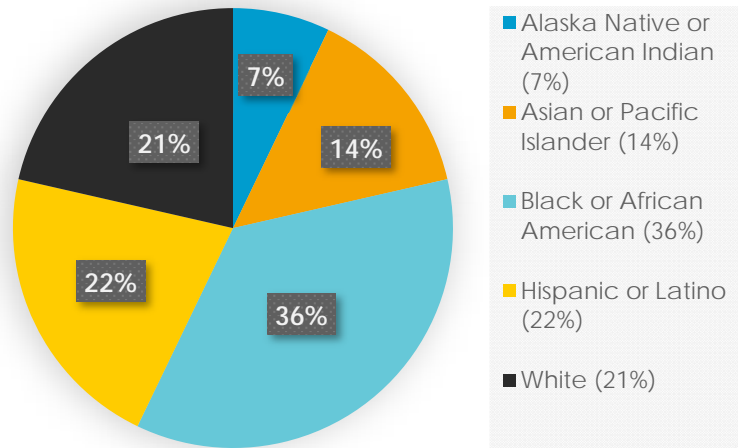
represents 5 clients

**Program Description:** This team provides wrap around services to children and families with acute needs, who meet the following criteria: child is at risk of/has been removed from their parent/guardian; child is involved with the Juvenile Justice System or at risk of that; has been recently had a psychiatric hospitalization or is at risk of a hospitalization.

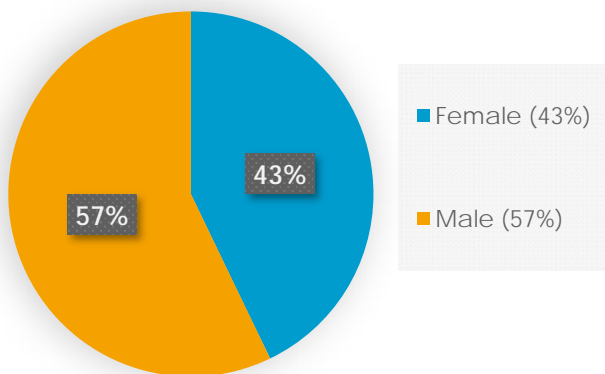
Client Demographics (Age)



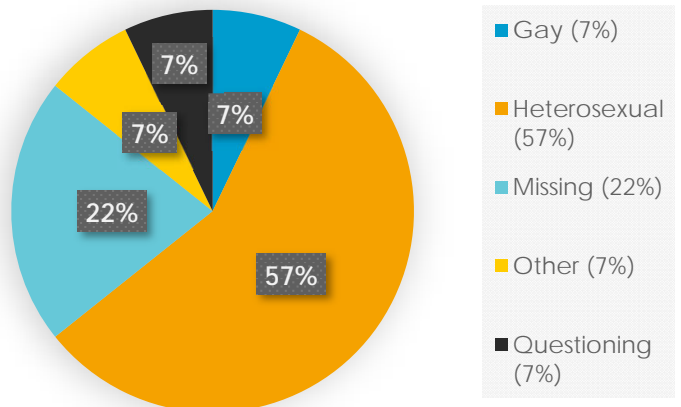
Client Demographics (Race)



Client Demographics (Gender Identity)



Client Demographics (Sexual Orientation)

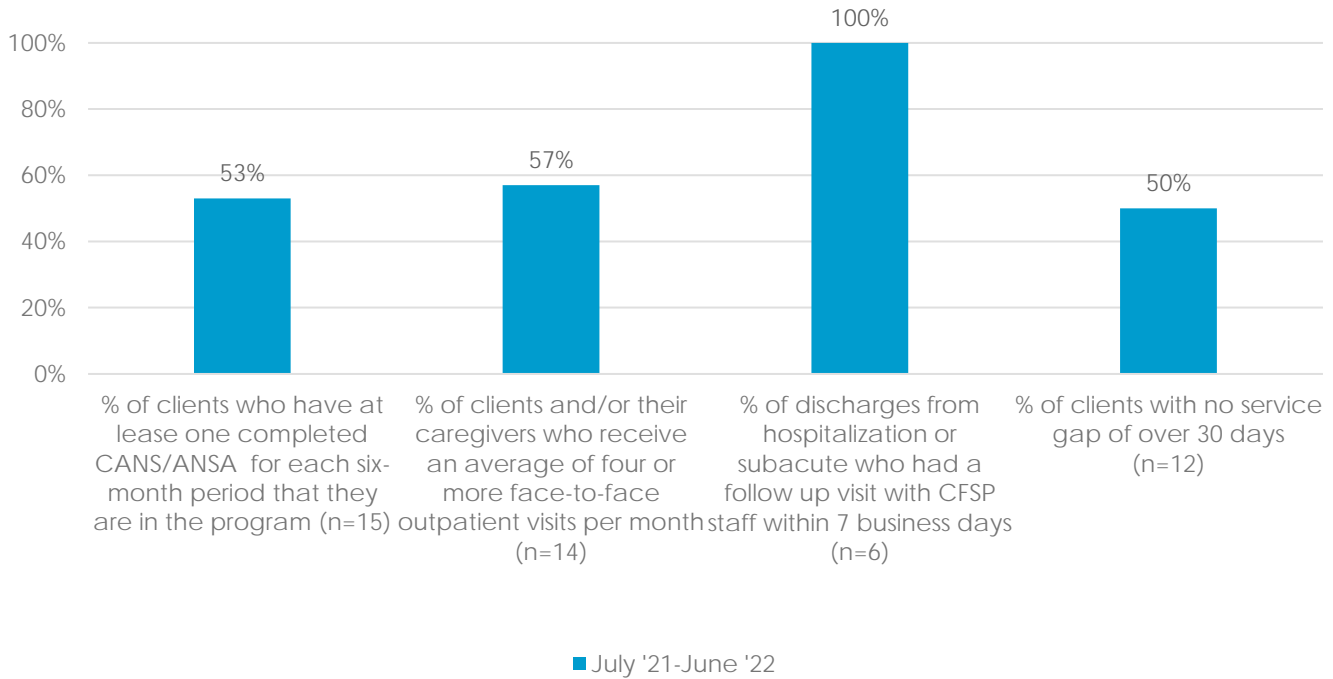


## Quality Outcomes ("How well did we do it?")

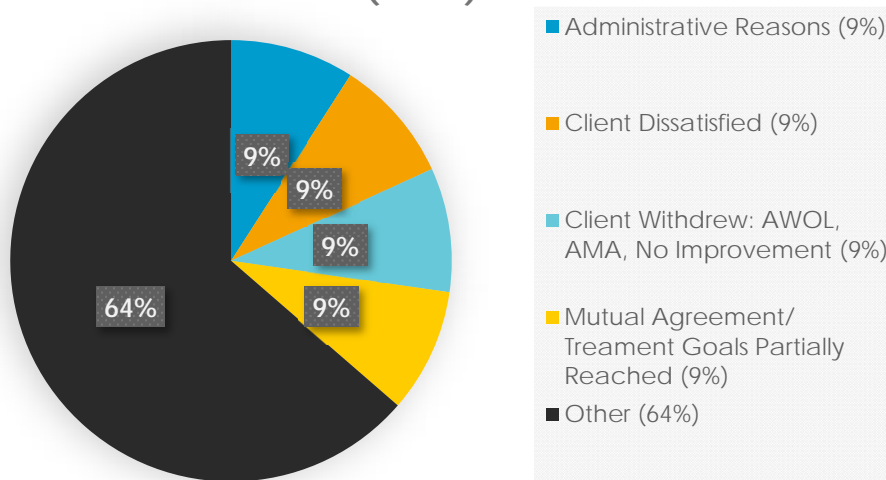
The average client served in 2021-2022:

- remained in the FSP program for **336 days**
- received **10.22 hrs** of services per month
- received **6.88 services** per month

### Service Consistency

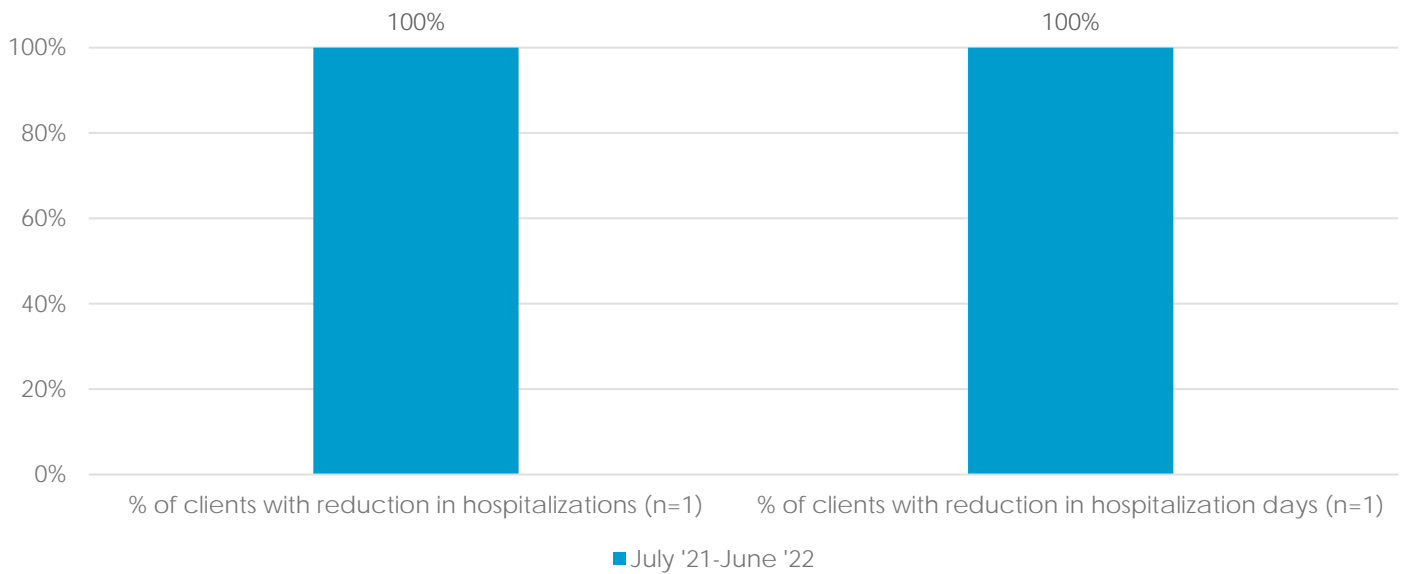


### Clients Closed, by Reason Closed (n=11)

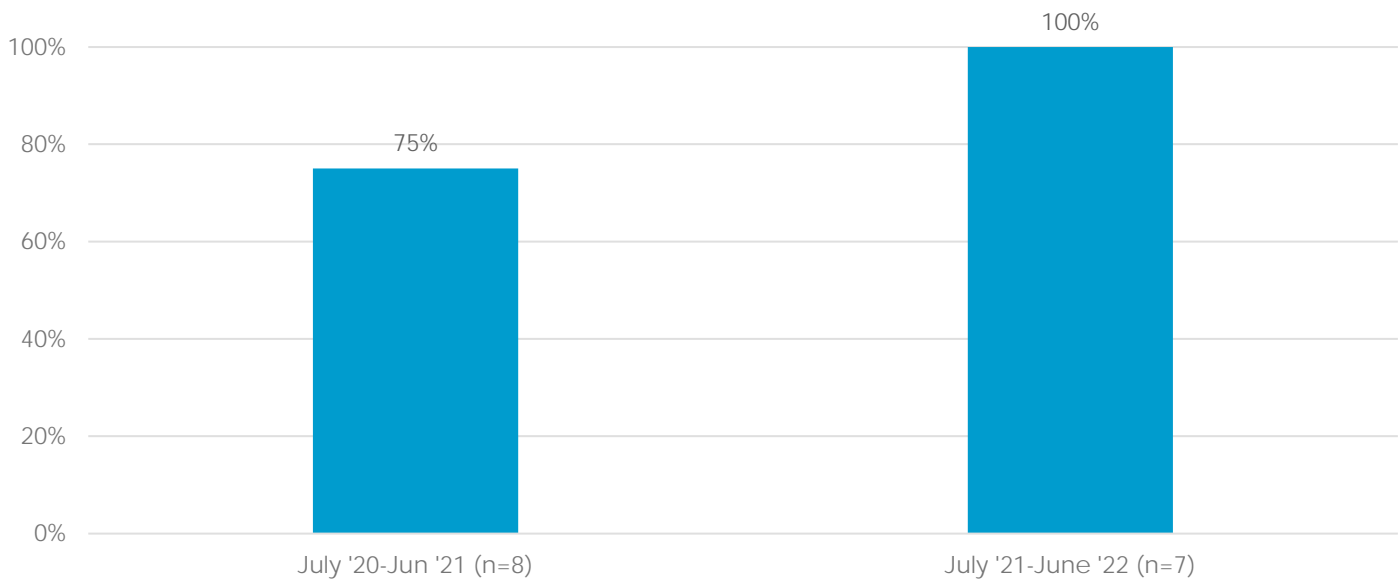


## Impact Outcomes ("Is anyone better off?")

### Client Outcome Improvements



### % of clients with a primary care visit in the last 12 months



### TAY, Adult and Older Adult Full Service Partnership

This FSP program provides intensive support services for adults aged 18 and older, including TAY, adults and older adults, who are experiencing severe mental illness. The focus is on individuals who face difficulties in obtaining or maintaining housing, have a history of frequent or lengthy psychiatric hospitalizations, or have experienced repeated or prolonged incarcerations. Additionally, the program gives priority to individuals from unserved, underserved, and inappropriately populations.

The team utilizes an Assertive Community Treatment (ACT) approach which maintains a low staff-to-client ratio of 12:1, enabling frequent and intensive support services to clients. Individuals are provided with assistance in finding appropriate housing and in some cases may qualify for temporary financial assistance. The primary objectives of the program are to engage clients in their treatment and to reduce their days spent homeless, hospitalized and/or incarcerated. The program aims to enhance client's employment and educational readiness; promote self-sufficiency; and foster wellness and recovery. The projected number of individuals to be served in each age category in FY24 is as follows: 5 Transition Age Youth; 55 Adults; and 20 Older Adults.

In FY22 a total of 75 TAY, Adults, and Older Adults participated in the program for all or part of the fiscal year. Demographics on those served include the following:

| <b>DEMOGRAPHICS N=75</b>        |                      |                   |
|---------------------------------|----------------------|-------------------|
| <b>Gender Identity</b>          |                      |                   |
| <i>Gender Identity</i>          | <i>Number Served</i> | <i>% of total</i> |
| Male                            | 44                   | 59%               |
| Female                          | 25                   | 33%               |
| Multiple Gender Identities      | 1                    | 1%                |
| Missing                         | 3                    | 4%                |
| Declined to Answer (or Unknown) | 2                    | 3%                |
| <b>Race/Ethnicity</b>           |                      |                   |
| <i>Race/Ethnicity</i>           | <i>Number Served</i> | <i>% of total</i> |
| Alaska Native/Native American   | 1                    | 1%                |
| Black or African American       | 34                   | 46%               |
| White                           | 37                   | 49%               |
| Latino/a/x                      | 1                    | 1%                |
| Declined to Answer (or Unknown) | 2                    | 3%                |
| <b>Age Category</b>             |                      |                   |
| <i>Age Category</i>             | <i>Number Served</i> | <i>% of total</i> |
| Transition Age Youth            | 4                    | 5%                |
| Adult                           | 53                   | 71%               |
| Older Adult                     | 18                   | 24%               |
| <b>Sexual Orientation</b>       |                      |                   |
| Heterosexual                    | 53                   | 71%               |
| Bisexual                        | 3                    | 4%                |
| Lesbian                         | 1                    | 1%                |
| Gay                             | 2                    | 2%                |
| Multiple Sexual Orientations    | 2                    | 3%                |

|                                 |    |     |
|---------------------------------|----|-----|
| Missing                         | 12 | 16% |
| Declined to Answer (or Unknown) | 2  | 3%  |

Flex funds are used to provide supports for FSP program participants. In FY22, 21 partners received rental and housing assistance; 34 received food and groceries and 20 partners were provided with miscellaneous assistance with cleaning, clothing, bus passes, furniture, etc.

Reflected in narrative format and charts on the preceding pages is data collected in FY22 for this program. It is important to note that there are two different sources of data regarding the reasons why participants were closed from the program. The first set of data below is based on the outcomes of the 61 TAY, Adult, and Older Adult clients who completed at least one full year of services, and is derived from the State DCR data collection and reporting. The second set of data in the Results Based Accountability (RBA) data outcomes section is presented in a pie chart in the Clients closed by reason section, and is obtained from an Alameda County data site. This pie chart data includes all participants who are enrolled in the Adult FSP for any period during FY22, however the county data site has limited options for selecting reasons for closure. Due to these differences in data sources, there may be discrepancies between the two sets of data.

#### Program Successes:

Of the 61 TAY, Adult and Older Adult clients (or partners) who completed at least 1 full year of services, outcomes included the following: 18 partners were disenrolled from the program during FY22: 5 partners met treatment goals and graduated to lower levels of care (28%), 4 partners were transferred to a new Full Service Partnership team specializing in individuals who are chronically homeless (22%), 5 partners died (28%), 2 partners could not be located (11%) and 2 partners were institutionalized in psychiatric settings (11%).

There were also positive outcomes with comparing data for participants in the current fiscal year to the most recent prior 12 months including the following: 82% of participants had a reduction in psychiatric emergency services/Inpatient/Crisis stabilization compared with the prior 12 months prior (n=22); 69% of clients had a reduction in jail days when comparing the current fiscal year to the most recent prior 12 months (n=16).

#### Program Challenges:

- As the Bay Area housing crisis continued, finding safe and affordable housing was extremely difficult as housing prices continued to rise and were among the most expensive in the country. Some of the Licensed Board & Cares that provided clients 24/7 support and monitored medication adherence closed down. Single Room Occupancy Hotels raised their monthly rates such that clients were not able to afford staying there without housing subsidies.
- The Coordinated Entry System in Alameda County is intended to address homelessness more efficiently and equitably. The system standardizes the assessment process and prioritizes resources for individuals who are assessed to have the highest need. Helping the highest need homeless individuals get through the assessment process can be challenging given the need for the individuals to participate in an assessment appointment. Also, some individuals served in the FSP were reluctant to acknowledge their mental health and

substance use disorder needs which in turn lowered their “needs” assessment score and chances of obtaining permanent supported housing resources.

- The COVID-19 pandemic continued to present challenges in FY22 in providing services to clients. In-person visits continued to occur at slightly reduced levels to minimize unnecessary risks to clients and staff. Hospitals, Board and Cares and various other programs closed sites to visitors during periods of outbreak.
- Retaining and hiring staff continued to be very difficult. Several staff left the team and it has been very difficult to fill those vacancies. There have been significantly fewer applicants over the past two years than in previous years. Staff that applied for and were offered positions reported receiving multiple job offers from other organizations. The COVID-19 pandemic likely played a part in the hiring crisis. The FSP requires working in the community with individuals who are considered the highest need within the service system. The work can be challenging. Current employees also had to manage their concerns about possible exposure to COVID-19 while doing front line services as well as managing their burnout as staffing levels decreased. It is anticipated that the current vacancies will be filled in the coming fiscal year.

Going forward the FSP will continue to develop staff expertise in treating co-occurring substance use disorders by providing ongoing training in Motivational Interviewing. The team will also continue to work on increasing fidelity to the Assertive Community Treatment model.

In FY22, the RBA measures that were established for this FSP were as follows:

| <b>Process Measures</b><br><b>How much did we do?</b>                                                                                                                                                                                                                                        | <b>Quality Measures</b><br><b>How well did we do it?</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | <b>Impact Measures</b><br><b>Is Anyone Better off?</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <ul style="list-style-type: none"> <li>• # clients served</li> <li>• # of new clients opened for ongoing services</li> <li>• Average # of days in FSP per client</li> <li>• Average # of service hours per client per month</li> <li>• Average # of services per client per month</li> </ul> | <ul style="list-style-type: none"> <li>• % of clients who have at least completed one CANS/ANSA for each six-month period that they are in the program</li> <li>• % of clients and/or their caregivers who receive an average of four or more face-to-face outpatient visits per month</li> <li>• % of clients with no service gap of over 30 days</li> <li>• % of discharges from hospitalization or subacute who had a follow up visit with FSP staff within 7 and within 30 calendar days</li> <li>• #/% of clients closed, by reason closed</li> <li>• #/% of clients transferred to another level of care</li> <li>• % of clients who were satisfied with services**</li> </ul> | <ul style="list-style-type: none"> <li>• % of clients who had a reduction in jail days in the last 12 months compared to the 12 months before enrollment</li> <li>• % of clients who had a reduction in psychiatric emergency services/inpatient/crisis stabilization units in the last 12 months compared to the 12 months before enrollment</li> <li>• % of clients with a decrease in hospitalizations and hospitalization days</li> <li>• % of clients with a primary care visit in the last 12 months</li> </ul> |



| <b>Process Measures</b><br>How much did we do? | <b>Quality Measures</b><br>How well did we do it? | <b>Impact Measures</b><br>Is Anyone Better off?                                                  |
|------------------------------------------------|---------------------------------------------------|--------------------------------------------------------------------------------------------------|
|                                                |                                                   | <ul style="list-style-type: none"> <li>• % of clients who moved out of homelessness**</li> </ul> |

\*Demographic data was reported at the program level, where available

\*\*Data not available for baseline reporting period, will be included in future rounds of reporting

| <b>Measure</b>                                                                                                       | <b>Definition</b>                                                                                                                                                                                                        | <b>Data Source</b> |
|----------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------|
| # clients served                                                                                                     | Total clients served                                                                                                                                                                                                     | Yellowfin          |
| # of new clients                                                                                                     | Clients who were not served by the program in the previous fiscal year                                                                                                                                                   | Yellowfin          |
| Average # of days in FSP per client                                                                                  | Average length of stay for primary program episodes which have closed since the beginning of the reporting period                                                                                                        | Yellowfin          |
| Average # of service hours per client per month                                                                      | Average of hours of service in a month divided by clients served in a month. Includes all services recorded for clients. Does not include MAA                                                                            | Yellowfin          |
| Average # of services per client per month                                                                           | Average services in a month divided by clients served in a month. Includes all services recorded for clients. Note: more than one service can be provided during a single contact. Does not include MAA                  | Yellowfin          |
| % of clients who have at least one completed CANS/ANSA for each six month period that they are in the program        | Of clients with a completed CANS/ANSA, what percentage of them had an assessment at least every six months?                                                                                                              | Objective Arts     |
| % of clients and/or their caregivers who receive an average of four or more face-to-face outpatient visits per month | Clients must be been open to a provider for at least 30 days in order to be included in this metric. Phone contacts are included during the pandemic. Days in subacute or jail not counted, but services are counted.    | Yellowfin          |
| % of clients and/or their caregivers who receive an average of four or more face-to-face outpatient visits per month | Clients must be been open to a provider for at least 30 days in order to be included in this metric. Phone contacts are included during the pandemic. Days in subacute or jail not counted, but services are counted.    | Yellowfin          |
| % of clients with no service gap of over 30 days                                                                     | Maximum days each Level 1 client went without service during their episode(s) in the reporting period. Only considered clients open to a provider for at least a total of three months during the reporting fiscal year. | Yellowfin          |

| Measure                                                                                                                        | Definition                                                                                      | Data Source |
|--------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------|-------------|
| % of discharges from hospitalization or subacute who had a follow up visit with FSP staff within 7 and within 30 calendar days | Follow-up rates for individuals open to Level 1 providers at the time of MH hospital discharge. | Yellowfin   |

Data Development Agenda – measures the team is interested in reporting on but for which reliable data was not available:

- % of clients who have a billable contact with FSP staff within 7 calendar days:
  - Following discharge (from a hospital, crisis residential or release from jail);
  - After assignment to the team;
- Client-to-staff ratio;
- % staff retention year-to-year;
- Average # of contacts per month per client.

To provide context around the FY22 RBA Outcomes for this FSP, there were a number of staff vacancies and difficulty in filling positions. The FSP teams keep individuals open to services for a number of months, even when they are missing, disengaged or incarcerated in a hope to get them back into care. This may account for gaps in services of over 30 days reflected in the data.

RBA Outcomes for this FSP were as follows:

## Adult Full Service Partnership (FSP) Reporting Period: July 2021-June 2022 (Baseline)

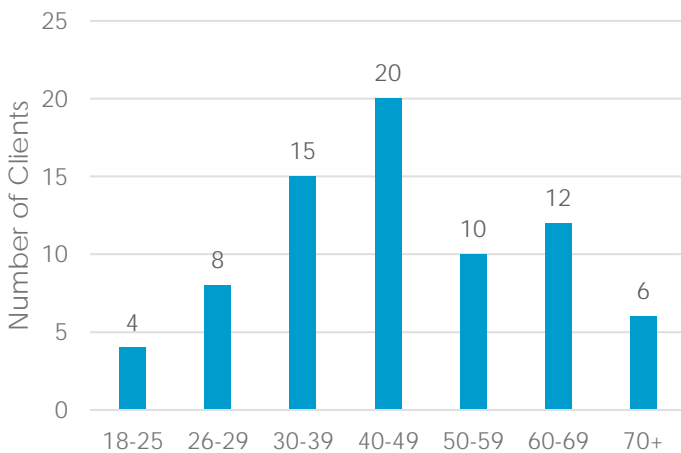
### Process Outcomes ("How much did we do?")



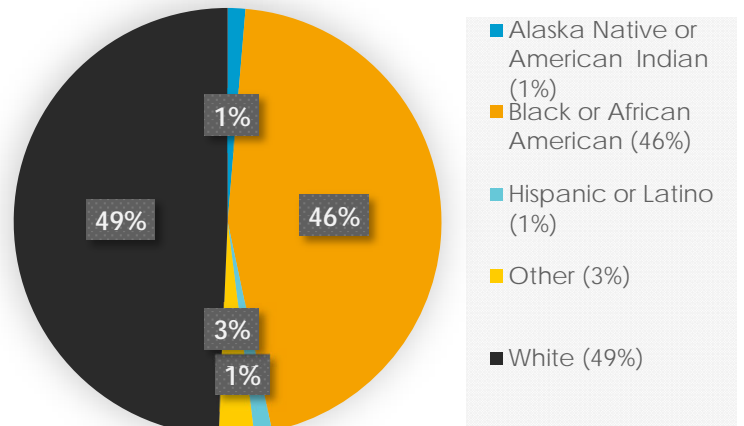
represents 10 clients

**Program Description:** The Full-Service Partnership (FSP) team provides services to clients who are considered the highest need within our adult mental health service system. The FSP team is based on an Assertive Community Treatment Model which involves low staff-to-client ratios at approximately 10:1 and a focus on providing care as a team rather than individual case load assignments. Services are primarily provided in the community rather than in an office setting.

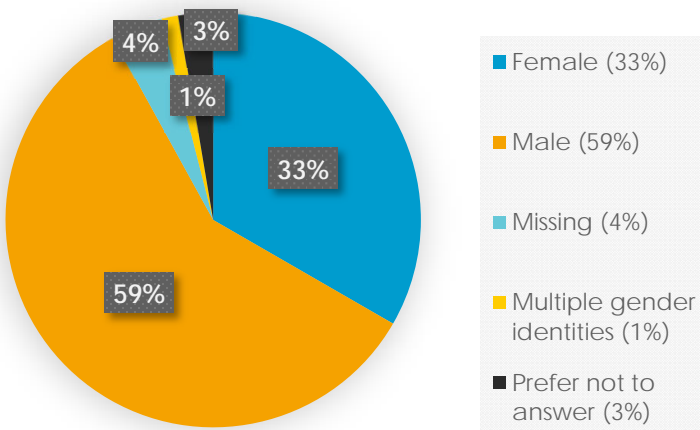
**Demographics (Age)**



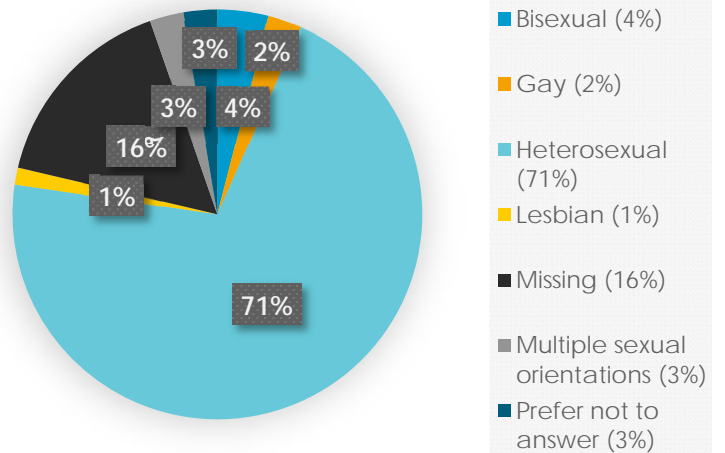
**Demographics (Race)**



**Demographics (Gender Identity)**



**Demographics (Sexual Orientation)**

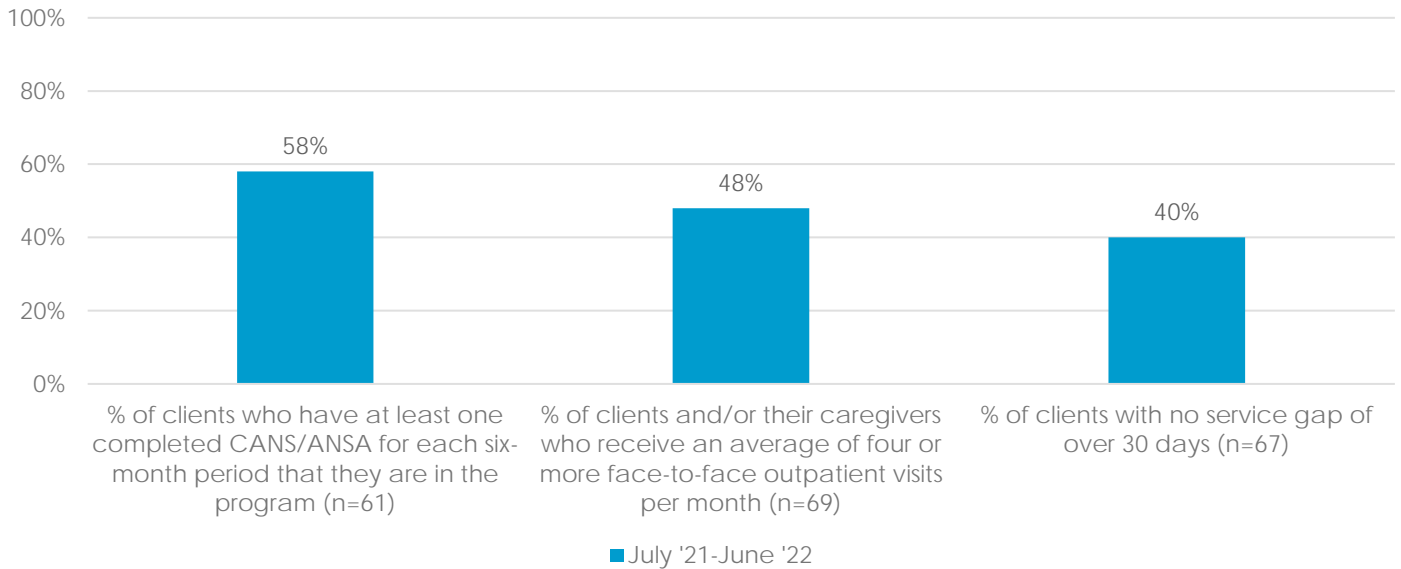


The average client served in 2021-2022:

- remained in the FSP program for **1,231 days**
- received **5.17 hrs** of services per month
- received **4.53 services** per month

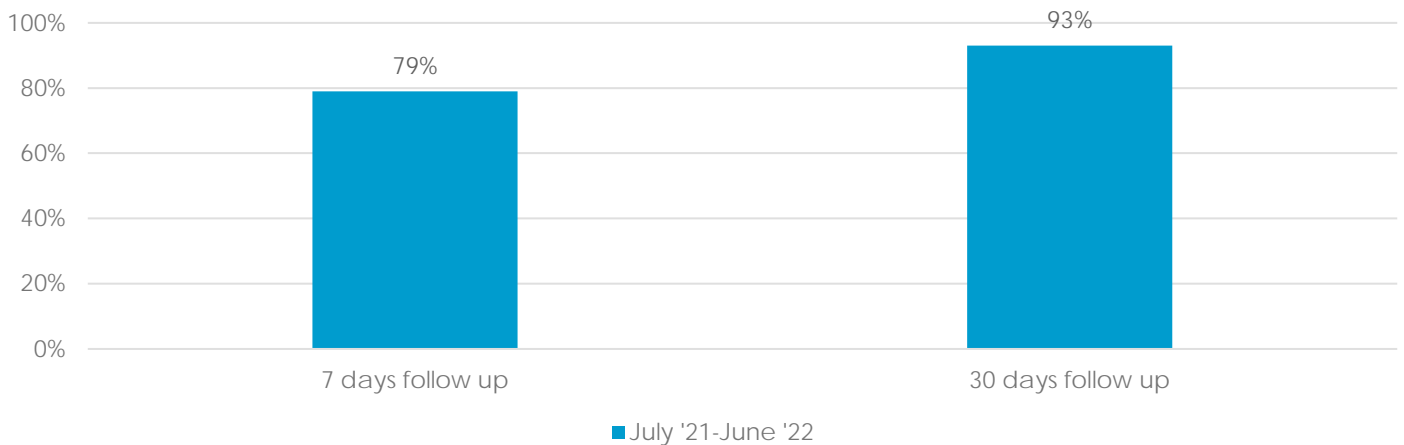
## Quality Outcomes ("How well did we do it?")

### Service Consistency

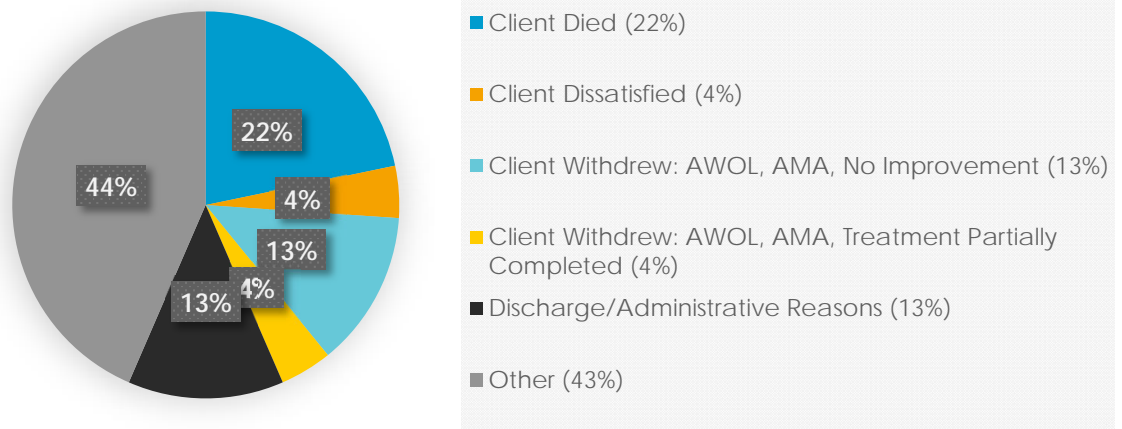


### Hospital Follow Up Consistency

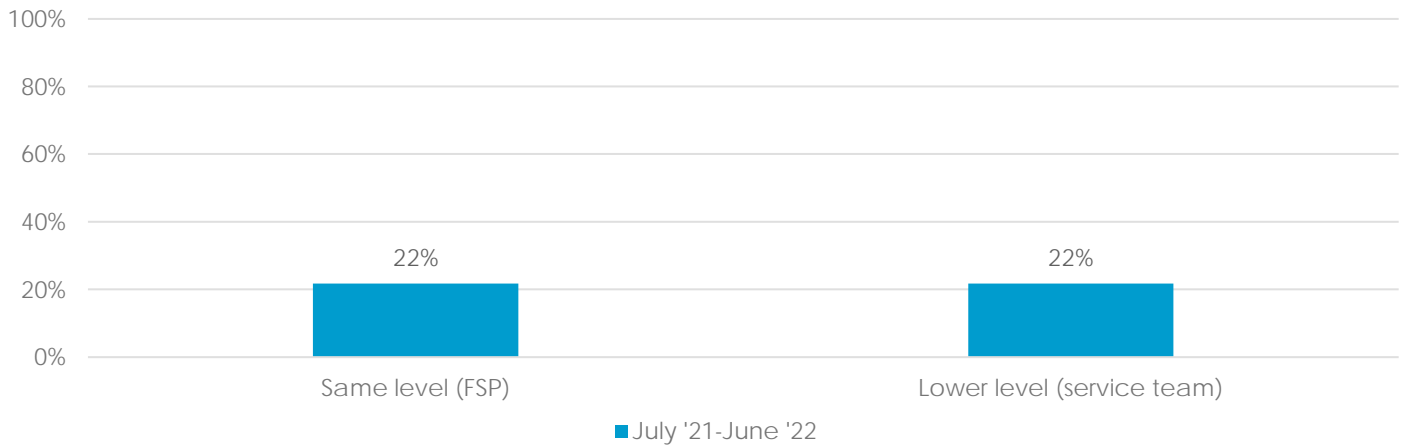
% of discharges from hospitalization or subacute who received FSP follow up within 7 and 30 days (n=28)



### Clients Closed by Reason Closed (n=23)

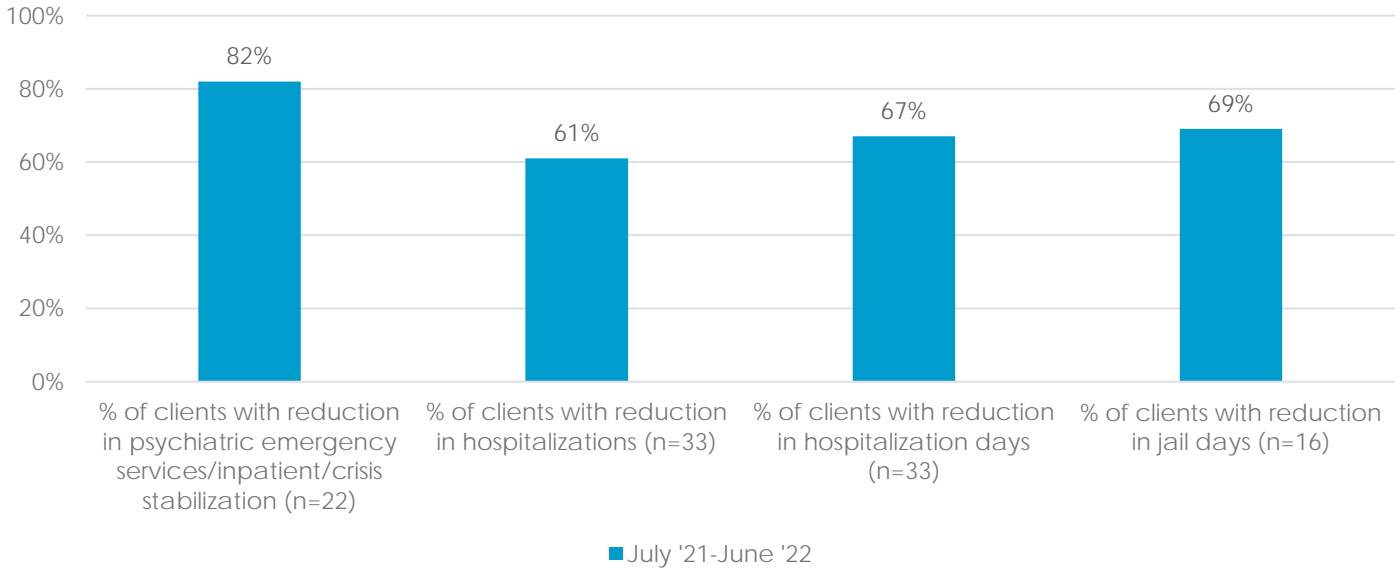


### Clients Transferred to Another Program, by Level of Care (n=23)

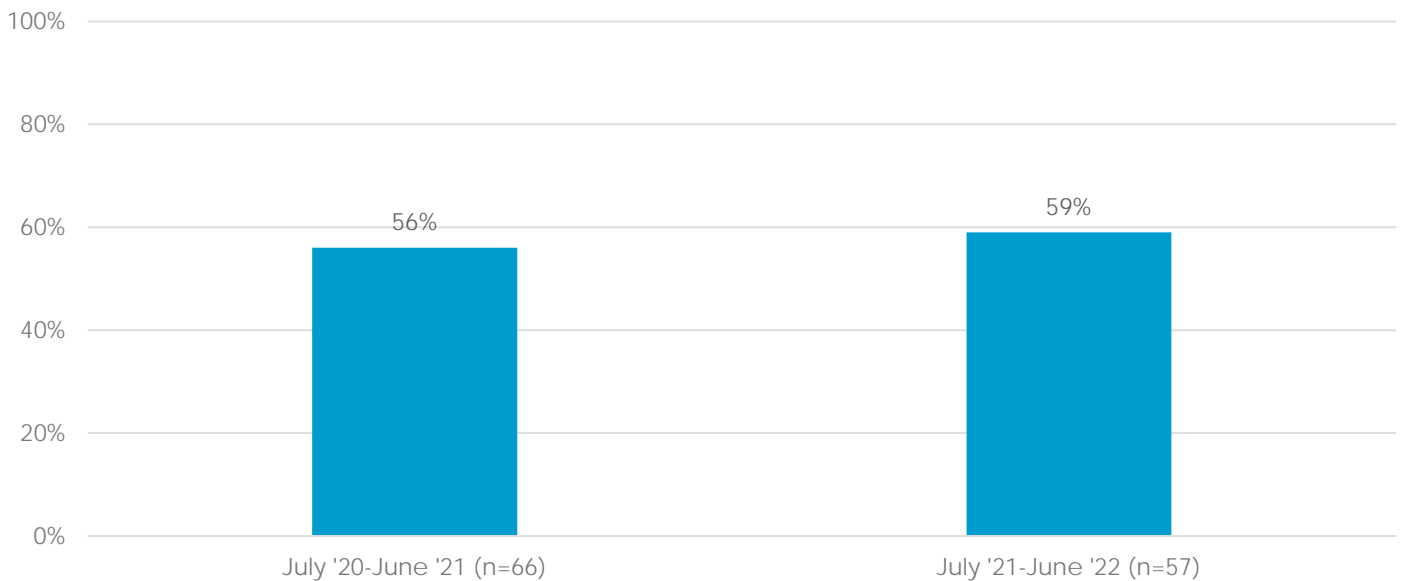


## Impact Outcomes ("Is anyone better off?")

### Client Outcome Improvements



### % of Clients with a Primary Care Visit in the Last 12 Months



## Homeless Full Service Partnership

Through the previously approved MHSA FY20 Annual Update, and as a result of the need to ensure ongoing services and supports for individuals experiencing homelessness following the ending of the Homeless Outreach and Treatment Team (HOTT) Pilot Program, a Homeless Full Services Partnership (HFSP) was developed. The HFSP provides services to individuals primarily in the community, and in any temporary housing placement (e.g. shelter, unhoused encampment) who meet the following criteria:

- Adults (18 years and older);
- Unhoused and those at risk of being unhoused;
- Severe Mental Illness; and
- Significant impairments in functioning (e.g., frequent psychiatric hospital utilization, involvement in the criminal justice system, domestic violence survivors, trauma, severe co-occurring disorders).

The HFSP utilizes a team model for providing intensive treatment, meeting people up to several times per week. The projected number of individuals to be served through this program in FY24 by age category is as follows: 3 Transition Age Youth; 40 Adults; and 12 Older Adults. In FY24, 36 individuals were served. Demographics on individuals served are as follows:

| <b>DEMOGRAPHICS N=36</b>        |                      |                   |
|---------------------------------|----------------------|-------------------|
| <b>Gender Identity</b>          |                      |                   |
| <i>Gender Identity</i>          | <i>Number Served</i> | <i>% of total</i> |
| Male                            | 25                   | 69%               |
| Female                          | 10                   | 28%               |
| Declined to Answer (or Unknown) | 1                    | 3%                |
| <b>Race/Ethnicity</b>           |                      |                   |
| <i>Race/Ethnicity</i>           | <i>Number Served</i> | <i>% of total</i> |
| Black or African American       | 18                   | 50%               |
| Asian Pacific Islander          | 2                    | 5%                |
| Latino/a/x                      | 1                    | 3%                |
| White                           | 14                   | 39%               |
| Other                           | 1                    | 3%                |
| <b>Age Category</b>             |                      |                   |
| <i>Age Category</i>             | <i>Number Served</i> | <i>% of total</i> |
| Transition Age Youth            | 1                    | 3%                |
| Adult                           | 28                   | 78%               |
| Older Adult                     | 7                    | 19%               |
| <b>Sexual Orientation</b>       |                      |                   |
| <i>Sexual Orientation</i>       | <i>Number Served</i> | <i>% of total</i> |
| Heterosexual                    | 28                   | 78%               |
| Bisexual                        | 2                    | 5%                |
| Gay                             | 1                    | 3%                |
| Multiple Sexual Orientations    | 1                    | 3%                |
| Declined to Answer (or Unknown) | 4                    | 11%               |

Flex funds are used to provide supports for FSP program participants. During the timeframe of December 2021-June 2022, 7 partners received rental and housing assistance; 8 received food

and groceries; 1 partner received bus passes; and 1 partner was provided with assistance with their pharmacy needs.

Program Successes:

The HFSP team has systematically worked to engage individuals who historically have had challenges connecting or maintaining connections in team services. This has been accomplished by providing outreach to potential clients; assisting with initial engagement and providing intake assessments in the field; gradually building rapport and trust; overlapping treatment for individuals who have been transferred from another BMH program; providing services and engagement when clients are in in-patient facilities; and maintaining treatment contact, despite challenges to engagement. The team has demonstrated their ability to be flexible to redirect its efforts to support the needs of the unhoused community during the pandemic through the following:

- Met clients where they were at, both physically (e.g. encampments, parks, public spaces, in-patient facilities, shelters) and with respect to their mental health needs (e.g. supporting individuals with challenging behaviors, various stages of change, etc).
- Provided wide range of intensive services, using a client-centered team approach (e.g. clinical case management, providing skill building, direct assistance and tasks, therapy, access to psychiatry, provision of basic needs, symptom management and de-escalation, transportation, foster independence).
- Assisted clients in gaining & maintaining shelter at various placements (e.g. Horizon, Safer Ground COVID respite sites, etc), transitioning to “being housed,” and getting “document ready” (e.g., obtaining documents needed for various housing placements).
- Worked to build collaborative partnerships with staff at community agencies, including but not limited to Lifelong Medical Street Medicine, Homeless Action Center, Bay Area Community Services, Aging Services Division, Housing and Community Services Division, Dorothy Day, East Bay Community Law Center, UC Berkeley, Alameda County Healthcare for the Homeless, Berkeley Food and Housing Project (now Insight Housing), Bonita House, and Villa Fairmont Mental Health Rehabilitation Center.

Program Challenges:

Though the program officially started in March 2021, hiring mental health workers for this new intensive treatment team was slow and the team was not able to be fully staffed until 2023, possibly due in part to the COVID-19 pandemic, overall staffing shortages within the City of Berkeley and the Health Housing & Community Services Department, and staffing turnover. This includes the resignation of the Mental Health Clinical Supervisor, who had been managing some of the data, thus total numbers in FY22 may not fully illustrate the services of the team. Due to the challenges with obtaining and maintaining staffing levels, enrolling individuals into service was also delayed.

In FY22, the RBA Measures that were established for this FSP were as follows:



| <b>Process Measures<br/>How much did we do?</b>                                                                                                                                                                                                                                                  | <b>Quality Measures<br/>How well did we do it?</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | <b>Impact Measures<br/>Is Anyone Better off?</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <ul style="list-style-type: none"> <li>• # of clients served</li> <li>• # of new clients opened for ongoing services</li> <li>• Average # of days in FSP for client</li> <li>• Average # of services hours per client per month</li> <li>• Average # of services per client per month</li> </ul> | <ul style="list-style-type: none"> <li>• % of clients who have at least one completed CANS/ANSA for each six-month period that they are in the program</li> <li>• % of clients and/or their caregivers who receive an average of four or more face-to-face outpatient visits per month</li> <li>• % of discharges from hospitalization who had a follow up visit with HFSP staff within 7 and within 30 calendar days</li> <li>• % of clients with no service gap of over 30 days</li> <li>• #/% of clients closed, by reason closed</li> <li>• % of clients who were satisfied with services**</li> </ul> | <ul style="list-style-type: none"> <li>• # of clients housed**</li> <li>• # of clients who gained or maintained housing since enrollment**</li> <li>• % of clients who had a reduction in jail days in the last 12 months compared to the 12 months before enrollment</li> <li>• % of clients with a primary care visit in the last 12 months</li> <li>• % of clients who had a reduction in psychiatric care emergency services/inpatient/crisis stabilization units in the last 12 months compared to the 12 months before enrollment</li> <li>• % of clients with a decrease in hospitalizations/hospitalization days</li> <li>• % of clients with an increase in the number of days in community living compared to 12 month period before enrollment**</li> </ul> |

\*Demographic data was reported at the program level, where available

\*\*Data not available for baseline reporting period, will be included in future rounds of reporting

| <b>Measure</b>                                  | <b>Definition</b>                                                                                                                                                                                       | <b>Data Source</b> |
|-------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------|
| # clients served                                | Total clients served                                                                                                                                                                                    | Yellowfin          |
| # of new clients                                | Clients who were not served by the program in the previous fiscal year                                                                                                                                  | Yellowfin          |
| Average # of days in FSP per client             | Average length of stay for primary program episodes which have closed since the beginning of the reporting period                                                                                       | Yellowfin          |
| Average # of service hours per client per month | Average of hours of service in a month divided by clients served in a month. Includes all services recorded for clients. Does not include MAA                                                           | Yellowfin          |
| Average # of services per client per month      | Average services in a month divided by clients served in a month. Includes all services recorded for clients. Note: more than one service can be provided during a single contact. Does not include MAA | Yellowfin          |

| Measure                                                                                                                        | Definition                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | Data Source    |
|--------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|
| % of clients who have at least one completed CANS/ANSA for each six-month period that they are in the program                  | Of clients with a completed CANS/ANSA, what percentage of them had an assessment at least every six months?                                                                                                                                                                                                                                                                                                                                                                     | Objective Arts |
| % of clients and/or their caregivers who receive an average of four or more face-to-face outpatient visits per month           | Clients must be been open to a provider for at least 30 days in order to be included in this metric. Phone contacts are included during the pandemic. Days in subacute or jail not counted, but services are counted.                                                                                                                                                                                                                                                           | Yellowfin      |
| % of clients with no service gap of over 30 days                                                                               | Maximum days each Level 1 client went without service during their episode(s) in the reporting period. Only considered clients open to a provider for at least a total of three months during the reporting fiscal year.                                                                                                                                                                                                                                                        | Yellowfin      |
| % of discharges from hospitalization or subacute who had a follow up visit with FSP staff within 7 and within 30 calendar days | Follow-up rates for individuals open to Level 1 providers at the time of MH hospital discharge.                                                                                                                                                                                                                                                                                                                                                                                 | Yellowfin      |
| #/% of clients closed, by reason closed                                                                                        | Discharge reason for clients discharged during the reporting period                                                                                                                                                                                                                                                                                                                                                                                                             | Yellowfin      |
| % of clients who had a reduction in days in psychiatric emergency services/inpatient/crisis stabilization units                | Of clients who completed six consecutive months during the 12-month fiscal year, percentage with a reduction in psychiatric emergency services, inpatient or crisis stabilization unit other than Amber House, when comparing unduplicated days from the 12 months prior to the fiscal year to the current 12-month fiscal year. Excludes clients if out of community (in jail and/or subacute) for six or more months during the current fiscal year or the prior fiscal year. | Yellowfin      |
| % of clients with a decrease in hospitalization                                                                                | Decrease in hospital admits and hospitalization days in the years that a client was active in the program compared to the year prior to program admission. Includes clients who had at least one hospital admit in the 12 months prior to admission and remained in the program for at least 1 year                                                                                                                                                                             | Yellowfin      |
| % of clients who had a reduction in jail days                                                                                  | Of clients who completed six consecutive months during the 12-month fiscal year, percentage with a reduction in jail days, when comparing unduplicated days from the 12 months prior to the fiscal year to the current 12-month fiscal year. Excludes clients if out of community (in                                                                                                                                                                                           | Yellowfin      |

| Measure                                                      | Definition                                                                                                                                                                                                                                                                                          | Data Source |
|--------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------|
|                                                              | hospital and/or subacute) for six or more months during the current fiscal year or the prior fiscal year.                                                                                                                                                                                           |             |
| % of clients with a primary care visit in the last 12 months | Of clients who completed 6 consecutive months during the fiscal year, percentage who had an appointment with a Anthem/Alliance/CHCN primary care provider during the fiscal year. Metric excludes individuals with six or more months out of the community (in Subacute, MH hospital, and/or jail). | Yellowfin   |

Data Development Agenda: measures the team is interested in reporting on but for which reliable data was not available:

- Client satisfaction with services;
- Client engagement in interpersonal activities;
- Client income (incl. entitlements);
- Change in violence (e.g. # of violent interactions reported) experienced by the client;
- Change in educational or workforce training status of client;
- Client-to-staff ratio;
- % staff retention year-to-year;
- % of clients and/or their caregivers who have consented to participate in services and have received one or more face-to-face visits within 7 calendar days of their HFSP referral;
- #/% of clients who maintained housing at 6 months from housing placement date.

To provide context for the FY22 RBA outcomes, the program officially started in March 2021, hiring mental health workers for this new intensive treatment team was slow and the team was not able to be fully staffed until 2023, possibly due in part to the COVID-19 pandemic, overall staffing shortages within the City of Berkeley and the Health Housing & Community Services Department, and staffing turnover. This includes the resignation of the Mental Health Clinical Supervisor and transfer of one of the team's case managers to another division program. Also, due to the challenges with obtaining and maintaining staffing levels, enrolling individuals into service was delayed. In the future, we hope to have more robust data sets to better provide a picture of the work the team is providing to the community.

In FY22, the RBA Outcomes for this FSP were as follows:

## Homeless Full Service Partnership (FSP) Reporting Period: July 2021-June 2022 (Baseline)

### Process Outcomes ("How much did we do?")



Clients Served

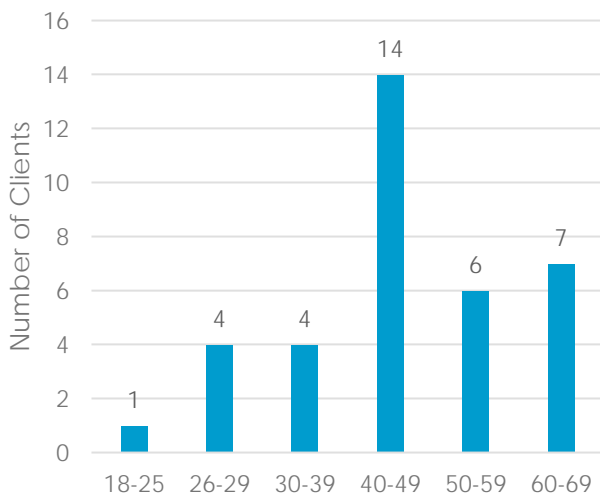


New Clients

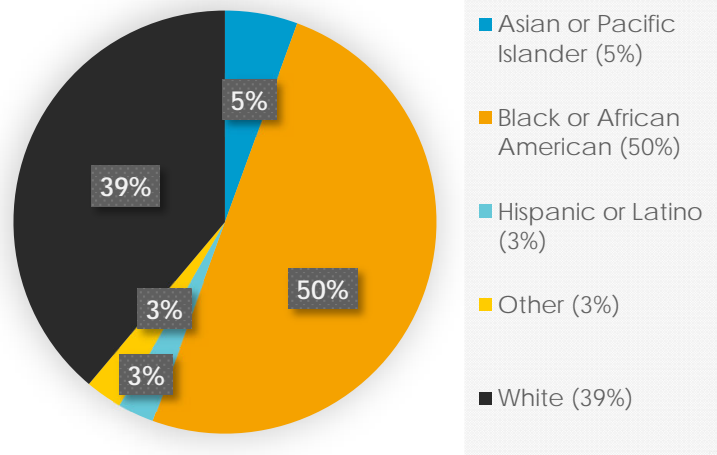
**Program Description:** HFSP serves unhoused residents of Berkeley in an Assertive Community Treatment (ACT) model at high staff to client ratios, providing intensive case management and mental health services in a multi-disciplinary team approach. This team serves those with the highest level of need, supporting a population that is primarily unhoused and has multiple severe functional impairments.

represents 10 clients

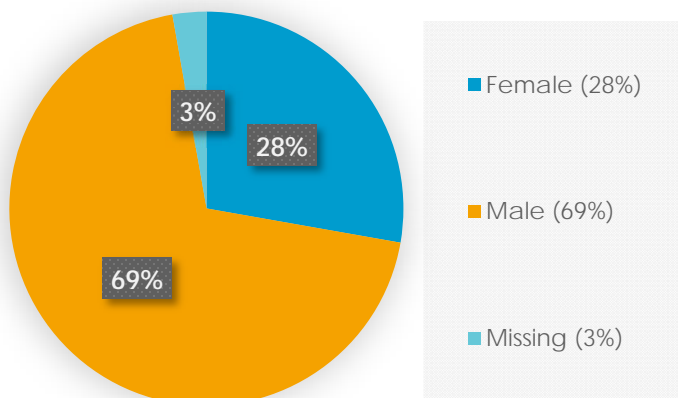
#### Client Demographics (Age)



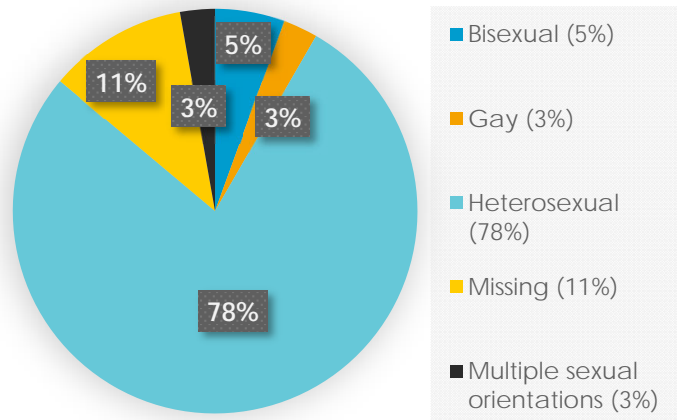
#### Client Demographics (Race)



#### Client Demographics (Gender Identity)



#### Client Demographics (Sexual Orientation)

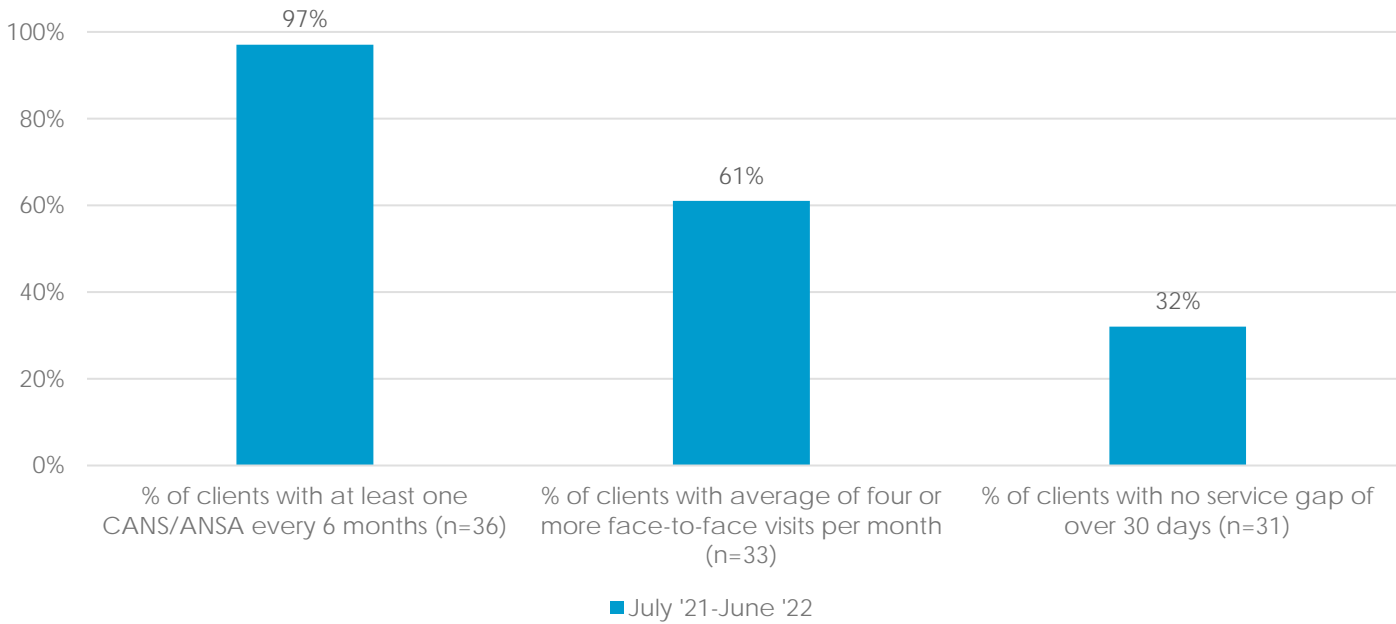


## Quality Outcomes ("How well did we do it?")

The average client served in 2021-2022:

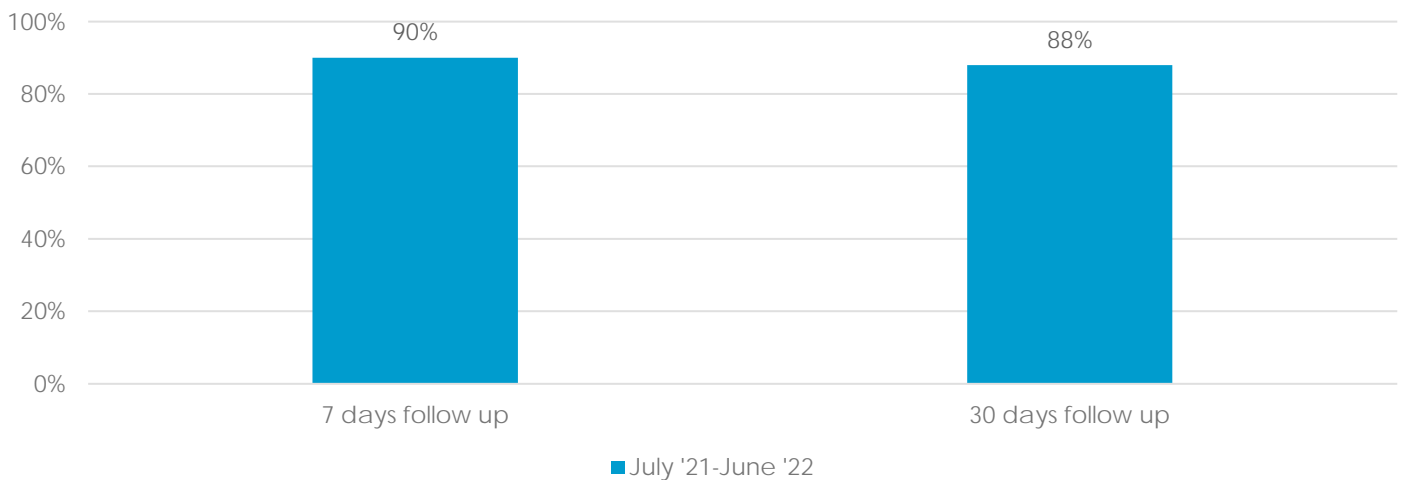
- remained in the FSP program for **263 days**
- received **8.82 hrs** of services per month
- received **6 services** per month

### Service Consistency

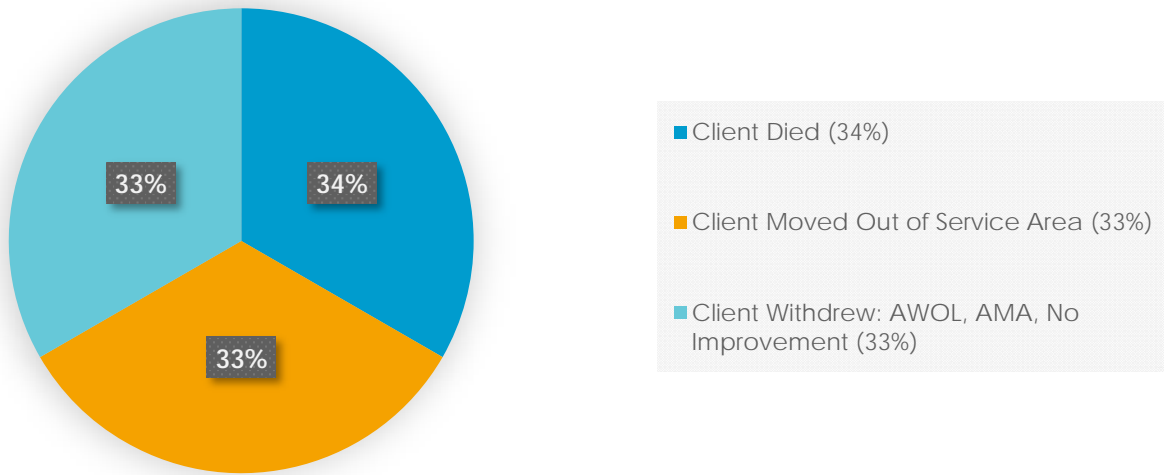


### Hospital Follow Up Consistency

% of discharges from hospitalization or subacute who received FSP follow up within 7 and 30 days (n=10)

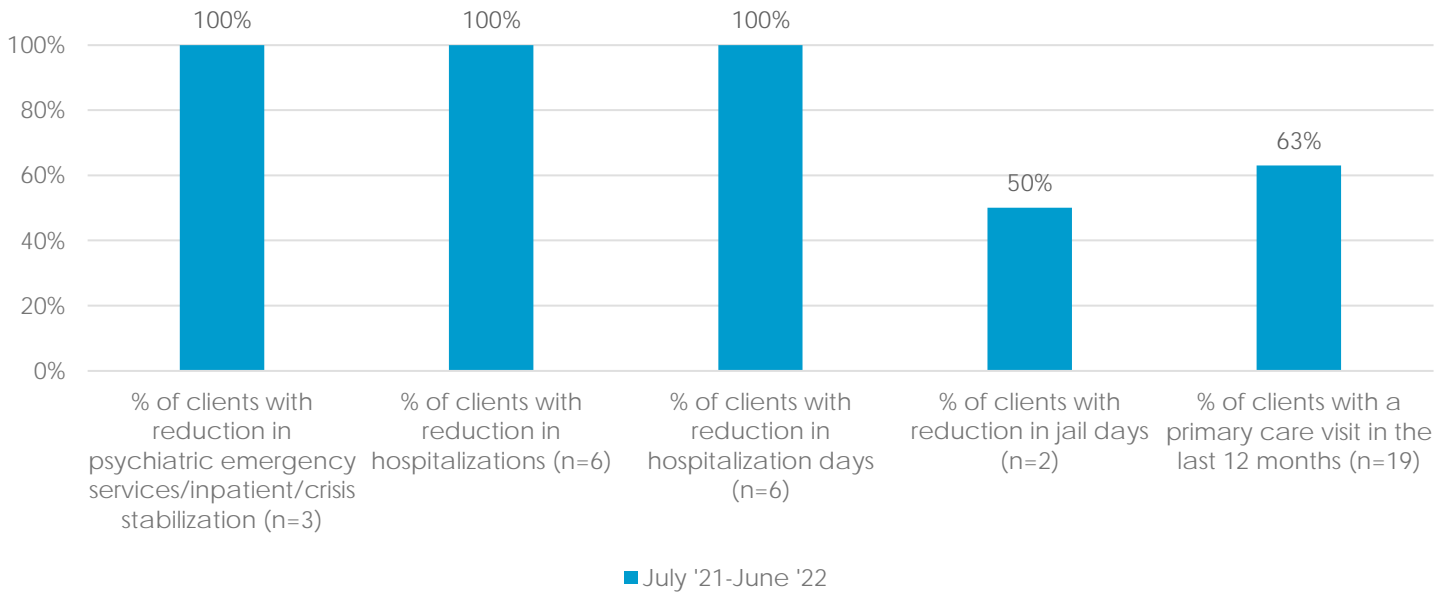


### Clients Closed by Reason Closed (n=3)



### Impact Outcomes ("Is anyone better off?")

#### Client Outcome Improvements



## **MULTI-CULTURAL OUTREACH AND ENGAGEMENT**

### **Diversity & Multicultural Services**

The Diversity & Multicultural Coordinator (DMC) provides leadership in identifying, developing, implementing, monitoring, and evaluating services and strategies that lead to continuous cultural, ethnic, and linguistic improvements within the organization's system of care, with a special emphasis on unserved, underserved, inappropriately served, and emerging populations. The DMC also collaborates with the state, regional counties, other city divisions, local agencies, and community groups in order to address mental health inequities and disparities for targeted populations and communities, and the community-at-large in Berkeley.

#### **The Diversity & Multicultural Coordinator accomplishes these goals by:**

- Providing cultural humility competency training to all behavioral health, community partners, and all stakeholders in Berkeley and other geographic locations in the region as a collaborative partner;
- Performing outreach and engagement to unserved, underserved, inappropriately served and emerging communities and populations;
- Developing long and short-term goals and objectives to promote cultural/ethnic and linguistic competency within the system of care;
- Developing an annual training plan and budget;
- Chairing the agency's Diversity and Multicultural Committee;
- Attending continuous trainings in the areas of cultural competency;
- Monitoring Interpreter and Translation Services for the agency;
- Collaborating with State, Regional, County, and local groups and organizations, and
- Developing and updating BMH's Cultural Humility Competency Plan as needed.

Data and information on Diversity & Multicultural Trainings and Events in FY22, is not available.

### **Transition Age Youth (TAY) Support Services**

The Transition Age Youth (TAY) Support Services program provides outreach, services, supports, and/or referrals to TAY with serious mental health issues who are homeless or marginally housed and not currently receiving services. Priority is given to youth coming out of foster care and/or the juvenile justice system and particular outreach strategies are utilized to engage youth from various ethnic communities, including African Americans, Asian and Latino/a/x populations, among others. Program services include: Culturally appropriate outreach and engagement; peer counseling and support; assessment; individual and group therapy; family education; case management, coaching, ancillary program referrals and linkages. Also provided are services in housing attainment and retention, financial management, employment, schooling, and community involvement. Services are designed to be culturally relevant, tailored to each individual's needs, and delivered in multiple, flexible environments. The main goals of the program are to increase outreach, treatment services, and supports for mentally ill TAY in need, and to promote self-sufficiency, resiliency and wellness. This program serves 15-20 youth at a time. In FY22 this program was not implemented.

## **SYSTEM DEVELOPMENT**

System Development includes Wellness Recovery Support Services that are intended to expand collaboration with stakeholders, promote the values of wellness, recovery and resilience, and move the Division towards a more consumer and family member driven system. Services are comprised of the following main components: Wellness/Recovery System Integration and Family Advocacy Services. Together, both ensures that mental health peers and family members are informed of, and able to be involved in, opportunities to provide input and direction in the service delivery system and/or to participate in recovery-oriented or other supportive services of their choosing. Strategies designed to reach program goals include: developing policies that facilitate the Division in becoming more Wellness & Recovery oriented and consumer/family member driven; outreach to, and inclusion of, mental health peers and family members on Division committees; provision of family support & education; supported employment and vocational services; wellness activities; peer supportive services; and client advocacy. Some of the additional services and supports that CSS System Development provides funding for are as follows: Housing Services and Supports; Benefits Advocacy; Employment/Educational Services; Wellness Recovery Center; Counseling Services for Senior Citizens; Youth Case Management Services; Hearing Voices Groups; Transitional Outreach Team; Flex Funds and Sub-Representative Payee Services for clients, etc.

### **Wellness Recovery Services**

The BMH Wellness Recovery Team works with staff, stakeholders, community members and clients to advance the goals of Wellness and Recovery on a system wide level. In order to accomplish these goals, some of the various tasks include: Recruiting peers for Division committees; convening committees around Wellness Recovery system initiatives; oversight/administration of peer stipends; convening and conducting meetings for the Berkeley "Peers Organizing Community Change (POCC)"; working with staff to develop various Wellness and Recovery related policy and procedures; and oversight of the Division's "Wellness Recovery Activities". The Consumer Liaison is also a resource person around "Mental Health Advance Directives" for individuals desiring to express their treatment preferences in advance of a crisis, and is a participant on a number of local MHSA initiatives. The combination of individual services and system-level initiatives impact all clients and their family members across the system in a given year. In FY22, there were a total of 381 clients in the BMH system.

During the reporting timeframe, some of the various activities of the Wellness Recovery Team that were conducted under the direction of the Consumer Liaison included:

#### Walking Groups

In FY22 the Wellness Recovery Team continued with the offering of walking groups to help with isolation, promote physical activities and socialization. This group was started in 2020 and continues to be a great addition to the Wellness Recovery Activities/groups. The walks in FY22 took place at local parks and neighborhoods in Berkeley and they varied in physical intensity. Participants were required to wear masks and socially distance themselves during the activity. The walks were advertised in the Wellness Recovery monthly newsletter and calendars. There were 36 walks scheduled throughout the year. The parks visited were Ohlone, Grove,



Strawberry Creek, Codornices, Aquatic, and San Pablo Park and the University of California at Berkeley campus and Rose Garden. A total of 11 unduplicated individuals participated in the Walking Groups.

#### Field Trips

In FY22 there weren't any field trips held due to staff shortage and the COVID-19 pandemic.

#### Card Party Groups

In FY22 a total of 35 Card Party groups were offered to inspire individuals to create inspirational cards for individuals in psychiatric hospitals. This program is modeled after the Do-Send-A-Card program created by the San Francisco Mental Health Association. BMH Wellness Recovery staff partnered with the Alameda Network of Mental Health Clients' Reach-Out Program to distribute the cards that were created from the Card Party groups, when they visit the hospitals throughout the County. Patients can choose the card they want to receive. This group was conducted online and the participation was low due to doing the online format. Through this program 175 cards were created and given to the Reach-Out Program. This program has been operating on the Zoom platform and the participants used their personal craft materials to make cards for others. A total of 3 unduplicated individuals participated in the Card Party Groups.

#### Mood Groups

The Mood group is designed for people to share their thoughts and feelings in a safe place where support is offered. In FY22 the weekly support group focused on reviewing moods scales to help participants identify where they were and then share whatever they wanted among non-judgmental peers. This group was impacted in the attendance by the COVID-19 pandemic and conflict among participants. The group was held 23 times in the reporting year and a total of 3 unduplicated individuals participated.

#### Mental Health Advance Directives

One-on-One Consultations on Mental Health Advance Directives are available through Wellness Recovery Staff. Although consultations were advertised in the Wellness Recovery Newsletter and calendar, in FY22 there weren't any requests for this service.

The Wellness Recovery Team also conducted and participated in the following activities during the reporting timeframe: Maintained a monthly newsletter from July 2021-December 2021 that was written, edited and prepared by the Wellness Recovery Staff. The newsletter highlighted wellness tools, community resources, food recipes, fun activities, information about diagnoses, and interviews with community members. The newsletters were published and sent to approximately 150 individuals via mail and another 130 individuals by email. The team transitioned back to calendars in January 2022.

The team of two, became one in January 2022 and it had some impact on the number of groups and services that were provided to the community and peers. The team hosted a Peers Organizing Community Change (POCC) open house to promote peer organization, advocacy and leadership. The Wellness Recovery Team also participated in: The planning and implementation of the May is Mental Health Month event in Berkeley; the Health and Human Resource and Education Center-10x10 8 Dimensions of Wellness, "We move for Health 10x10"

campaign; POCC listening sessions; and the Alameda County Peer Support Specialist certification forums. The Wellness Recovery Team also conducted the Consumer Perception Survey in May 2022 by mail and in person during the State survey period and submitted completed surveys to the state.

In FY22, a total of 35 unduplicated individuals participated in Wellness Recovery services. Demographics on individuals served are as follows:

| <b>DEMOGRAPHICS N=35</b>        |                      |                                       |
|---------------------------------|----------------------|---------------------------------------|
| <b>Gender Identity</b>          |                      |                                       |
| <i>Gender Identity</i>          | <i>Number Served</i> | <i>Percent of Total Number Served</i> |
| Male                            | 5                    | 14%                                   |
| Female                          | 24                   | 69%                                   |
| Gender Non-Conforming           | 1                    | 3%                                    |
| Declined to Answer (or Unknown) | 5                    | 14%                                   |
| <b>Race/Ethnicity</b>           |                      |                                       |
| <i>Race/Ethnicity</i>           | <i>Number Served</i> | <i>Percent of Total Number Served</i> |
| Black or African American       | 8                    | 23%                                   |
| Asian Pacific Islander          | 4                    | 11%                                   |
| Multi-racial                    | 2                    | 6%                                    |
| White                           | 14                   | 40%                                   |
| Declined to Answer (or Unknown) | 7                    | 20%                                   |
| <b>Age Category</b>             |                      |                                       |
| <i>Age in Years</i>             | <i>Number Served</i> | <i>Percent of Total Number Served</i> |
| 25-44 years of Age              | 4                    | 11%                                   |
| 45-64 years of Age              | 23                   | 66%                                   |
| 65 and older                    | 3                    | 9%                                    |
| Declined to Answer (or Unknown) | 5                    | 14%                                   |
| <b>Sexual Orientation</b>       |                      |                                       |
| Heterosexual or Straight        | 7                    | 20%                                   |
| Bisexual                        | 3                    | 9%                                    |
| Questioning                     | 1                    | 3%                                    |
| Declined to Answer (or Unknown) | 24                   | 69%                                   |

**Program Successes:**

Groups continued to meet during the reporting timeframe and there was a consistent number of individuals who benefitted from the activities, especially Walking Group participants who enjoyed the socialization and physical activity it provided. Even though the Card Group met online, a staff member was able to arrange for the cards to be picked up and provided to an agency to be distributed to individuals at Board and Care's and locked facilities.

**Program Challenges:**

The number of groups that were provided to the community was scaled down due to only having one staff running the programs and groups. The Card Party Group which originally met four times a month had to be scaled back to meeting twice a month. The number of cards made were also reduced due to individuals not having the materials to make the cards, or drop them off, despite the efforts staff made available to them.

In FY22, the RBA measures for this program (which were combined with the Social Inclusion, Telling Your Story Project measures, as both are conducted by the same staff) were as follows:

| <b>Process Measures</b><br><b>How much did we do?</b>                                                                                                                                                                                                                                   | <b>Quality Measures</b><br><b>How well did we do it?</b>                                            | <b>Impact Measures</b><br><b>Is Anyone Better off?</b>                                                                                                                                                                |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <ul style="list-style-type: none"> <li>• # of participants served</li> <li>• # of different groups convened per year</li> <li>• # of group events held per year</li> <li>• # of group participants who meet the requirements for "Telling Your Story" (MHSA PEI Requirement)</li> </ul> | <ul style="list-style-type: none"> <li>• #/% of participants who return for group events</li> </ul> | <ul style="list-style-type: none"> <li>• #/% of participants who reported feeling less shame about their experiences and challenges</li> <li>• #/% of participants who reported progress in their recovery</li> </ul> |

| <b>Measure</b>                                                                           | <b>Definition</b>                                                                                       | <b>Data Source</b>                         |
|------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------|--------------------------------------------|
| # participants served                                                                    | Total # of participants served                                                                          | Wellness Recovery Group Attendance Tracker |
| # of different group convened                                                            | Number of different types of groups (i.e. walking group, mood group, Telling Your Story group) convened | Wellness Recovery Group Attendance Tracker |
| Group events                                                                             | Total number of meetings held                                                                           | Wellness Recovery Group Attendance Tracker |
| # of participants who meet the requirements for "Telling Your Story"                     | Total number of participants in all "Telling Your Story" meetings                                       | Wellness Recovery Group Attendance Tracker |
| # of participants who return for group events                                            | Of total number of participants, % who returned for more than one event or meeting                      | Wellness Recovery Group Attendance Tracker |
| % of participants who reported feeling less shame about their experiences and challenges | Of participants who took the survey, percent who responded "agree" or "strongly agree" to the question. | Telling Your Story Survey                  |
| % of participants who reported recognizing progress in their recovery                    | Of participants who took the survey, percent who responded "agree" or "strongly agree" to the question. | Telling Your Story Survey                  |

Data Development Agenda: measures the team is interested in reporting on but for which reliable data was not available:

- Advance Directives Data:
  - #/% of participants with an Advance Directive completed;
  - #/% of participants able to advocate for themselves with service providers;
- Equity of services (e.g. client demographics compared to Medi-Cal population);

- % of clients who were satisfied with services.

In FY22, the RBA Outcomes for this program were as follows:

## Wellness & Recovery Services RBA Outcomes

Reporting Period: July 2021-June 2022 (Baseline)

### Process Outcomes ("How much did we do?")

**Program Description** The Wellness and Recovery Program is designed to provide outreach, support, education, activities, and advocacy to consumer members living with mental illness and living in Berkeley. Wellness group activities include: Berkeley Pool of Consumer Champions (POCC), Card Groups, Mood Groups, Walking Groups, and field trips.



Participants served



Different groups convened



Group events



Participants who meet the requirements for "Telling Your Story"

represents 10 clients/events/groups

#### Quality Outcomes ("How well did we do it?")

**71%**

of participants returned for group events

#### Impact Outcomes ("Is anyone better off?")

**4 out of 5**

participants reported feeling less shame about their experiences and challenges (n=5).

**3 out of 5**

participants reported recognizing progress in their recovery (n=5).

**Family Support Services**

A Family Service Specialist works with family members, staff, community-based organizations etc. to improve services and supports for BMH clients and their family members on a system-wide level. Services provide both individual family services and supports, and system-wide change initiatives.

This family/caregiver-centered program provides information, education, advocacy and support for family/caregivers of children, adolescents, TAY, adults and older adults with serious emotional disturbance or severe mental illness. Services are provided in a culturally responsive manner providing outreach to people of various ethnicities and language groups.

The Family Services Specialist serves as a point of contact for family members who are currently accessing or attempting to access services and/or who have questions and concerns about the mental health system, providing them with supports, and as needed, referrals to additional community resources. Outreach is provided to families through existing BMH family support groups, NAMI of the East Bay, community clinics and the Alameda County Family Education Resource Center (FERC). Additionally, the Family Services Specialist coordinates forums for family members to share their experiences with the system; recruit’s family members to serve on BMH committees; supports family members through a “Warm line”; conducts a Family Support Group; and creates training opportunities to educate mental health staff on how to effectively work with families. The combination of individual services and system-level initiatives impact all clients and their family members across the system in a given year. In FY22, there were a total of 381 clients in the BMH system.

During the reporting timeframe, the following individual or group services and supports were conducted through this program:

**Warm Line Phone Support:** A phone Warm Line provided a sympathetic resource for family members needing information, referrals, supports, and assistance in navigating the complex mental health system. Through the Warm Line, the Family Services Specialist helped families find services and resources as needed.

**Family Support Group:** Provided supports for parents, children, siblings, spouses, significant others or caregivers. The group met once a month for two hours.

During FY22 a total of 14 family members were served. Demographics of individuals served are outlined below:

| <b>DEMOGRAPHICS N=14</b> |                      |                                       |
|--------------------------|----------------------|---------------------------------------|
| <b>Gender Identity</b>   |                      |                                       |
| <i>Gender Identity</i>   | <i>Number Served</i> | <i>Percent of Total Number Served</i> |
| Male                     | 2                    | 14%                                   |
| Female                   | 12                   | 86%                                   |

| <b>Race/Ethnicity</b>           |                      |                                       |
|---------------------------------|----------------------|---------------------------------------|
| <i>Race/Ethnicity</i>           | <i>Number Served</i> | <i>Percent of Total Number Served</i> |
| Black or African American       | 1                    | 7%                                    |
| Asian Pacific Islander          | 1                    | 7%                                    |
| White                           | 11                   | 79%                                   |
| Multi-racial                    | 1                    | 7%                                    |
| <b>Age Category</b>             |                      |                                       |
| <i>Age in Years</i>             | <i>Number Served</i> | <i>Percent of Total Number Served</i> |
| 25-44 years                     | 1                    | 7%                                    |
| 45-64 years                     | 6                    | 43%                                   |
| 65+ years                       | 7                    | 50%                                   |
| <b>Sexual Orientation</b>       |                      |                                       |
| Declined to answer (or unknown) | 14                   | 100%                                  |

As the Family Services Specialist position was vacant from April 2019 to May 2023, the previous position holder continued the Family Support Group and occasional Warm Line Phone support. In addition, the global COVID-19 pandemic resulted in a pause of the Family Support Group which is reflected in the low number of individuals served during the reporting timeframe.

### **Employment Services**

Previously, a BMH Employment Specialist provided services to support individuals in job readiness and accessing employment opportunities. It was envisioned that these services would at a minimum, create and nurture supported vocational, educational and volunteer “try-out” opportunities in the community; build employment and educational readiness; and increase the numbers of individuals who are gainfully employed and/or engaging in other meaningful activities such as school or volunteer work. Different strategies were implemented along the way including utilizing the Dartmouth model of supported employment. The Dartmouth model helps to promote wellness and recovery by enabling clients to work alongside other non-mentally ill workers in a competitive environment in their community. In this model, employment supports were provided to clients from multiple sources including the following: Employment Specialist; Case Manager; Psychiatrist; and any involved Family Members. The Employment Specialist also: provided supports to clients who were interested in starting their own business by guiding them through the necessary steps of getting a license, advertising, etc.; assisted clients who weren’t quite ready to obtain employment, in becoming involved in volunteer opportunities; connected clients with the Department of Rehabilitation for computer skills training; worked with staff to ensure clients were adhering to their medication regimen; and supported clients in filling out job applications and or practicing their interview skills.

Although various strategies were implemented over the years, client participation and employment outcomes remained low through FY12, followed in FY13, with an unexpected vacancy in the Employment Specialist position. Low client outcomes coupled with a vacancy in the position prompted BMH to evaluate current best practices for mental health client employment. Additionally, input received during various MHS Community Program Planning processes, provided recommendations on strategies to better support clients in reaching their employment goals, such as: assisting clients on interviews and on what to share with an

employer regarding reasonable accommodations; providing mentoring and job shadowing; implementing technology training for clients; having services be integrated and supported, and implementing evidence-based practices.

A new Employment Specialist position was proposed through a previously approved Three Year Plan. It was envisioned that once hired, the Employment Specialist would be focused on utilizing an evidenced based model for supporting individuals with serious mental illness in obtaining and retaining competitive employment. The hiring process for this position has not occurred yet, as the City of Berkeley has been evaluating whether the best use of funds would be to hire the full-time position, or to contract the services out to a local organization that focuses on employment services and supports for mental health consumers. As a decision on the best approach had not been finalized yet, in the previously approved MHSA FY19 Annual Update, the Division requested to have flexibility on how to best utilize funds allocated for the Employment Services Specialist position.

### **Housing Services and Supports**

The Housing Specialist provides housing resource services for clients; working with landlords to increase housing opportunities; collaborating with case management staff, landlords, and Board & Care Managers to provide additional supports for clients who are already housed; and works in tandem with the City of Berkeley HHCS Department Hub (which serves as a single entry point into emergency shelter and transitional housing, where clients are triaged based on their housing and service needs). Some of the various places where clients with subsidies are housed are the Berkeley Food and Housing Project Russell Street Residence Board and Care, McKinley House, and Lakehurst Hall.

### **Benefits Advocacy Services**

Through this project a community-based organization, the Homeless Action Center (HAC), assists clients in obtaining public benefits. Services are provided for approximately 10 BMH clients a year. In FY22, 7 clients were served through this program. Demographics on those served were as follows:

| <b>DEMOGRAPHICS N=7</b>   |                      |                                       |
|---------------------------|----------------------|---------------------------------------|
| <b>Gender Identity</b>    |                      |                                       |
| <i>Gender Identity</i>    | <i>Number Served</i> | <i>Percent of Total Number Served</i> |
| Male                      | 4                    | 57%                                   |
| Female                    | 2                    | 29%                                   |
| Gender Non-Conforming     | 1                    | 14%                                   |
| <b>Race/Ethnicity</b>     |                      |                                       |
| <i>Race/Ethnicity</i>     | <i>Number Served</i> | <i>Percent of Total Number Served</i> |
| Black or African American | 3                    | 43%                                   |
| White                     | 3                    | 43%                                   |
| Latino/a/x                | 1                    | 14%                                   |



| <b>Age Category</b>             |                      |                                       |
|---------------------------------|----------------------|---------------------------------------|
| <i>Age</i>                      | <i>Number Served</i> | <i>Percent of Total Number Served</i> |
| 18-24 years                     | 1                    | 14%                                   |
| 25-44 years                     | 5                    | 71%                                   |
| 45-64 years                     | 1                    | 14%                                   |
| <b>Sexual Orientation</b>       |                      |                                       |
| Declined to Answer (or Unknown) | 7                    | 100%                                  |

#### Program Successes:

In FY22, all cases were closed because they were won. In each case, the win was at the Initial or Reconsideration level of the SSI application process, the client did not have to wait for the next level of appeal, the Administrative Law Judge (ALJ) hearing, which often means an additional wait of over a year. Success at the Initial and Reconsideration stages of the process are fairly rare without advocacy and without treating providers who care enough to help document the case. Because of the MHSA-funded referral partnership between HAC and Berkeley Mental Health, these clients had both of these advantages.

#### Program Challenges:

The caseload for the year was lower than anticipated. Four of the referrals received during the fiscal year were closed without the case being taken due to either not being able to locate the client or the client being ineligible for SSI benefits. The process will continue to be reviewed to see if there are ways to improve the ability to connect with the clients that are referred, and to get referrals that are appropriate for the service.

#### **Flexible Funds for Level One Clients**

A contract with the community-based organization, Berkeley Food & Housing Project (now known as Insight Housing), enables flexible funds to be used with clients across the system for supports such as housing, clothing assistance, food, transportation, etc. This use of flexible funds aids individuals in achieving better stability in areas where they are less capable of addressing their daily living needs. This program is set up to aid any clients in need across the system in a given year. In FY22, there were a total of 381 clients in the BMH system.

#### **Mobile Crisis Team (MCT) Expansion**

Through the previously approved MHSA FY14/15 - 16/17 Three Year Plan, and as a result of staff and community input on increasing and improving services for those experiencing a mental health crisis, the following additions to BMH have been or are in the process of being implemented through CSS System Development funds:

- Increase in staff to expand the Mobile Crisis Team (MCT) capacity and hours of operation;
- Mental Health First Aid Trainings to teach community members how to assist individuals who are in crisis or are showing signs and symptoms of a mental illness;
- A Consumer/Family Member Satisfaction Survey for Crisis services.

In FY22, the RBA Measures that were established for this program were as follows:

| <b>Process Measures</b><br>How much did we do?                                                          | <b>Quality Measures</b><br>How well did we do it?                                                                                                                                                                                                                                                                              | <b>Impact Measures</b><br>Is Anyone Better off?                               |
|---------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------|
| <ul style="list-style-type: none"> <li># of clients served</li> <li># of documented contacts</li> </ul> | <ul style="list-style-type: none"> <li>% of clients who receive a visit (phone contact with client or hospital provider) in the 24 hours after hospitalization</li> <li>% of Mobile Crisis Team who had a Crisis, Assessment Team staff attempt to contact</li> <li>% of clients who were satisfied with services**</li> </ul> | <ul style="list-style-type: none"> <li>None available at this time</li> </ul> |

\*Demographic data was reported at the program level, where available

\*\*Data not available for baseline reporting period, will be included in future rounds of reporting

| <b>Measure</b>                      | <b>Definition</b>                                                                                                 | <b>Data Source</b> |
|-------------------------------------|-------------------------------------------------------------------------------------------------------------------|--------------------|
| # clients served                    | Total unique clients served                                                                                       | MCT Contact Log    |
| Client contact types                | # of client contacts made, by<br>a. Field contacts<br>b. Phone contacts<br>c. Other                               | MCT Contact Log    |
| Total referrals, by referring party | # of crisis services referrals made to the MCT, by referring party (i.e. BPD, BFD, BMH, community, etc.)          | MCT Contact Log    |
| # of 5150 evaluations conducted     | Total number of incidents with 5150 Evaluations of any sort                                                       | MCT Contact Log    |
| Results of 5150 Evaluations         | % of 5150 evaluations that did or did not result in transportation to a receiving facility for further evaluation | MCT Contact Log    |
| Number of interventions per client  | % of clients who had one, two, or more than two interventions                                                     | MCT Contact Log    |

Data Development Agenda: measures the team is interested in reporting on but for which reliable data was not available:

- #/% of calls to CAT line that receive crisis intervention support that does not involve the police: crisis referral to non-MCT, crisis support, de-escalation support;
- % of clients who receive a follow-up call for a no-show screening, intake or appointment;
- #/% of no-show clients for whom there is inter-system coordination to engage;
- #/% of clients and families who receive connection to grief counseling and other services;
- % of clients connected to a service team within 7 calendar days;
- % of clients assessed or referred on the same day as inquiry.

In FY22, the RBA Outcomes for this program were as follows:

# Mobile Crisis Team (MCT) RBA Outcomes

## Reporting Period: July 2021-June 2022 (Baseline)

### Process Outcomes ("How much did we do?")



**932** 

Clients Served

 = 100 clients



**1486** 

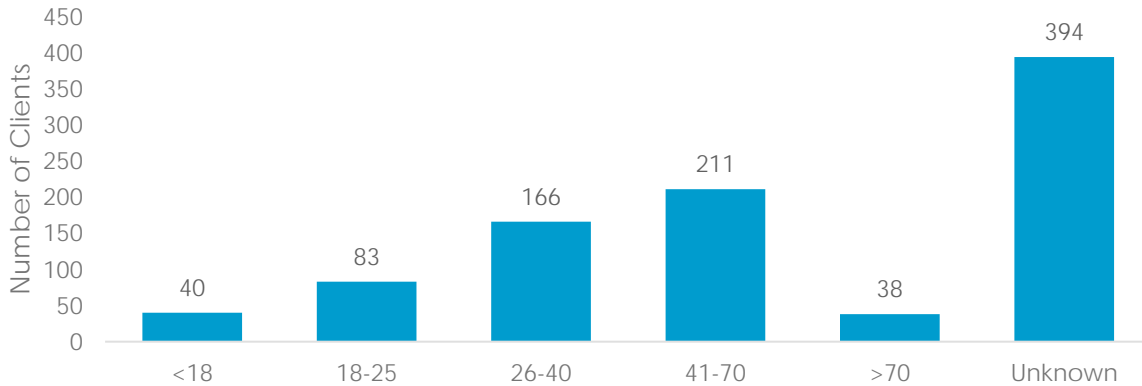
Incidents Responded To

 = 100 incidents

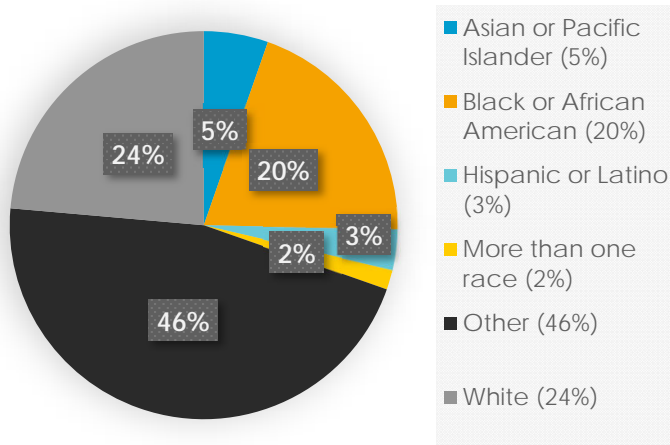
#### Program Description

The Mobile Crisis Team (MCT) provides mobile crisis services to residents of Berkeley, from 11:30a-10p each day of the week, when fully staffed. It provides crisis interventions, including but not limited to 5150 evaluations, consultations, and referrals/linkages.

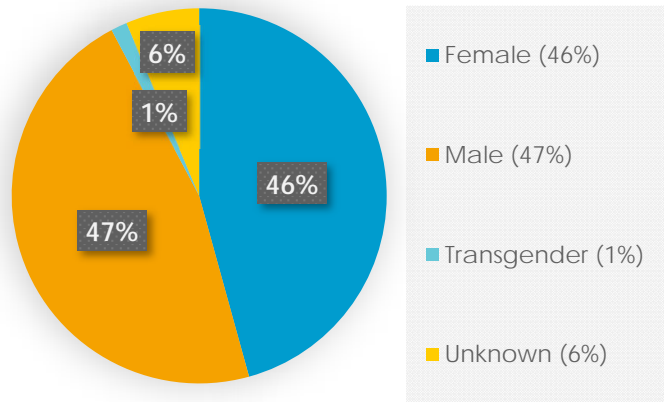
#### Demographics (Age)



#### Demographics (Race)



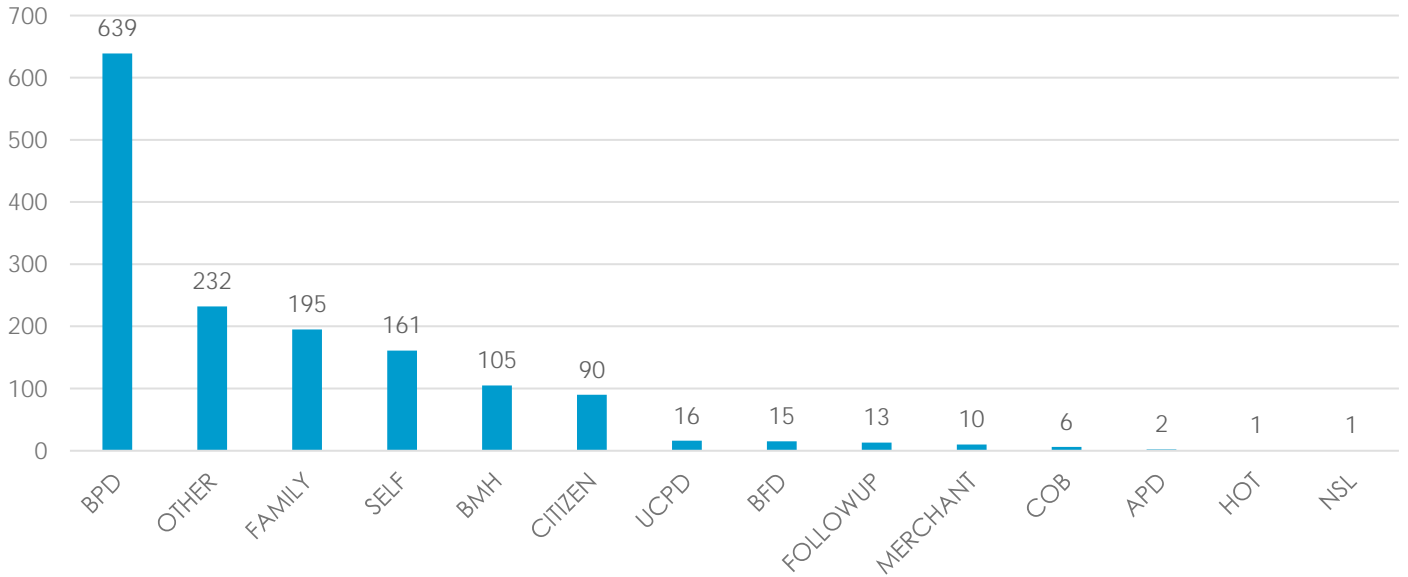
#### Demographics (Gender Identity)



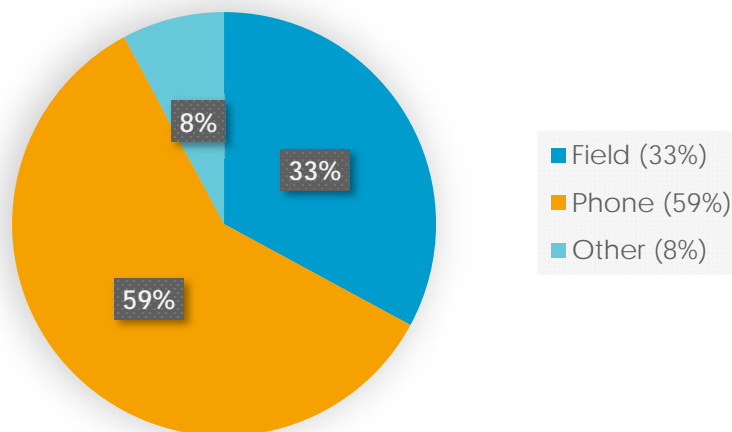
\*Sexual Orientation data not available

In 2021-2022, the MCT program performed **395** 5150 Evaluations

### Total Referrals, by Referring Party (n=1486)

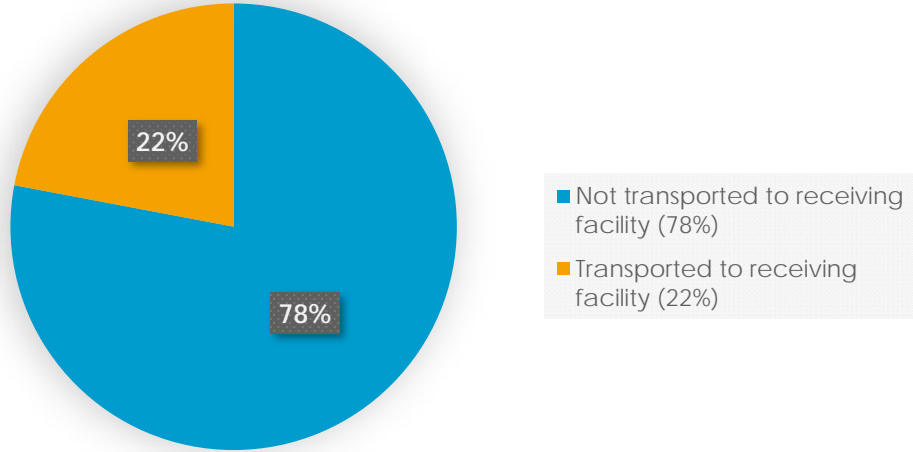


### Client Contact Types (n=1486)



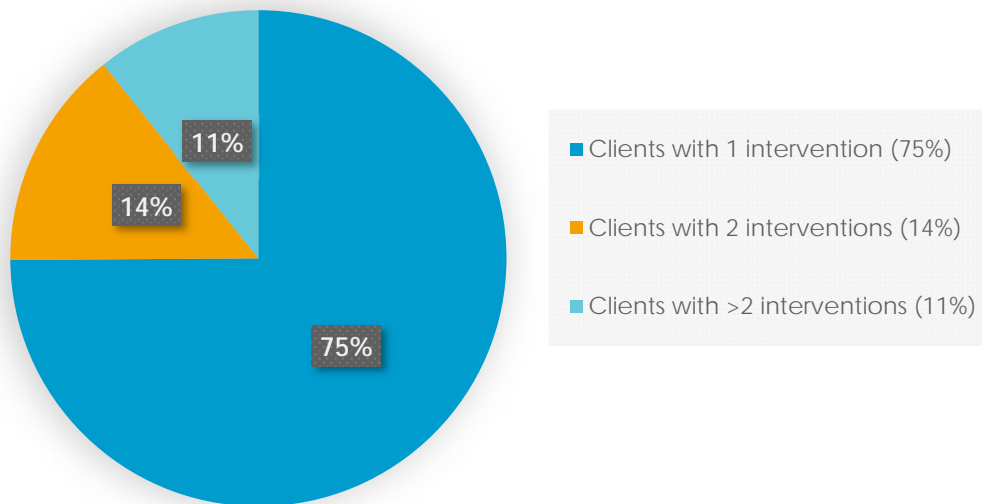
## Quality Outcomes ("How well did we do?")

Results of 5150 Evaluations (n=395)



## Impact Outcomes ("Is anyone better off?")

Number of Interventions per Client (n=932)



### Transitional Outreach Team (TOT)

The Transitional Outreach Team (TOT) was added thru the previously approved MHSA FY16 Annual Update to support Crisis Services, through interventions that address issues individuals experience either immediately prior to, or following a mental health crisis. This team, follows up with individuals and families that have had a recent crisis. The goal of the team is brief outreach and engagement to assist the individual and/or family in getting connected to the resources they may need.

In FY22, 127 individuals were served through this project. Demographics on those served were as follows:

| <b>DEMOGRAPHICS N=127</b>       |                      |                                       |
|---------------------------------|----------------------|---------------------------------------|
| <b>Gender Identity</b>          |                      |                                       |
| <i>Gender Identity</i>          | <i>Number Served</i> | <i>Percent of Total Number Served</i> |
| Male                            | 58                   | 46%                                   |
| Female                          | 65                   | 51%                                   |
| Declined to Answer (or Unknown) | 4                    | 3%                                    |
| <b>Race/Ethnicity</b>           |                      |                                       |
| <i>Race/Ethnicity</i>           | <i>Number Served</i> | <i>Percent of Total Number Served</i> |
| Black or African American       | 39                   | 31%                                   |
| Asian Pacific Islander          | 9                    | 7%                                    |
| Latino/a/x                      | 7                    | 6%                                    |
| Multi-racial                    | 1                    | <1%                                   |
| White                           | 34                   | 27%                                   |
| Declined to Answer (or Unknown) | 37                   | 29%                                   |
| <b>Age Category</b>             |                      |                                       |
| <i>Age in Years</i>             | <i>Number Served</i> | <i>Percent of Total Number Served</i> |
| 0-15                            | 12                   | 10%                                   |
| 16-25                           | 18                   | 14%                                   |
| 26-59                           | 61                   | 48%                                   |
| 60 years and older              | 18                   | 14%                                   |
| Declined to Answer (or Unknown) | 18                   | 14%                                   |
| <b>Sexual Orientation</b>       |                      |                                       |
| Declined to Answer (or Unknown) | 127                  | 100%                                  |

Services provided by this team are subject to the number of referrals that are generated by the Mobile Crisis Team crisis calls. Clients served by TOT often enter the crisis system with fewer resources such as collateral supports, lack of insurance, etc. As a result of the pandemic many services were switched from in-person to telephone supports and tele-health.

Outcomes during the reporting timeframe:

- Continued successful follow-up with residents who had contact with Mobile Crisis by phone and/or in person.
- Connected individuals and families to needed and wanted mental health, housing, family, and other social services.

- Offered intensive short-term support to individuals and families who experienced a mental health crisis, including referrals, linkages, psychoeducation, and active support in connecting with needed services in Berkeley or elsewhere in the system of care.
- Provided remote outreach and engagement to individuals in inpatient settings who needed assistance connecting to treatment and were unlikely to make it to the clinic for an intake. Settings included John George Psychiatric Facility, Villa Fairmont, Herrick Hospital, Woodrow House, and other sites. TOT staff worked with facility staff in addition to mental health peers.
- Provided in-person outreach and engagement to individuals receiving homeless services and staff at homeless service provider agencies, including Dorothy Day, BOSS, BFHP, and others. Also conducted in-person outreach at Horizon Transitional Shelter and Spark RV Park.
- Coordinated with other programs within the Division, including the Crisis/Assessment/Triage (CAT) On Duty staff; field-based services such as Mobile Crisis (MCT); the Homeless Outreach and Treatment Team (HOTT), which was discontinued in FY21 and replaced with the Homeless Full Services Partnership; and with the case management teams at the Adult and Children's clinics.

In September FY22, the TOT merged with the CAT team to form CAT/TOT. This was done due to several reasons: 1) One TOT staff resigned and there was only one remaining clinician; 2) Many of the duties completed by TOT were similar to those provided by the CAT team and it made sense to combine teams to increase flexibility of staffing capacity and services.

#### Program Successes:

- TOT continued to provide services during the COVID-19 pandemic, though the majority of the work was via telephone and other remote service options (e.g. Zoom).
- Continued to link individuals who may have had barriers, ambivalence, or difficulty engaging with the mental health system to appropriate and desired services through outreach and engagement.
- Although staff was decreased by 50% in 2021, once the TOT program was merged with the CAT Team, the numbers of contacts increased again.

#### Program Challenges:

- The COVID-19 pandemic led to psychiatric facilities and hospitals limiting or halting in-person visits, leading to a steep decline in possible outreach options.
- TOT as a program was set up as a two-person team. During FY22, one staff person resigned, which led to a sharp decrease in the ability of staff to provide services.
- The data collection system utilized does not capture all necessary information that would support accurate outcome reporting.

In FY22, the RBA measures that were established for TOT/CAT were measures as follows:

| <b>Process Measures</b><br>How much did we do?                                                          | <b>Quality Measures</b><br>How well did we do it?                                                                                                                                                                                                                                                                              | <b>Impact Measures</b><br>Is Anyone Better off?                               |
|---------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------|
| <ul style="list-style-type: none"> <li># of clients served</li> <li># of documented contacts</li> </ul> | <ul style="list-style-type: none"> <li>% of clients who receive a visit (phone contact with client or hospital provider) in the 24 hours after hospitalization</li> <li>% of Mobile Crisis Team who had a Crisis, Assessment Team staff attempt to contact</li> <li>% of clients who were satisfied with services**</li> </ul> | <ul style="list-style-type: none"> <li>None available at this time</li> </ul> |

\*Demographic data was reported at the program level, where available

\*\*Data not available for baseline reporting period, will be included in future rounds of reporting

| <b>Measure</b>                                     | <b>Definition</b>                                                                                                               | <b>Data Source</b>                                             |
|----------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------|
| # clients served                                   | Total unique clients served                                                                                                     | Mobile Crisis Team (MCT) & Crisis Assessment (CAT) Contact Log |
| # of documented contacts                           | Total number of documented incidents                                                                                            | MCT & CAT Contact Log                                          |
| Follow-up after hospitalization                    | % of clients who receive a visit (phone contact with client or hospital service provider) in the 24 hours after hospitalization | MCT & CAT Contact Log                                          |
| % of MCT contacts who had a CAT attempt to contact | Of Client IDs in MCT contact log, % which also have record in CAT contact log                                                   | MCT & CAT Contact Log                                          |

Data Development Agenda: measures the team is interested in reporting on but for which reliable data was not available:

- #/% of calls to CAT line that receive crisis intervention support that does not involve the police: crisis referral to non-MCT, crisis support, de-escalation support.
- % of clients who receive a follow-up call for a no-show screening, intake or appointment.
- #/% of no-show clients for whom there is inter-system coordination to engage.
- #/% of clients and families who receive connection to grief counseling and other services
- % of clients connected to a service team within 7 calendar days
- % of clients assessed or referred on the same day as inquiry

For context around the FY22 RBA Outcomes, during the reporting period the TOT merged with the Crisis Assessment and Triage (CAT) team to form CAT/TOT as previously stated due to staffing limitations and to increase flexibility of staffing capacity. As a result of this merger, the number of clients served is higher than in previous years.

- 1) COVID-19 pandemic led to psychiatric facilities and hospitals limiting or halting in-person visits, leading to a steep decline in possible outreach options, both in person and via phone.



- 2) TOT as a program was set up as a two-person team. During FY22, one staff person resigned, which lead to a sharp fall in the ability of staff to provide services until the merger of the two teams and the increase of staff to provide TOT services.

RBA Outcomes in FY22 were as follows:

# Crisis, Assessment, Triage (CAT) and Transitional Outreach Team (TOT) RBA Outcomes

Reporting Period: July 2021-June 2022 (Baseline)

## Process Outcomes ("How much did we do?")



721



Clients Served

= 100 clients

### Program Description

CAT/TOT is BMH's intake and follow-up team for Adult Mental Health Services. This team provides screening/assessment for ongoing mental health services, linkage to community-based resources, crisis support, and coordination with other agencies. Services include, but are not limited to: psychiatric services, transportation, food access, medical care, health insurance, benefits, legal assistance, affordable housing listings, utilities and energy assistance resources. Services are provided in person at our clinic, as well as via the team phone line.



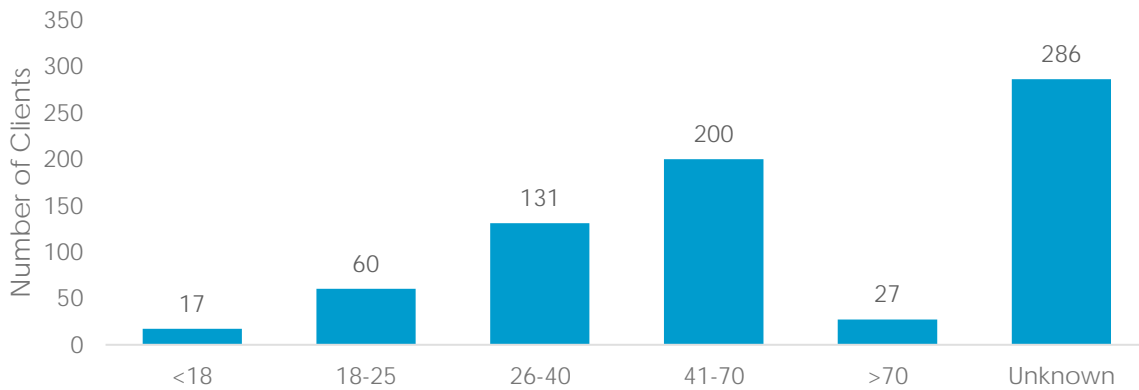
1448



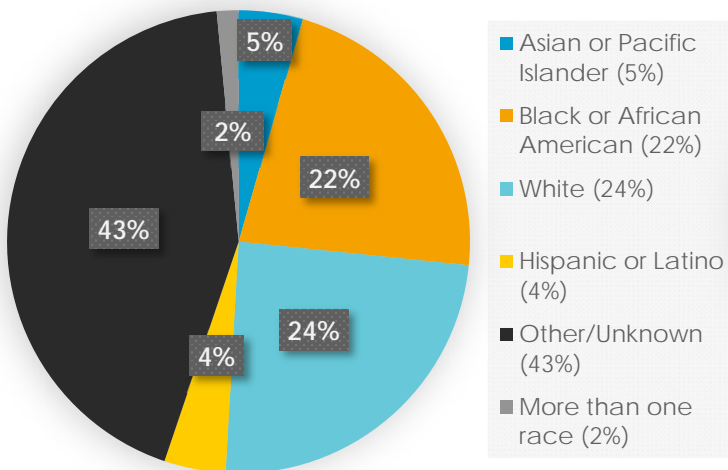
Contacts

= 100 contacts

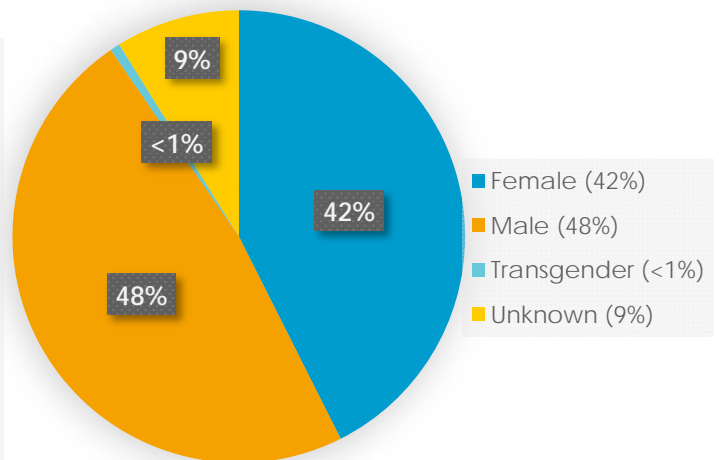
### Demographics (Age)



### Demographics (Race)



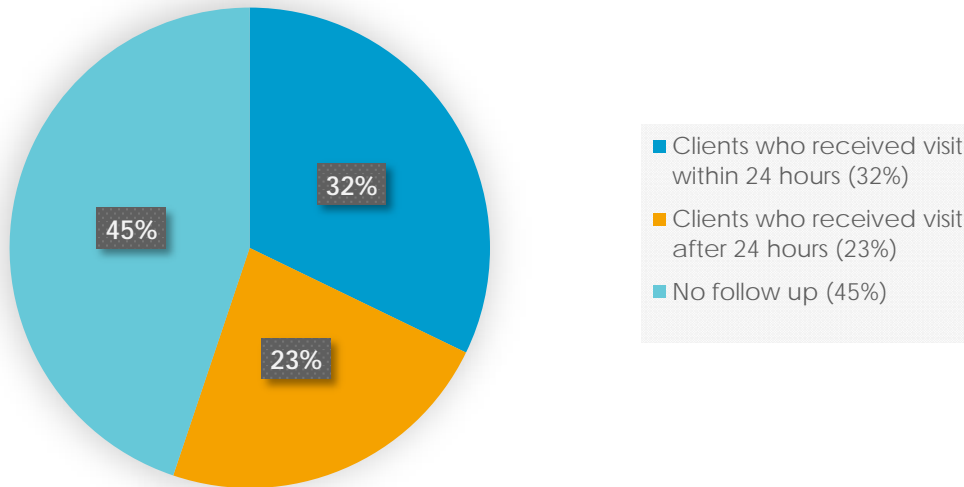
### Demographics (Gender Identity)



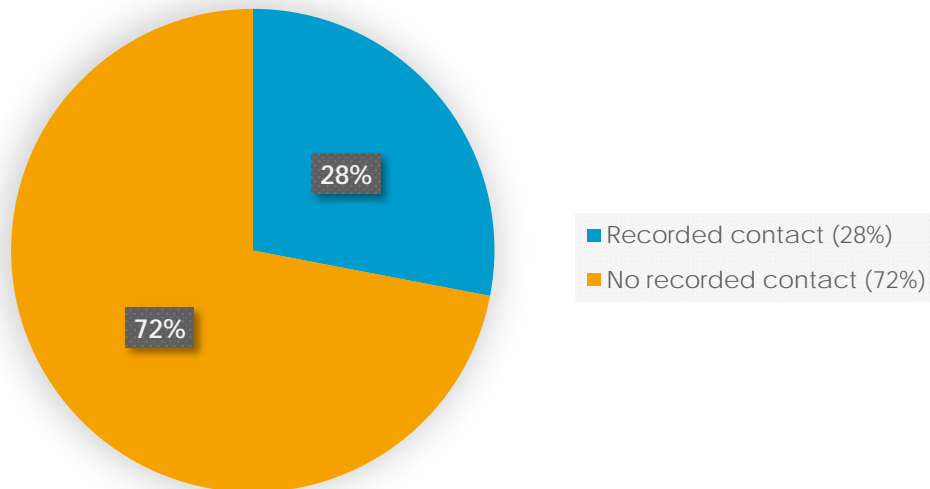
\*Sexual Orientation data not available

## Quality Outcomes ("How well did we do it?")

### Follow-up after hospitalization (n=87)



### MCT contacts with CAT attempt to contact (n=932)



### Sub-Representative Payee Program

The Sub-representative Payee Program is implemented through the contractor, Building Opportunities for Self-Sufficiency (BOSS). Through this program services are provided to individuals who are in need of a payee to assist with managing their money. Approximately 79 individuals receive services a year.

In FY22, 75 individuals were served. Demographics on individuals served were as follows:

| <b>DEMOGRAPHICS N=75</b>        |                      |                   |
|---------------------------------|----------------------|-------------------|
| <b>Gender Identity</b>          |                      |                   |
| <i>Gender Identity</i>          | <i>Number Served</i> | <i>% of total</i> |
| Male                            | 53                   | 71%               |
| Female                          | 22                   | 29%               |
| <b>Race/Ethnicity</b>           |                      |                   |
| <i>Race/Ethnicity</i>           | <i>Number Served</i> | <i>% of total</i> |
| Black or African American       | 47                   | 63%               |
| Asian Pacific Islander          | 2                    | 3%                |
| Latino/a/x                      | 8                    | 11%               |
| Native American                 | 1                    | 1%                |
| White                           | 22                   | 29%               |
| <b>Age Category</b>             |                      |                   |
| <i>Age In Years</i>             | <i>Number Served</i> | <i>% of total</i> |
| 18-24                           | 2                    | 3%                |
| 25-44                           | 13                   | 17%               |
| 45-64                           | 29                   | 39%               |
| 65 years or older               | 31                   | 41%               |
| <b>Sexual Orientation</b>       |                      |                   |
| Declined to Answer (or Unknown) | 75                   | 100%              |

#### Program Successes:

One of the biggest successes in working with individuals in the Sub-Representative Payee Program in FY22 was a collaboration with Horizon Transitional Village (HTV). In the HTV program individuals were able to bring their tents inside a gymnasium with all their supplies along with their peers. On-site staff included doctors, clinicians, case managers, and frontline workers who were there to provide wrap-around services. HTV closed in January FY22, and transitioned to a different program.

#### **Hearing Voices Support Groups**

The Hearing Voices Support Groups are offered through a contract with the Bay Area Hearing Voices Network. A free weekly drop-in Support Group is provided for adults who experience voices, visions, special messages, unusual beliefs or extreme states of consciousness. The support group is co-facilitated by trained group facilitators whom have lived experience in the mental health system. A separate support group for Family Members of individual participants is also provided.

In FY22, a total of 986 individuals were served through weekly online support groups. Demographics on individuals served were as follows:

| <b>DEMOGRAPHICS N=986</b>       |                      |                   |
|---------------------------------|----------------------|-------------------|
| <b>Gender Identity</b>          |                      |                   |
| <i>Gender Identity</i>          | <i>Number Served</i> | <i>% of total</i> |
| Male                            | 385                  | 39%               |
| Female                          | 601                  | 61%               |
| <b>Race/Ethnicity</b>           |                      |                   |
| <i>Race/Ethnicity</i>           | <i>Number Served</i> | <i>% of total</i> |
| White                           | 878                  | 89%               |
| Latino/a/x                      | 53                   | 5%                |
| Unknown (Declined to Answer)    | 55                   | 6%                |
| <b>Age Category</b>             |                      |                   |
| <i>Age Category</i>             | <i>Number Served</i> | <i>% of total</i> |
| 25-44 years                     | 237                  | 24%               |
| 45-64 years                     | 394                  | 40%               |
| 65 years or older               | 296                  | 30%               |
| Unknown (Declined to Answer)    | 59                   | 6%                |
| <b>Sexual Orientation</b>       |                      |                   |
| Heterosexual or Straight        | 661                  | 67%               |
| Bisexual                        | 108                  | 11%               |
| Gay                             | 108                  | 11%               |
| Declined to Answer (or Unknown) | 109                  | 11%               |

Program Successes:

- Group attendance increased this year indicating the program's appeal to both adult voice hearers and family members.
- Groups were successfully transitioned on-line via zoom.
- Monthly training sessions were implemented for all group facilitators.
- This program is unique in the peer mental health community as it successfully includes clinicians, family members, and peers on their board of directors.
- Continued to offer a monthly, on-line newsletter to the mental health community.
- Received overwhelming positive feedback from participants about facilitators and groups.

Program Challenges:

- Continued efforts to have a larger presence on social media in order to reach more at risk, young people.
- Continued outreach efforts to increase newsletter circulation.

A survey questionnaire was sent to group participants during the reporting timeframe with a total of 34 individuals responding to the survey. Responses to survey questions on the impact of the groups were as follows:

How have the groups helped you?

- "It's given me tools for harm reduction."
- "A community of support"

- “It has helped me deal with my voices and connected me to people who can help and relate to me!”
- “It has been great, please keep it going!”
- “The group helps me connect in a genuine way with others who don't judge or invalidate my experiences.”
- “It's a safe place to share my experiences; I feel like people understand me.”

How has the group changed your life?

- “The group has changed my life by helping me help myself and get through difficult times.”
- “Allowed me to become more stable.”
- “It is a forum which I can express myself.”
- “It has connected me to others who relate exactly to what I experience and listen!”
- “I feel less isolated and more confident that I can accomplish things in society.”
- “I am not alone.”

How has the group helped you deal with stigma?

- “I am not alone, I have an outlet.”
- “I am now able to understand how uncomfortable folks are about certain subjects and why they act or react the way they do. I realize it's not always about me, but instead it's about others' insecurity, ignorance, and their fear of the unknown.”
- “It is very helpful for that. I have more confidence, and twice I went looking and found work after many years of not working.”

What are the advantages/disadvantages of the group being on line?

- “Big advantage for me as I cannot commute.”
- “Though I enjoyed in person groups to an extent, I like virtual groups better. I don't have to leave the house and put myself in danger, deal with traffic and all that comes with that.”
- “Group has gotten better. More people from varied places can participate.”
- “I can quickly, silently and discreetly enter or exit the sessions in a virtual setting”
- “Great online! More people.”
- “Great diversity, I can come in the evenings.”
- “Transportation is an issue for me.”

### **Berkeley Wellness Center**

The Berkeley Wellness Center is an MHSA funded collaboration between the City of Berkeley, Mental Health Division and the Alameda County BHCS. This program implemented through the community-based organization, Bonita House, provides: mental health and substance use disorder counseling; living skills training; educational activities; pre-vocational training; wellness recovery programming; support groups; referrals to community resources; computer training; Art Therapy and other activities. The main goals of the program are to assist individuals in functioning as highly as possible so they can become integrated into the community.

In FY22, 21 individuals participated in this program. Demographics on individuals served were as follows:

| <b>DEMOGRAPHICS N=21</b>       |                      |                   |
|--------------------------------|----------------------|-------------------|
| <b>Gender Identity</b>         |                      |                   |
| <i>Gender Identity</i>         | <i>Number Served</i> | <i>% of total</i> |
| Male                           | 8                    | 38%               |
| Female                         | 13                   | 62%               |
| <b>Race/Ethnicity</b>          |                      |                   |
| <i>Race/Ethnicity</i>          | <i>Number Served</i> | <i>% of total</i> |
| Black or African American      | 2                    | 10%               |
| White                          | 19                   | 90%               |
| <b>Age Category</b>            |                      |                   |
| <i>Age in Years</i>            | <i>Number Served</i> | <i>% of total</i> |
| 46-64 years                    | 16                   | 76%               |
| 65 years and older             | 5                    | 24%               |
| <b>Sexual Orientation</b>      |                      |                   |
| Declined to State (or Unknown) | 21                   | 100%              |

#### Program Successes:

- The morning support group was strongly attended, and participants describe it as “essential” to their well-being.
- A new, peer-led, support group was added and well attended. It was implemented to encourage and support peer leadership. “A Writer’s Workshop”, a guitar class, and a yoga were also added.
- Art therapy has continued to be an exceptional program activity.
- Two iPads were acquired to teach computer skills which will provide better access in another pandemic-like situation.
- The Wellness Center received substantial donations of materials such as board games, puzzles, a CD player and CD’s, a library of musical instruments, and a coffee maker, to transform one of the rooms into a place where individuals could feel warmly welcomed and could engage and interact between sessions.
- The first field trip, to Berkeley Art Museum and Pacific Film Archive (BAMPFA), was held at the end of the fiscal year. In FY22 it was envisioned that going forward, field trips would become a monthly activity as weekends are particularly difficult times for participants, when they are alone.

#### Program Challenges:

The program wasn’t as well attended in the afternoons. Many program participants are drawn to a very popular program at the adult school. Staff have been developing connections with the teacher in that program to inform individuals of the Wellness Center services.

#### **BMH Peer and Family Member Positions**

Since the first MHSA Plan, BMH has included positions for peers and family members with lived experience to be added to various programs throughout the Division. The Division utilizes existing City job classifications for an employment track for peer or family member

providers. The entry level position is Community Health Worker, the mid-level is Assistant Mental Health Clinician, and the top-level is Social Services Specialist. All of these classifications are also used broadly for differing purposes throughout the City. For the specific positions where the MHSA Plan envisioned utilizing peer or family providers, BMH has had success in establishing employment lists where there are applicants who describe themselves as having “lived experience” and as peer or family member providers. In 2018, a peer provider was hired to support the Wellness Recovery services work. This position became vacant in December 2021 and it wasn’t filled until the third quarter of FY23.

Two additional positions were added through the FY22 Annual Update, to increase the Wellness Recovery work and enable a greater ability to provide a variety of peer led services, and the provision of activities and supports to individuals in the waiting room. These positions were hired in the third quarter of FY23.

### **Case Management for Youth and Transition Age Youth**

In response to a high need for additional services and supports for youth and Transition Age Youth (TAY) who experience mental health issues and may be homeless or marginally housed, case management services for TAY are provided through a local community partner, Youth Spirit Artworks (YSA). This project serves approximately 50 individuals a year.

In March 2020, due to the pandemic, YSA was forced to close its facilities in Berkeley. Staff and youth participants quickly transitioned to online services. During the pandemic, staff social workers communicated with youth primarily through phone calls and tele-conferencing via the Zoom platform. As YSA transitioned back to in-person service provision, remote services remained as an option.

In FY22, 3 youth were served through this project. Demographic data on youth participants is outlined below:

| <b>DEMOGRAPHICS N=3</b>   |                      |                   |
|---------------------------|----------------------|-------------------|
| <b>Gender Identity</b>    |                      |                   |
| <i>Gender Identity</i>    | <i>Number Served</i> | <i>% of total</i> |
| Male                      | 1                    | 33.3%             |
| Female                    | 1                    | 33.3%             |
| Gender Non-Conforming     | 1                    | 33.3%             |
| <b>Race/Ethnicity</b>     |                      |                   |
| <i>Race/Ethnicity</i>     | <i>Number Served</i> | <i>% of total</i> |
| Black or African American | 2                    | 67%               |
| White                     | 1                    | 33%               |
| <b>Age Category</b>       |                      |                   |
| <i>Age Category</i>       | <i>Number Served</i> | <i>% of total</i> |
| 18-24 years               | 3                    | 100%              |
| <b>Sexual Orientation</b> |                      |                   |
| Heterosexual or Straight  | 2                    | 67%               |
| Bisexual                  | 1                    | 33%               |



Program Successes:

Program staff provided a significant amount of outreach and were able to begin to establish a presence at area locations. Three clients were successfully enrolled into the program. The youth served during the reporting timeframe were provided engagement, wellness planning, individual counseling, and linkage to services they needed. All youth were successfully transitioned out of the program to less intensive services within and outside of the agency. In order to begin to establish a clinical and programmatic support structure for staff providing case management to youth who experience significant mental health and neurological challenges, planning began in the last quarter of FY22 for the implementation of a Wellness Team.

Program Challenges:

The program continued to have significant challenges with staff retention, outreach efforts not producing meaningful partnerships with providers or enrollments, and lack of management support to assist with program development, personnel management, and management-level coordination with potential collaborating organizations serving at risk TAY. The program invested in the recruitment and onboarding of an experienced full-time social worker, who left the agency seven weeks after being hired. The staff departure put a strain on relationships nurtured during the prior 6 months and left the program understaffed. Recruitment efforts continued during the reporting timeframe.

Staff reported that outreach efforts at Berkeley High and Berkeley Tech were difficult to coordinate with school staff, who were not very responsive and had little time for new initiatives in the midst of coping with pivoting for providing education in the midst of the COVID-19 pandemic. Consistency and outreach in other locations was challenged by COVID-19 pandemic restrictions, the public's general fear of face-to-face contact, and staff illnesses. Program challenges were compounded by the agency's rapid growth and lagging recruitment of management and development of infrastructure to support the expansion.

**Additional Services for Asian Pacific Islanders**

The Asian Pacific Islander (API) population is significantly underserved in the mental health system. In an effort to better meet the needs of this underserved population, BMH proposed through the previously approved MHSA FY19 Annual Update to allocate CSS System

Development funds to contract with a local community-based organization, or to partner with Alameda County BHCS, to increase funding for a contractor selected for similar purposes. It was envisioned that the contractor would provide access to additional services and supports for this population. In FY20 and FY22 three separate RFP processes were executed to find a community partner that the Division could contract with who would provide these services, however the Division was unable to secure a Contractor. At present, the Division is currently in the process of assessing how best to partner with a local community agency to implement these services. It is envisioned that services will be implemented in FY24 through a community partner.

**Results Based Accountability Evaluation**

As a result of feedback received regarding the need for increased evaluation efforts, per the previously approved MHSA FY19 Annual Update, the Division allocated CSS System

Development funds for a Consultant who would conduct an evaluation on all BMH programs across the system utilizing the “Results Based Accountability” (RBA) framework. The RBA framework measures how much was done, how well it was done, and whether individuals are better off as a result of the services they received. In FY19 a competitive RFP process was executed, and Resource Development Associates (RDA) was the chosen consultant. In FY21, RDA began working with the Division and a Community Advisory Group of key stakeholders, to execute this evaluation.

In FY22, RDA facilitated staff workshops, developed and finalized program and division-level RBA measures, collected program data, and laid the groundwork for developing program dashboards. Activities are outlined detailed below:

- Conducted 16 meetings (1 with BMH management; 2 with BMH program staff; 11 check in meetings with BMH management/program staff; and 2 meetings with the Community Advisory Group to review, provide feedback and finalize measures).
- Trained BMH staff/managers on headline measures, data development agenda items and how to prioritize measures.
- Mapped program identified measures against the available data and BMH staff/managers reviewed it for accuracy.
  - Worked with BMH staff/managers on prioritizing measures.
  - Selected headline measures and set data development agenda with guidance and feedback from BMH management and the Community Advisory Group.
  - Cross-walked measures to streamline and provide consistency.
  - Worked with BMH on data availability.
  - Updated data development agendas based on availability.
  - Worked with BMH to confirm Division-wide measures.
  - Worked with Community Advisory Group to obtain feedback on Division-wide measures.
- Finalized program and Division-wide measures.
- Developed the Data collection plan.
- Developed document that tracks all data sources, parameters for data collection, and data queries by data source and program.
- Began developing a program-level template and dashboard. This work continued in FY23.
  - Began development of a Division “scorecard” or dashboard. This work continued in FY23.
  - Began requesting baseline data from each program. This work continued in FY23.

In FY23, RDA collected, analyzed and reported on FY22 RBA Division-wide data. The RBA outcomes for FY22 are outlined throughout this Three-Year Plan for the following MHSA funded internal programs: Children/Youth FSP; TAY, Adult and Older Adult; Homeless FSP; Wellness Recovery Services; Crisis Services; Transitional Outreach Team; Social Inclusion Project; and the High School Prevention Project. The complete set of RBA outcomes for all BMH programs is located in Appendix C.

### **Counseling Services for Older Adults**

Older Adults who only have Medicare insurance currently have great difficulty accessing mental health services, despite consistent input on the need for support for this population. In an effort

to increase mental health services and supports for older adults, the Division allocated additional funding in the approved FY20 MHSA Annual Update to support this population. MHSA funds are transferred to the Aging Services Division of HHCS, to implement various counseling services for Older Adults. The Aging Services Division issued a Request For Proposal (RFP), and the Wright Institute was the chosen contractor.

A total of 97 individuals received services in FY22, however as data wasn't collected in the 1<sup>st</sup> and 2<sup>nd</sup> quarters, demographics reflect data collected on 64 individuals who received services in the 3<sup>rd</sup> and 4<sup>th</sup> quarters of the year.

| <b>DEMOGRAPHICS N=64</b>     |                      |                   |
|------------------------------|----------------------|-------------------|
| <b>Gender Identity</b>       |                      |                   |
| <i>Gender Identity</i>       | <i>Number Served</i> | <i>% of total</i> |
| Male                         | 14                   | 22%               |
| Female                       | 50                   | 78%               |
| <b>Race/Ethnicity</b>        |                      |                   |
| <i>Race/Ethnicity</i>        | <i>Number Served</i> | <i>% of total</i> |
| Black or African American    | 4                    | 6%                |
| Asian Pacific Islander (API) | 9                    | 14%               |
| White                        | 47                   | 74%               |
| Multi-racial                 | 2                    | 3%                |
| Unknown (Declined to Answer) | 2                    | 3%                |
| <b>Age Category</b>          |                      |                   |
| <i>Age Category</i>          | <i>Number Served</i> | <i>% of total</i> |
| 45-64 years                  | 2                    | 3%                |
| 65 years and older           | 62                   | 97%               |
| <b>Sexual Orientation</b>    |                      |                   |
| Heterosexual or Straight     | 57                   | 89%               |
| Lesbian                      | 2                    | 3%                |
| Gay                          | 3                    | 5%                |
| Bisexual                     | 2                    | 3%                |

#### Program Successes:

According to the Aging Division that oversees this program, the Wright Institute has been a very reliable and collaborative partner. They have been open and available to meet with Aging Services staff to discuss needs of older adult community, and to brainstorm best ways to promote therapeutic groups and workshops. Their clinicians have been skilled, as well as committed and flexible in meeting with members of the older adult community. Their promotional flyers for the groups and workshops have been easy to read and are shared promptly in order to maximize attendance. They have provided a valuable service, as many older adults have expressed appreciation anecdotally.

#### Program Challenges:

There were some initial program initiation pains in the beginning. Registration and intake processes were not solidly defined and were hard to navigate for older adults as they were not able to speak to a person directly. Additionally, the Aging Division would receive flyers and announcements for groups after the monthly newsletter deadline, so they were unable to

promote the groups in advance, or in a timely manner. These processes have since been streamlined. There were also some minor miscommunication situations that resulted in confusion around group and workshop outreach and registration. This again, was also promptly addressed.

### **Substance Use Disorder Services**

A large portion of individuals who currently receive services at BMH are also experiencing co-occurring disorders, having both mental health issues and substance use disorders (SUD). In an effort to increase the capacity to serve individuals with SUD, funds were previously allocated through the MHSA FY22 Annual Update for the Division to work with a local SUD provider to co-locate SUD services at the Mental Health Adult clinic. A contract with a local provider was executed in FY23. This collaboration has increased the provision of SUD services for BMH clients, provides an opportunity for staff to obtain consultations on SUD services, and makes referrals into SUD services outside of BMH an easier process for individuals.

### **Specialized Care Unit**

On July 14, 2020 City Council passed Resolution No, 69,501-N.S.; a package of items providing direction for the development of a new paradigm of public safety in Berkeley. One of the items adopted by City Council directed the City Manager to analyze and develop a pilot program to re-assign mental health and substance use calls, that do not include a threat of violence to a Specialized Care Unit (SCU). The SCU will consist of trained crisis-response field workers who will respond without the involvement of law enforcement to behavioral health occurrences that do not pose an imminent threat to safety. The SCU will be implemented as a pilot model and lessons-learned will inform the long-term implementation. Through the approved FY22 Annual Update, the Division proposed to allocate a small portion of CSS and PEI funds to be leveraged with other City funds for this pilot program. This allocation was a one-time MHSA funding amount, while the City determines how to best fund this initiative.

In FY21, Resource Development Associates (RDA), chosen through a competitive Request for Proposal (RFP) process to evaluate the current crisis system in Berkeley, received an expanded scope of work to provide recommendations on the implementation of the SCU. To oversee and advise RDA in their work, the City formed an SCU Steering Committee consisting of Health, Housing and Community Services Department and Fire Department staff, and community representatives from the Mental Health Commission and the Berkeley Community Safety Commission. The Steering Committee met from January 2021 through January 2022 and advised on RDA's completion of three critical reports. The first two reports summarized crisis response programs in the United States and internationally as well as gathered perspectives from community and City stakeholders regarding the crisis response system. This included gathering input from City of Berkeley and Alameda County agencies, local community-based organizations (CBOs), local community leaders, and utilizers of Berkeley's crisis response services. These reports laid the foundation for the twenty-five recommendations that were the subject of the third and final report to inform the SCU model. Each recommendation put forth in the final report is deeply rooted in the stakeholder feedback included in the two previous reports.

In Spring 2022, the design for the SCU received City Council approval and the work of the SCU Steering Committee transitioned from planning to implementation. At the beginning of FY23, the City of Berkeley launched a competitive RFP process, which included providing live question and answer as well as published resources on the City website. After an extensive review process, the City chose Bonita House to implement the SCU pilot program.

Since the beginning of 2023, Bonita House has taken initial steps to implementing the SCU including: selecting an operating location for the program, working with the City to obtain response vehicles, and hiring staff. The Berkeley and Bonita House teams are hoping to launch a version of the SCU at the end of FY23, or beginning of FY24, as the full program ramps up.

#### **On-site management at Martin Luther King Jr. House**

The Martin Luther King Jr. House is a 12-unit single room occupancy (SRO) complex with shared living spaces that serves the disabled community in Berkeley. Per the approved FY23 Annual Update, the Division allocated a portion of CSS System Development funds to provide on-site property management at this SRO. A contract is in process of being executed through the Housing and Community Services Division of HHCS, to allocate funding for this purpose and provide monitoring and oversight.

#### **Short-term housing for individuals on the Homeless FSP**

Through the approved FY23 Annual Update the Division allocated a portion of MHPA FSP Funds to support short-term housing for individuals receiving services on the Homeless FSP. It was envisioned that the funding would be utilized to provide housing in trailers located at 701 Harrison Street, and daily living supports for four individuals. Since the approval of the FY23 Annual Update, the Division learned that it will not be possible to utilize the Harrison Street trailers for this purpose. Going forward the funding allocated for this use, will be expended on other short-term housing sites for individuals in need.

### **PREVENTION & EARLY INTERVENTION (PEI)**

The Prevention & Early Intervention (PEI) funding component is for strategies to recognize the early signs of mental illness and to improve early access to services and programs, including the reduction of stigma and discrimination, and for strategies to prevent mental illness from becoming severe and disabling.

The original City of Berkeley PEI was approved in April 2009. Since the approval of the original plan, Three Year Plans or Annual Updates outlining proposed PEI funding and programming have been approved on an annual basis. From the original PEI Plan and/or through subsequent plan updates, some of the many services the City of Berkeley has provided through the PEI funding component are as follows:

- An early identification, assessment, treatment and referral program for children (0-5 years old) and their families;
- Prevention and short-term intervention services in the Berkeley school system;
- Trauma support services for youth, adults and older adults in unserved, underserved and inappropriately served populations;

- An anti-stigma support program for mental health peers and family members; and
- Intervention services for at-risk children.

### **PEI Reporting Requirements**

Per MHSA PEI regulations, all PEI funded programs are required to collect specified state identified outcome measures and detailed demographic information. MHSA also requires Evaluation Reports for PEI funded programs. PEI Evaluations are required to be included in each MHSA Annual Update or Three-Year Plan. Included in Appendix D of this Three-Year Plan is the Prevention & Early Intervention (PEI) Fiscal Year (FY) 2021/2022 Annual Evaluation Report.

### **Impact Berkeley**

In FY18, the City of Berkeley introduced a new initiative in the HHCS Department called “Impact Berkeley”. Central to this effort is using a highly regarded framework called Results Based Accountability (RBA) to account for the work of the Department. RBA provides a new way of understanding the quality and impact of services provided by collecting data that answer three basic questions:

- How much did you do?
- How well did you do it?
- Is anyone better off?

RBA has been incorporated into selected programs within the Department. This has included community agency programs funded through the MHSA Prevention & Early Intervention Community Education & Supports program. Through this initiative the Department worked with each contractor to envision, clarify and develop measures on the outcomes and results each program is seeking to achieve, and used a rigorous framework to begin measuring and enhancing progress towards these results. An aggregated summary of some of the results of this initiative are outlined in the PEI Community Education & Supports program section of this Three-Year Plan.

### **Results Based Accountability Evaluation for all BMH Programs**

Through the approved FY19 Annual Update the Division executed a Request for Proposal (RFP) process to hire a consultant to conduct a Results Based Accountability Evaluation (RBA) for all programs across the Division, and Resource Development Associates (RDA) was the chosen vendor. In FY21 RDA began working with the Division to implement the RBA research methodology. An update of the activities conducted by RDA in FY22 on this evaluation is included in the CSS Section of this Three-Year Plan.

RBA outcomes in FY22 are outlined throughout this Three-Year Plan for the following MHSA PEI funded internal programs: Social Inclusion Project, and the High School Prevention Project. The complete set of RBA outcomes for all BMH programs is located in Appendix C.

### **PEI Regulations**

Per PEI State Regulations, Mental Health jurisdictions are to utilize PEI funds to implement the following programs: Prevention, Early Intervention, Access and Linkage to Treatment, Stigma and Discrimination Reduction, and Outreach for Increasing Recognition of Early Signs of Mental

Illness. Programs and/or strategies within programs can also be combined. Jurisdictions may also opt to utilize some PEI funds to implement a Suicide Prevention program. The definitions of each program are outlined below along with the City of Berkeley corresponding program:

| PEI Program Type                                                     | Program Definition                                                                                                                                                                                                                                                                                                                                               | City of Berkeley PEI Program(s)                                                                                                                                                                                                                |
|----------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Prevention                                                           | A set of related activities to reduce risk factors for developing a potentially serious mental illness and to build protective factors.                                                                                                                                                                                                                          | <ul style="list-style-type: none"> <li>• Mental Health Promotion Campaign</li> <li>• High School Prevention</li> <li>• DMIND</li> <li>• MEET</li> <li>• African American Success</li> </ul>                                                    |
| Early Intervention                                                   | Treatment and other services and interventions, including relapse prevention, to address and promote recovery and related functional outcomes for a mental illness early in its emergence, including the applicable negative outcomes that may result from untreated mental illness.                                                                             | <ul style="list-style-type: none"> <li>• High School Prevention</li> <li>• Be A Star</li> <li>• DMIND</li> <li>• MEET</li> <li>• African American Success</li> <li>• Supportive Schools</li> <li>• Community Education and Supports</li> </ul> |
| Outreach for Increasing Recognition of Early Signs of Mental Illness | A process of engaging, encouraging, educating, and/or training, and learning from potential responders about ways to recognize and respond effectively to early signs of potentially severe and disabling mental illness.                                                                                                                                        | <ul style="list-style-type: none"> <li>• Mental Health First Aid (non-PEI funded program)</li> </ul>                                                                                                                                           |
| Stigma and Discrimination                                            | Direct activities to reduce negative feelings, attitudes, beliefs, perceptions, stereotypes and/or discrimination related to being diagnosed with a mental illness, having a mental illness, or to seeking mental health services and to increase acceptance, dignity, inclusion, and equity for individuals with mental illness, and members of their families. | <ul style="list-style-type: none"> <li>• Social Inclusion</li> </ul>                                                                                                                                                                           |
| Access and Linkage to Treatment                                      | Connecting children who are seriously emotionally disturbed, and adults and seniors with severe mental illness as early in the onset of these conditions as practicable, to medically necessary care and treatment, including but not limited to care provided by county mental health programs.                                                                 | <ul style="list-style-type: none"> <li>• High School Prevention</li> </ul>                                                                                                                                                                     |
| OPTIONAL Suicide Prevention                                          | Activities to prevent suicide as a consequence of mental illness.                                                                                                                                                                                                                                                                                                | <ul style="list-style-type: none"> <li>• CalMHSA PEI Statewide Project</li> </ul>                                                                                                                                                              |

Beginning January 1, 2020, per Senate Bill (SB) 1004, Welfare and Institutions Code (WIC) 5840.7 (a) directed the Mental Health Oversight and Accountability Commission (MHSOAC) to establish priorities for the use of MHSA PEI funds. Section 5840.7 (d)(1) states that mental health jurisdictions shall, through their MHSA Three Year Program and Expenditure Plans and Annual Updates, focus use of their PEI funds on the Commission-established priorities or other priorities as determined through their respective, local stakeholder processes. If a mental health jurisdiction chooses to focus on priorities other than, or in addition to those established by the Commission, “the plan shall include a description of why those programs are included and metrics by which the effectiveness of those programs is to be measured” (WIC Section 5840.7 (d)(1)).

Current MHSOAC priorities for the use of PEI funding are as follows:

- Childhood trauma prevention and early intervention to deal with the early origins of mental health needs;
- Early psychosis and mood disorder detection and intervention, and mood disorder and suicide prevention programming that occurs across the lifespan;
- Youth outreach and engagement strategies that target secondary school and transition age youth, with a priority on partnership with college mental health programs, and transition age youth not in college;
- Culturally competent and linguistically appropriate prevention and intervention, including community defined evidence practices (CDEPs);
- Strategies targeting the mental health needs of older adults;
- Early identification programming of mental health symptoms and disorder, including but not limited to, anxiety, depression, and psychosis.

In order to meet the requirements, each mental health jurisdiction is required to show in the PEI Component of the Three-Year Plan or Annual Update the following:

- Which specific PEI priorities the mental health jurisdictions plan addresses, an estimate of the share of PEI funding allocated to each priority, and an explanation of how stakeholder input contributed to those allocations;
- If the mental health jurisdiction has determined to pursue alternative or additional priorities to those listed in Section 5840.7(a), how the determinations were made through its stakeholder process;
- For any alternative or additional priority identified by the mental health jurisdiction, what metric or metrics relating to assessment of the effectiveness of programs intended to address that priority the county will measure, collect, analyze, and report to the Commission, in order to support statewide learning.

All MHSA programs and projected funding amounts were vetted through the Community Program Planning process for this Three-Year Plan. Many PEI projects meet multiple established priorities. Per PEI regulations, outlined below are the City of Berkeley PEI programs, priorities, and FY24 projected funding amounts:



| CITY OF BERKELEY PEI PROGRAMS                                                                                                                                                                                                                             | PEI PRIORITIES                                                                                                                                                                                                                                                                                                                                                                                  | FY24 Projected Funding Per Priority                         |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------|
| <ul style="list-style-type: none"> <li>• Be A Star</li> <li>• Supportive Schools</li> </ul>                                                                                                                                                               | Childhood trauma prevention and early intervention to deal with the early origins of mental health needs.                                                                                                                                                                                                                                                                                       | \$148,551                                                   |
| <ul style="list-style-type: none"> <li>• High School Youth Prevention Project</li> <li>• Mental Health Peer Mentor Program</li> <li>• Dynamic Mindfulness Program</li> <li>• Specialized Care Unit</li> <li>• African American Success Project</li> </ul> | Youth Engagement and Outreach Strategies that target secondary school and transition age youth<br><br>Early identification programming of mental health symptoms and disorders, including but not limited to, anxiety, depression, and psychosis.<br><br>Culturally competent and linguistically appropriate prevention and intervention including community defined evidence practices (CDEPs) | \$865,280<br><br>\$141,389<br><br>\$68,000<br><br>\$150,000 |
| <ul style="list-style-type: none"> <li>• Mental Health Promotion Campaign</li> <li>• Social Inclusion</li> <li>• Community Education &amp; Supports</li> </ul>                                                                                            | Culturally competent and linguistically appropriate prevention and intervention, including community defined evidence practices (CDEPs)<br><br>Youth Engagement and Outreach Strategies that target secondary school and transition age youth not in college.<br><br>Strategies targeting the mental health needs of older adults.                                                              | \$409,000<br><br>\$32,046<br><br>\$32,046                   |

### **PEI Funded Children and Youth and TAY Services**

Per MHSR regulations 51% of PEI funds are to be used on services and supports for Children, Youth, and TAY. Small counties, of which the City of Berkeley is considered, may elect to forego this regulation as long as a community vetted, locally approved justification is provided as to why children and youth services are funded at a lower level. Since the initial PEI Plan, the City of Berkeley has allocated more than 51% of PEI funds to services and supports for children, youth and TAY as the majority of PEI funds has been utilized to serving these populations.

Currently, seven out of ten local PEI programs provide services for children and youth, 6 of which are in the Berkeley Unified School District (BUSD). Programs are as follows: Behavioral-Emotional Assessment, Screening, Treatment and Referral (BE A STAR); Supportive Schools Project; Mental Emotional Education Team (MEET); Dynamic Mindfulness (DMIND); African American Success Project; High School Youth Prevention Project, and the TAY Trauma Support Project.

Programs and services funded with PEI funds that are proposed to be continued through this Three Year Plan, and FY22 data are outlined below by PEI Program type.

## PREVENTION PROGRAMS

Prevention Program – Includes a set of related activities to reduce risk factors for developing a potentially serious mental illness and to build protective factors.

### **Mental Health Promotion Campaign**

As a result of the impact of the COVID-19 pandemic, and public input around the overwhelming need for mental health supports in the community, the Division proposed through the FY22 Annual Update to allocate PEI funds for a community Mental Health Promotion Campaign to support the wellness and self-care of Berkeley residents. The Division will partner with the community and consider using a social marketing firm to develop and implement the campaign.

**PEI Goals:** The goal of this campaign is to increase prevention efforts and response to early signs of emotional and behavioral health problems.

**PEI Priority:** Culturally competent and linguistically appropriate prevention and intervention; including community defined evidence practices (CDEPs).

It is envisioned that this campaign will be implemented in FY24 and the Division will continue to work with the community to determine how to best promote mental health and wellness in Berkeley.

## EARLY INTERVENTION PROGRAMS

Early Intervention Program – Provides treatment and other services and interventions, including relapse prevention, to address and promote recovery and related functional outcomes for a mental illness early in its emergence, including the applicable negative outcomes that may result from untreated mental illness.

The City of Berkeley Early Intervention programs are as follows:

### **Behavioral-Emotional Assessment, Screening, Treatment, and Referral (BE A STAR)**

The Be A Star program is a collaboration with the City of Berkeley's Public Health Department providing a coordinated system in Berkeley that identifies children birth to age five and their parents, who are at risk of childhood development challenges including developmental, social, emotional, and/or behavioral concerns. The program specifically targets low income families, including those with teen parents, who are experiencing homelessness, substance use disorders, or are in danger of foster care. Services include triage, assessment, treatment and referrals to appropriate community-based or specialist services as needed. Children and families are accessed through targeted efforts at the following: Black Infant Health; Vera Casey Teenage Parenting programs; Child Health and Disability Prevention programs, Pediatric providers, and through state-subsidized Early Childhood Development Centers. The goals of the program are to identify, screen and assess families early, and connect them with services and supports as needed. The program uses the "Ages and Stages Questionnaires" (ASQ) screening tool to assess children in need. The ASQ consists of a series of 20 questionnaires that correspond to age intervals from birth to 6 years designed to help parents check their child's development. Each questionnaire contains simple questions for parents to answer that reflect

developmental milestones for each age group. Answers are scored and help to determine whether the child's development is on schedule or whether the child should be referred for a developmental checkup with a professional. Over 400 children are assessed each year.

**PEI Goals:** The goal of this program is to bring about mental health, including the reduction of school failure and the removal of children from their homes.

**PEI Priority:** Childhood trauma prevention and early intervention to deal with the early origins of mental health needs.

In FY22, a total of 1,654 children were screened through this program (183 at BUSD, and 1,471 at the Help Me Grow sites) however data was not collected on all individuals screened. Only Race/Ethnicity data was collected on a subset the 183 children screened at BUSD as follows:

| <b>DEMOGRAPHICS N=183</b>                                  |      |
|------------------------------------------------------------|------|
| <b>Age Groups</b>                                          |      |
| 0-15 (Children/Youth)                                      | 100% |
| <b>Race</b>                                                |      |
| Asian                                                      | 19%  |
| Black or African American                                  | 25%  |
| White                                                      | 20%  |
| More than one Race                                         | 8%   |
| Other                                                      | 4%   |
| <b>Ethnicity: Hispanic or Latino/Latina/Latinx</b>         |      |
| Mexican/Mexican-American/Chicano                           | 24%  |
| <b>Ethnicity: Non-Hispanic or Non-Latino/Latina/Latinx</b> |      |
| Declined to Answer (or Unknown)                            | 100% |
| <b>Primary Language</b>                                    |      |
| Declined to Answer (or Unknown)                            | 100% |
| <b>Disability</b>                                          |      |
| Declined to Answer (or Unknown)                            | 100% |
| <b>Gender: Assigned Sex at Birth</b>                       |      |
| Declined to Answer (or Unknown)                            | 100% |

**Program Successes:**

- In FY22 on-site technical assistance visits to all Berkeley Help Me Grow providers resumed and the visits went well.
- The program conducted 1,654 ASQ developmental screenings in Berkeley.

- BUSD referred a total of 53 preschool students and the Help Me Grow providers referred 94 infants/children.
- Approximately 78% of all Help Me Grow referrals reached their goals.

#### Program Challenges:

- Continued to see an impact of the COVID-19 pandemic on program services which decreased the number of screenings that were conducted.
- Staffing changes/turnovers at the Berkeley Help Me Grow sites impacted the continuity of the partnership with the program.
- The Help Me Grow sites did not collect race/ethnicity, language spoken data, or gender; and BUSD did not collect specific ethnicity data, language spoken for all students who received an ASQ, or gender.
- There was a delay in getting the annual data for the Help Me Grow sites.

#### **Supportive Schools Program**

Through this program leveraged MHSA PEI funds support the provision of mental health prevention and early intervention services at each of the Elementary Schools in Berkeley. Services include: outreach; mental health programming; classroom, group, and one-on-one psycho-social education and support; and consultation with parents and/or teachers.

**PEI Goals:** The goal of this program is to bring about mental health, including the reduction of school failure and the removal of children from their homes.

**PEI Priority:** Childhood trauma prevention and early intervention to deal with the early origins of mental health needs.

In FY22 Early Intervention Services were provided at each of the BUSD elementary schools. BUSD sub-contracted with local agencies to provide early intervention services based upon the standard of evidence-based practices. Bay Area Community Resources (BACR), Child Therapy Institute (CTI), and Lifelong Medical (Lifelong) were subcontracted to provide services at BUSD elementary schools.

BACR provided services to improve emotional functioning and success in school and life, including individual and group therapy, family consultation, conflict resolution/restorative justice, suicide prevention, check-in/check-out, crisis intervention, and classroom presentations. Additionally, BACR participated in weekly Coordination of Services (COST), Student Success Team (SST), and Individualized Education Program (IEP) meetings for students, providing mental health and trauma informed perspectives. BACR consulted with staff on many issues and provided trauma informed coaching for teachers needing support. BACR also made referrals to outside providers, parenting classes/support groups, crisis hotlines, and other programs. Due to the continuation of the impacts of the COVID-19 pandemic, BACR also provided resource networking and support for families in navigating the public health crisis.

Lifelong Medical Provided a Licensed Clinical Social Worker (LCSW) and interns who provided individual counseling to students, family counseling, and mental health consultation to caregivers and school staff. Full-class support was provided in several classrooms. The full class support was tailored to the needs of the teacher and class and consisted of community

building, regulation strategies such as Zones of Regulation, and social emotional learning. Supports for each school per each service provider, and numbers served in FY22 were as follows:

| Elementary School                                                                                                                                                                                                  | Agency/Provider                     | Number of Students Served |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------|---------------------------|
| <ul style="list-style-type: none"> <li>• Cragmont</li> <li>• Emerson</li> <li>• John Muir</li> <li>• Malcolm X</li> <li>• Oxford</li> <li>• Ruth Acty</li> <li>• Sylvia Mendez</li> <li>• Thousand Oaks</li> </ul> | Bay Area Community Resources (BACR) | 420                       |
| <ul style="list-style-type: none"> <li>• Bay Area Arts Magnet (BAM)</li> <li>• Washington</li> </ul>                                                                                                               | Child Therapy Institute             | 55                        |
| <ul style="list-style-type: none"> <li>• Rosa Parks</li> </ul>                                                                                                                                                     | Lifelong Medical Care               | 116                       |
| <b>Total</b>                                                                                                                                                                                                       |                                     | <b>591</b>                |

Demographic data provided by BUSD on 591 students that were served through this project in FY22, is outlined below:

| <b>DEMOGRAPHICS N= 591</b>                         |      |
|----------------------------------------------------|------|
| <b>Age Group</b>                                   |      |
| 0-15 (Children/Youth)                              | 100% |
| <b>Race</b>                                        |      |
| American Indian or Alaska Native                   | 3%   |
| Asian                                              | 6%   |
| Black or African American                          | 25%  |
| Native Hawaiian/Pacific Islander                   | <1%  |
| White                                              | 47%  |
| More than one Race                                 | 20%  |
| Declined to Answer (or Unknown)                    | 1%   |
| <b>Ethnicity: Hispanic or Latino/Latina/Latinx</b> |      |
| Unspecified Hispanic or Latino/Latina/Latinx       | 34%  |
| South American                                     | <1%  |
| Declined to Answer (or Unknown)                    | 1%   |

| <b>Ethnicity: Non-Hispanic or Non- Latino/Latina/Latinx</b>                                                                                 |      |
|---------------------------------------------------------------------------------------------------------------------------------------------|------|
| Black or African American                                                                                                                   | 15%  |
| Asian Indian/South Asian                                                                                                                    | <1%  |
| Chinese                                                                                                                                     | 1%   |
| Eastern European                                                                                                                            | 27%  |
| European                                                                                                                                    | 1%   |
| Filipino                                                                                                                                    | 1%   |
| Other                                                                                                                                       | 4%   |
| More than one Ethnicity                                                                                                                     | 8%   |
| Declined to Answer (or Unknown)                                                                                                             | 7%   |
| <b>Primary Language Used</b>                                                                                                                |      |
| English                                                                                                                                     | 25%  |
| Spanish                                                                                                                                     | 3%   |
| Declined to Answer (or Unknown)                                                                                                             | 72%  |
| <b>Sexual Orientation</b>                                                                                                                   |      |
| Declined to Answer (or Unknown)                                                                                                             | 100% |
| <b>Disability</b>                                                                                                                           |      |
| Communication Domain                                                                                                                        | <1%  |
| Mental domain not including a mental illness<br>(including but not limited to a learning disability,<br>developmental disability, dementia) | 5%   |
| Declined to Answer (or Unknown)                                                                                                             | 8%   |
| <b>Veteran Status</b>                                                                                                                       |      |
| No                                                                                                                                          | 100% |
| <b>Gender: Assigned sex at birth</b>                                                                                                        |      |
| Male                                                                                                                                        | 15%  |
| Female                                                                                                                                      | 14%  |
| Declined to Answer (or Unknown)                                                                                                             | 71%  |
| <b>Current Gender Identity</b>                                                                                                              |      |
| Male                                                                                                                                        | 53%  |
| Female                                                                                                                                      | 44%  |
| Transgender                                                                                                                                 | <1%  |

|                       |     |
|-----------------------|-----|
| Genderqueer           | <1% |
| Other Gender Identity | 2%  |

### Community-Based Child & Youth Risk Prevention Program

Through FY22, the Community-Based Child & Youth Risk Prevention program targeted children (aged 0-5) who were impacted by multiple risk factors including trauma, family or community violence, familial distress, and/or family substance use disorders, (among other issues). A BMH clinician served as the Mental Health Consultant on this project providing information, services and supports to teachers and parents at the YMCA Head Start program in South Berkeley. Services included individual case consultation for teachers and parents, group consultations, classroom observations and interventions, assessments, brief treatment, and referrals to other resources as needed. The main goals were to reduce risk factors or other stressors, and promote positive cognitive, social, and emotional well-being. This program served approximately 50 Children & Youth a year.

**PEI Goals:** The goal of this program was to bring about mental health including the reduction of school failure and the removal of children from their homes.

**PEI Priority:** Childhood trauma prevention and early intervention to deal with the early origins of mental health needs.

This program was discontinued in April 2022 when the BMH Mental Health Consultant received a promotion to a different position. Once that position was vacated the YMCA Head Start program decided to create an internal staff position for a Mental Health Specialist.

In FY22, 41 children were served through this program. Demographics on those served is as follows:

| DEMOGRAPHICS N=41                           |      |
|---------------------------------------------|------|
| Age Groups                                  |      |
| 0-15 (Children/Youth)                       | 100% |
| Race                                        |      |
| Asian                                       | 5%   |
| Black or African American                   | 44%  |
| White                                       | 2%   |
| Other                                       | 12%  |
| More than one Race                          | 2%   |
| Ethnicity: Hispanic or Latino/Latina/Latinx |      |
| Declined to Answer or Unknown               | 35%  |

| <b>Ethnicity: Non-Hispanic or Non-Latino/Latina/Latinx</b> |      |
|------------------------------------------------------------|------|
| Declined to Answer (or Unknown)                            | 100% |
| <b>Primary Language</b>                                    |      |
| Declined to Answer (or Unknown)                            | 100% |
| <b>Disability</b>                                          |      |
| Declined to Answer (or Unknown)                            | 100% |
| <b>Gender: Assigned Sex at Birth</b>                       |      |
| Declined to Answer (or Unknown)                            | 100% |

#### Program Successes:

- Returned to in-person Mental Health Consultations in the summer of 2021 which enabled the provision of in-person classroom consultation and direct interventions with children and teachers; increased visibility and interactions with parents; and helped to improve the overall collaborations with administrators, teachers, and parents.
- Participated in person in meetings with parents, teachers and administrators to provide direct consultation around behavior management in the classroom and at home.
- Modeled parent engagement strategies for teachers, advocates and staff. Modeling how to have difficult conversations using a trauma-informed perspective is essential to mental health consultations.
- Provided in vivo conflict management among teachers and with parents as well as provided case management and support as conflicts occurred.
- Return to in-person care also enabled the Mental Health Consultant to be able to observe classrooms and child behaviors over a period of time at different times of the day which allowed for better overall clinical understanding of the children's behaviors and needs, and improved their ability to make recommendations for services and classroom interventions.

#### Program Challenges:

- The onsite manager at the YMCA resigned mid-year, which made collaborating with the teachers and classroom staff challenging.
- There were center and classroom closures and due to flooding in the infant room.
- COVID-19 pandemic exposures continued to impact the center and caused temporary classroom closures that caused disruptions to the continuity of care.

#### **Community Education & Supports**

The Community Education & Supports program implements culturally-responsive psycho-educational trauma support services for individuals (18 and above) in various cultural, ethnic, and age specific populations that are unserved, underserved and inappropriately served in Berkeley including: African Americans; Latino/a/x; LGBTQIA+; TAY; and Senior Citizens. All services are conducted through area community-based organizations.



In FY22 three of the five contractors in the Community Education & Supports project participated in the HHCS Results-Based Accountability (RBA) Evaluation. RBA evaluation results are presented in an aggregated format across all programs as follows:

| How Much Did We Do?                                                                                                                                                                                                                                                                                | How Well Did We Do It?                                                                                                                                                                                                                                                                                                                                                      | Is Anyone Better Off?                                                                                                                                                                                                                                                                              |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <ul style="list-style-type: none"> <li>• 527 Support Groups/Workshops</li> <li>• 2,427 Support Groups/Workshop Encounters</li> <li>• 121 Individual Contacts (2 of 3 programs reporting)</li> <li>• 132 Outreach Activities</li> <li>• 1,815 Outreach Contacts</li> <li>• 443 Referrals</li> </ul> | <ul style="list-style-type: none"> <li>• 94% of program respondents reported satisfaction with the services they received</li> <li>• Referrals by type:                             <ul style="list-style-type: none"> <li>135 Mental Health</li> <li>55 Social Services</li> <li>72 Physical Health</li> <li>20 Housing</li> <li>161 Other Services</li> </ul> </li> </ul> | <ul style="list-style-type: none"> <li>• 90% of program participants reported an increase in social supports or trusted people they can turn to for help</li> <li>• 92% of program participants reported positive changes in terms of coping strategies, feeling anxious or overwhelmed</li> </ul> |

Descriptions for each of the five projects within the Community Education & Supports program and FY22 data are outlined below:

➤ **Transition Age Youth Trauma Support Project**

In FY22 this project was implemented through Youth Spirit Artworks. This project provides supportive services for Transition Age Youth (TAY) who are suffering from the impact of trauma and/or other life stressors and are homeless, marginally housed, or housed but in need of supports. The project serves a wide range of youth from various cultural and ethnic backgrounds who share the common goal of living lives less impacted by trauma and more impacted by wellness. The project consists of the following four components: One-on-one sessions that assess individuals needs around trauma supports and support group readiness; psycho-educational support groups; youth social outings that provide TAY with exposure to healthy settings designed to enhance life skills and choices; and youth celebratory events that are held monthly to convene youth around a positive occasion to acknowledge the various small and large accomplishments of TAY participants, and build trust and community. Approximately 30-35 TAY receive services through this project a year.

**PEI Goals:** The goal of this project is to address and promote recovery and related functional outcomes for a mental illness early in its emergence, including the prevention of suicide.

**PEI Priorities:**

- Culturally competent and linguistically appropriate prevention and intervention; including community defined evidence practices (CDEPs);
- Youth engagement and outreach strategies that target secondary school and transition age youth, with a priority on partnership with college mental health programs, and transition age youth not in college.

In FY22, 105 TAY participated in one or more program services. Demographics on youth served were as follows:

| <b>DEMOGRAPHICS N = 105</b>                                |      |
|------------------------------------------------------------|------|
| <b>Age Group</b>                                           |      |
| 16-25 (Transition Age Youth)                               | 99%  |
| 26-59 (Adults)                                             | 1%   |
| <b>Race</b>                                                |      |
| American Indian or Alaska Native                           | 1%   |
| Asian                                                      | 4%   |
| Black or African American                                  | 12%  |
| White                                                      | 2%   |
| More than one Race                                         | 8%   |
| Declined to Answer (or Unknown)                            | 47%  |
| <b>Ethnicity: Latino/Latina/Latinx</b>                     |      |
| Other                                                      | 12%  |
| Declined to Answer (or Unknown)                            | 13%  |
| <b>Ethnicity: Non-Hispanic or Non-Latino/Latina/Latinx</b> |      |
| Declined to Answer (or Unknown)                            | 74%  |
| <b>Primary Language Used</b>                               |      |
| Declined to Answer (or Unknown)                            | 100% |
| <b>Sexual Orientation</b>                                  |      |
| Gay or Lesbian                                             | 13%  |
| Heterosexual or Straight                                   | 22%  |
| Declined to Answer (or Unknown)                            | 65%  |
| <b>Disability Status</b>                                   |      |
| Declined to Answer (or Unknown)                            | 100% |
| <b>Veteran Status</b>                                      |      |
| No                                                         | 100% |
| <b>Gender: Assigned sex at birth</b>                       |      |
| Declined to Answer (or Unknown)                            | 100% |
| <b>Current Gender Identity</b>                             |      |
| Male                                                       | 23%  |
| Female                                                     | 11%  |

|                                 |     |
|---------------------------------|-----|
| Genderqueer                     | 7%  |
| Declined to Answer (or Unknown) | 59% |

#### Project Successes:

- Improved and integrated Art as Therapy content and ironed out project logistics.
- Conducted outreach to 59 youth, made numerous contacts to other providers and organizations, and conducted events to publicize project services.
- Successfully engaged increasing numbers of youth into Art as Therapy and Peer Mentoring over the course of the last three quarters of the year. Art as Therapy sessions consisted of activities that both teach art and provided a forum for sharing challenges common to TAY.
- Although, the program was not able to consistently conduct youth surveys, staff reported that youth indicated that services were helpful. Increased attendance was also an indication that Art as Therapy and Peer Mentoring sessions were valuable to the youth participants.
- Despite challenges with engagement, project outreach efforts resulted in 21 TAY trying out the Behavioral Health support groups. This progress was disrupted by staff turnover and attendance dropped off towards the end of the reporting timeframe.
- Engaged 29 new TAY into Peer Mentoring training. Meetings were held on a weekly basis at the Tiny House Empowerment Village (THEV) serving the residents there, as well as other youth in the community. Transportation was provided for youth at the studio to easily attend the meetings.
- Many of the youth were pursuing education in the social services field or they wanted to explore this opportunity to see if they wanted to be in the field. The youth received training on healthy communication, coping with crisis and de-escalation, giving constructive feedback, health insurance and other topics. Youth were encouraged and supported to share and teach topics they found interesting to their peers.
- Six events were planned and conducted with 55 total youth in attendance. Youth expressed that they enjoyed and valued these events and would attend more if offered.
- In FY23 a new Director of Operations was hired who brings extensive experience in supporting agencies to develop and provide transformational services to youth and adults.

#### Project Challenges:

- Project challenges were compounded by the agency's rapid growth over the past two years, staff turnover, and lagging recruitment for the management function needed to operationalize the expansion, develop infrastructure, and implement better systems to gather client data and track outcomes.
- Engaging youth in services was challenging due to continued concerns and fears about the COVID-19 pandemic, and staff turnover, and the process of nearly doubling the services offered by this contractor during the COVID-19 pandemic.
- The holiday season seemed to impact responsiveness from the school district as school staff prepared for the end of the semester and district closure during the holidays. During this time, Omicron also became a serious threat and schools were again overwhelmed with new and changing restrictions. These factors caused significant barriers to having a

consistent presence at the schools, along with delays in communication regarding the project implementation efforts and coordinating outreach and logistics for groups and events.

- The project social worker engaged both staff and students at Berkeley High and Berkeley Technical Academy (BTA), attending weekly staff meetings at BTA, conducting outreach to students on both campuses, and presenting about PEI activities in classes at different times throughout the year, although consistency was difficult to achieve during the COVID-19 pandemic and holiday season. Despite these efforts, students were not readily engaged and project attendance was inconsistent. Reports were that staff seemed to be ambivalent about new initiatives. Feedback from two students indicated that they (and their friends) didn't want mental health type services and that they didn't want to attend groups during their free period when they have a break from classes.
- By the beginning of March 2022 many of the existing participants obtained full time jobs and could no longer commit to the project activities.

#### ➤ **Trauma Support Project for LGBTQIA+ Population**

Implemented through the Pacific Center for Human Growth, this project provides outreach, engagement and support group services for individuals (18 and above) in the LGBTQIA+ community who are suffering from the impact of oppression, trauma and other life stressors. Particular emphasis is on outreaching and providing supportive services to identified underserved populations within the local LGBTQIA+ community. Weekly or bi-weekly support groups are held throughout the year targeting various populations and needs within the LGBTQIA+ community. Support groups are led by Peer Facilitator community volunteers who are trained in Group Facilitation/Conflict Resolution and who have opportunities to participate in additional Skill Building workshops in order to share methods used to address group challenges and to learn new facilitator techniques. Approximately 250 individuals a year are served through this project.

**PEI Goals:** The goal of this project is to address and promote recovery and related functional outcomes for a mental illness early in its emergence, including the prevention of suicide.

#### **PEI Priorities:**

- Culturally competent and linguistically appropriate prevention and intervention; including community defined evidence practices (CDEPs).
- Youth Engagement and Outreach Strategies that target secondary school and transition age youth, with a priority on partnership with college mental health programs, and transition age youth not in college.
- Strategies targeting the mental health needs of older adults.

In FY22, a total of 439 support groups were conducted, serving 45 individuals. \*Demographics on individuals served include the following:

| <b>DEMOGRAPHICS N=45</b>                                   |     |
|------------------------------------------------------------|-----|
| <b>Age Groups</b>                                          |     |
| 16-25 (Transitional Age Youth)                             | 29% |
| 26-59 (Adult)                                              | 62% |
| Ages 60+ (Older Adult)                                     | 2%  |
| Declined to Answer (or Unknown)                            | 7%  |
| <b>Race</b>                                                |     |
| Asian                                                      | 16% |
| Black or African American                                  | 11% |
| White                                                      | 42% |
| More than one Race                                         | 13% |
| Declined to Answer (or Unknown)                            | 18% |
| <b>Ethnicity: Hispanic or Latino/Latina/Latinx</b>         |     |
| Caribbean                                                  | 2%  |
| Central American                                           | 2%  |
| Puerto Rican                                               | 2%  |
| South American                                             | 2%  |
| Declined to Answer (or Unknown)                            | 2%  |
| <b>Ethnicity: Non-Hispanic or Non-Latino/Latina/Latinx</b> |     |
| African                                                    | 4%  |
| Asian Indian/South Asian                                   | 7%  |
| Chinese                                                    | 2%  |
| Eastern European                                           | 2%  |
| European                                                   | 22% |
| Filipino                                                   | 2%  |
| Korean                                                     | 4%  |
| Middle Eastern                                             | 2%  |
| More than one Ethnicity                                    | 20% |
| Declined to Answer (or Unknown)                            | 24% |

| <b>Primary Language Used</b>               |      |
|--------------------------------------------|------|
| English                                    | 98%  |
| Declined to Answer (or Unknown)            | 2%   |
| <b>Sexual Orientation</b>                  |      |
| Gay or Lesbian                             | 9%   |
| Heterosexual or Straight                   | 7%   |
| Bisexual                                   | 18%  |
| Questioning or Unsure                      | 9%   |
| Queer                                      | 22%  |
| Another Sexual Orientation                 | 24%  |
| Declined to Answer (or Unknown)            | 11%  |
| <b>Disability</b>                          |      |
| Difficulty Seeing                          | 2%   |
| Mental (not Mental Health)                 | 9%   |
| Chronic Health Condition                   | 4%   |
| Other (Specify) – More than one disability | 7%   |
| No Disability                              | 78%  |
| <b>Veteran Status</b>                      |      |
| No                                         | 98%  |
| Declined to Answer (or Unknown)            | 2%   |
| <b>Gender: Assigned Sex at Birth</b>       |      |
| Declined to Answer (or Unknown)            | 100% |
| <b>Current Gender Identity</b>             |      |
| Male                                       | 4%   |
| Female                                     | 13%  |
| Transgender                                | 31%  |
| Genderqueer                                | 11%  |
| Questioning or Unsure                      | 4%   |

|                                 |     |
|---------------------------------|-----|
| Another gender identity         | 29% |
| Declined to Answer (or Unknown) | 7%  |

\*(From Project staff report, the state PEI demographic data requirements requires the inclusion of percentages, therefore the contractor had to code folx – used to explicitly signal the inclusion of groups commonly marginalize - with any multiple identities, into some form of a "multiple identity" category or "other" category. For example, in the ethnicity section when folx selected multiple ethnicities, it was reported as "More than one ethnicity." While this strategy generally works well to reduce confusion by ensuring legible percentages, this manner of reporting is reductive and doesn't allow for the full picture of the data. For instance, someone who identified as both Native and white is only being reported as "multiple races" and therefore, the category for Native participants is blank. This caused it to appear as though there weren't any Native participants in the project, when there were. The demographic reporting structure required simply does not allow for the level of detail and nuance needed to have a fuller picture of the project data).

There were 76 referrals for additional services and supports. The number and type of referrals were as follows: 24 Mental Health; 27 Physical Health; 2 Social Services; 23 other unspecified services. To assess the project services, a self-administered Peer Support Group Survey was distributed to all peer group members. Survey results were as follows:

- 81% indicated they would recommend the organization to a friend or family member;
- 77% felt like staff and facilitators were sensitive to their cultural background;
- 77% reported they deal more effectively with daily problems;
- 70% indicated they have trusted people they can turn to for help;
- 79% felt like they belong in their community.

#### Program Successes:

- The impact of the COVID-19 pandemic continued to be felt throughout the LGBTQIA+ community. The project continued providing peer groups online, providing spaces for the community members to gather; to receive and provide emotional support, feel a sense of belonging and connection; and to share resources.
- Some folx were not able to move to the online space due to privacy concerns, other safety issues, lack of devices, or unstable Wi-Fi. Despite that, the peer group facilitators reported that many of their group members expressed appreciation for the access to the virtual space during a time of increased isolation, especially those with chronic pain, disability, transportation or other barriers to in-person services.
- Community members also asked about possibilities of new groups for FY23 including: Q-Finity for neurodiverse folx; a group focusing on the needs of the QT polyamorous community; a parents group; as well as a restarting of the Thursday Night Men's group. New peer group facilitators were scheduled to be onboarded in Aug 2022.
- Opportunities for project outreach increased dramatically through the website, and through the Meetup, Instagram and Facebook accounts.
- A few quotes from feedback forms on the support group were as follows:

“I love the sense of community and support I feel in the group.”

“Thank You for holding the space.”

“I found the group understanding and supportive and [it] makes me feel I am not alone on an island, as others have [the] same circumstances.”

#### Program Challenges:

- With more online offerings, the facilitators had additional work to do including checking their email frequently, coping with technology issues, navigating facilitation while some group members and even facilitators joined via phones. These challenges were used as an opportunity to evaluate how to support facilitators as the project migrates to an in-person/hybrid model and how facilitators can be set up to easily navigate the technological needs.
- While COVID-19 pandemic protocols were developed, the project space was in transition since it was purchased by a development corporation and that hindered the ability to fully return to all in-person services.
- During FY22, the contractor that implements this project experienced big leadership changes in the Executive Director, Clinical Director, Finance Director and Community Programs Director positions. These shifts impacted staff capacity and resulted in some schedule changes until the vacancies were able to be filled.
- The project will be examining ways to broaden and deepen community engagement, especially to community members who live at intersections of disabled, trans, and Black, Indigenous, and People of Color (BIPOC) communities. An outreach committee was assembled to better track and prioritize engagement with more of a systematic approach.
- Although there was a decrease in numbers on the demographic sheets gathered on the peer group members and therefore, a lower number of group members reported, the number of duplicated participants was 2,118 in FY22, which indicated that despite lower unduplicated participants, individuals who joined groups returned regularly to meetings.
- Project staff will continue to evaluate issues of attrition and Zoom fatigue while exploring in-person and hybrid models of meeting, as well as ways to improve completion and submission of the demographic forms and surveys by peer group members.

#### ➤ **Living Well Project**

Implemented through Center for Independent Living, this project provides services for Senior Citizens (aged 50 and over) who are coping with trauma and/or mental health issues associated with acquired disabilities. Senior Citizens with acquired disabilities are one of the most difficult groups to reach with disability services. It is similarly difficult to intervene with this group's developing mental health issues related to aging and the traumatic impact of acquiring one or more disabilities (such as loss of mobility, vision, hearing, et al). The core of the project is a wellness workshop series entitled “Living Well with a Disability”. Through a combination of education, goal setting, group and peer counseling, the workshop series is designed to promote positive attitudinal shifts in a population who, despite the tremendous need for care, are often typically not responsive to mental health intervention. The workshop series includes a 10 week, one to two-hour class conducted by Peer Facilitators, and an optional 30-minute counseling



session. Counseling sessions are designed to monitor curriculum impact and continually assess individual goals and resource needs. This project serves up to 150 Older Adults a year.

**PEI Goals:** The goal of this project is to address and promote recovery and related functional outcomes for a mental illness early in its emergence, including the prevention of suicide.

**PEI Priorities:**

- Culturally competent and linguistically appropriate prevention and intervention; including community defined evidence practices (CDEPs).
- Strategies targeting the mental health needs of older adults.

In FY22, 47 Living Well Workshop sessions were conducted. Each Living Well Workshop series included the following sessions: Orientation; Goal Setting; Problem Solving; Healthy Reactions; Beating the Blues (Depression and Moods); Healthy Communication; Seeking Information; Physical Activity; Eating Well (Nutrition); Advocacy (Self and Systems Change); and Maintenance. Topics of Grief and Loss, Depression, Retirement, and Senior Invisibility were also incorporated into the project. In all 14 Senior Citizens participated in the Living Well Workshops. Demographics of Workshop participants are outlined below:

| <b>DEMOGRAPHICS N=14</b>                                   |      |
|------------------------------------------------------------|------|
| <b>Age Groups</b>                                          |      |
| 26-59 (Adult)                                              | 7%   |
| Age 60+ (Older Adult)                                      | 93%  |
| <b>Race</b>                                                |      |
| Asian                                                      | 7%   |
| Black or African American                                  | 14%  |
| White                                                      | 65%  |
| Other                                                      | 7%   |
| More than one race                                         | 7%   |
| <b>Ethnicity: Hispanic or Latino/Latina/Latinx</b>         |      |
| Other                                                      | 7%   |
| Declined to Answer (or Unknown)                            | 7%   |
| <b>Ethnicity: Non-Hispanic or Non-Latino/Latina/Latinx</b> |      |
| European                                                   | 14%  |
| Other                                                      | 7%   |
| Declined to Answer (or Unknown)                            | 65%  |
| <b>Primary Language Used</b>                               |      |
| English                                                    | 100% |

| <b>Sexual Orientation</b>                      |      |
|------------------------------------------------|------|
| Heterosexual or Straight                       | 7%   |
| Questioning or Unsure                          | 7%   |
| Declined to Answer (or Unknown)                | 86%  |
| <b>Disability</b>                              |      |
| Difficulty Seeing                              | 7%   |
| Difficulty Hearing or Having Speech Understood | 7%   |
| Mental (not mental health)                     | 21%  |
| Physical/mobility disability                   | 14%  |
| Chronic health condition                       | 7%   |
| Other Disability                               | 29%  |
| No Disability                                  | 7%   |
| Declined to Answer (or Unknown)                | 8%   |
| <b>Veteran Status</b>                          |      |
| No                                             | 100% |
| <b>Gender: Assigned Sex at birth</b>           |      |
| Male                                           | 21%  |
| Female                                         | 79%  |
| <b>Current Gender Identity</b>                 |      |
| Male                                           | 21%  |
| Female                                         | 79%  |

During the reporting timeframe 14 outreach and informational events were conducted reaching 38 individuals, with 45 unduplicated individuals receiving further engagement services. There were 257 referrals for additional services and supports. The number and type of referrals were as follows: 80 Mental Health; 35 Physical Health; 20 Social Services; 20 Housing; 102 other unspecified services. A total of 100% of project participants completed a Living Well Workshop Series. Feedback per participant self-report was as follows:

- 100% reported they felt satisfied with the workshops;
- 100% indicated an improvement in feeling satisfied in general;
- 100% had increased feelings of social supports;
- 100% felt prepared to make positive changes; and
- 100% reported they felt less overwhelmed and helpless.

Project Successes:

The workshops were well attended with lively engagement. The workshops provided a safe space where some of the participants were able to share painful testimonies of isolation, sadness and fear and others of loneliness. Many missed their families, their grandchildren, and friends. To help seniors stay connected 96 tele-support group sessions were held. Living Well Program virtual/tele-workshops were offered every Monday and tele-support groups were held every Tuesday. In December and May laptops and technical training were provided to previous participants and individuals who completed The Living Well Workshop Series.

Project Challenges:

Some participants had to travel out of state to support adult children with life-threatening illnesses and two struggled with potentially life-threatening diagnoses themselves. There was a lot of uncertainty revolving around the COVID-19 pandemic. Many participants had difficulties connecting with others due to the technological gap. The Workshop Series facilitator also had to learn systems that had not been used before.

➤ **SoulSpace Project**

In FY22, following a competitive Request For Proposal (RFP) process, ONTRACK Program Resources began implementing the SoulSpace Project for African Americans in Berkeley. The project assists African Americans in Berkeley to access culturally, ethnically, and linguistically responsive and trauma-informed prevention and early intervention services. Project services include: community education; outreach and engagement; individual quality of life assessments; coaching; empowerment planning; referrals; navigation supports; support groups; and life skills training.

**PEI Goals:** The goal of this project is to address and promote recovery and related functional outcomes for a mental illness early in its emergence, including the prevention of suicide.

**PEI Priorities:**

- Culturally competent and linguistically appropriate prevention and intervention; including community defined evidence practices (CDEPs).
- Youth Engagement and Outreach Strategies that target secondary school and transition age youth, with a priority on partnership with college mental health programs, and transition age youth not in college.
- Strategies targeting the mental health needs of older adults.

This project began operating in the last month of the 2<sup>nd</sup> Quarter of FY22. During that timeframe ONTRACK served 16 individuals in intensive case management, including a total of 45 empowerment activities, and support groups. Demographics on individuals served are as follows:

| <b>DEMOGRAPHICS N=16</b>                                   |      |
|------------------------------------------------------------|------|
| <b>Age Groups</b>                                          |      |
| Transition Age Youth (16-25)                               | 19%  |
| Adults (26-59)                                             | 62%  |
| Older Adults (60+)                                         | 19%  |
| <b>Race</b>                                                |      |
| Black or African American                                  | 100% |
| <b>Ethnicity: Non-Hispanic or Non-Latino/Latina/Latinx</b> |      |
| Other                                                      | 100% |
| <b>Primary Language</b>                                    |      |
| English                                                    | 100% |
| <b>Sexual Orientation</b>                                  |      |
| Heterosexual or Straight                                   | 94%  |
| Another sexual orientation                                 | 6%   |
| <b>Disability</b>                                          |      |
| Mental (not mental health)                                 | 6%   |
| Physical/Mobility Disability                               | 6%   |
| No Disability                                              | 88%  |
| <b>Veteran Status</b>                                      |      |
| No                                                         | 100% |
| <b>Gender: Assigned Sex at Birth</b>                       |      |
| Male                                                       | 56%  |
| Female                                                     | 44%  |
| <b>Current Gender Identity</b>                             |      |
| Male                                                       | 56%  |
| Female                                                     | 44%  |

**Project Successes:**

Despite a start date of December 2021, ONTRACK launched the Soul Space project and accomplished the following during the reporting timeframe:

- Hired two staff who have deep familiarity with Berkeley.
- Secured a work space.
- Built out the case management platform Apricot by Social Solutions, to match the reporting system used by Berkeley—City Data Services.

- Conducted outreach and began implementing services.
- In order to quickly gain a foot in Berkeley's mental provider network, ONTRACK established several partnerships with longstanding organizations in the city of Berkeley including:
  - A partnership with Options for Recovery which included co-hosting an in-person public education event with Roland Williams, an expert in co-existing substance use and mental health concerns among African Americans. ONTRACK also provided one-to-one empowerment services for some of their dually-diagnosed clients as well as members of their staff working through the compassion fatigue that often accompanies work with this population.
  - Through a partnership with Building Opportunities for Self-Sufficiency (BOSS), ONTRACK conducted onsite—and off-site-one-to-one and group empowerment services to their otherwise unsheltered population of African Americans.
- Conducted two well-reviewed community education events. Dr. La Tanya Takla conducted a 2-part series on trauma informed care to African Americans, and Roland Williams conducted an in-person workshop at the Veterans Memorial Building.

#### Project Challenges:

- ONTRACK experienced a number of challenges during the program period, several of which have been rectified since the ending of the June 30, 2022 MHSA reporting period. The truncated MHSA 2021-2022 service period was short due to a contract execution date of December 1, 2021, and a delay in final contracting processes.
- Outreach efforts to community members was restricted due to the COVID-19 pandemic, which meant greater reliance on social media and outreach to other community organizations who were seeking to adapt to their own challenges.
- The initial location of the Soul Space office in West Berkeley was less accessible to community members than the current location in North Berkeley on Adeline Street.

#### ➤ **Latinx Trauma Support Project**

In FY22, following a competitive Request For Proposal (RFP) process, East Bay Sanctuary Covenant began implementing the Latinx Trauma Support Project. This project assists low-income, Latinx families in Berkeley to access culturally, ethnically, and linguistically responsive and trauma-informed prevention and intervention services. Project services are in direct response to, and in collaboration with, Latinx community members, and are largely facilitated by individuals from within the targeted community and conducted in Spanish or an indigenous language. Services include: One-on-one outreach and support; support groups; staff and partner training and warm referrals.

**PEI Goals:** The goal of this project is to address and promote recovery and related functional outcomes for a mental illness early in its emergence, including the prevention of suicide.

#### **PEI Priorities:**

- Culturally competent and linguistically appropriate prevention and intervention; including community defined evidence practices (CDEPs).

- Youth engagement and outreach strategies that target secondary school and transition age youth, with a priority on partnership with college mental health programs, and transition age youth not in college.
- Strategies targeting the mental health needs of older adults.

In FY22, this project began implementing services. Over the course of the year a total of 224 individuals were served. Demographics on individuals served through this project were as follows:

| <b>DEMOGRAPHICS N=224</b>                              |     |
|--------------------------------------------------------|-----|
| <b>Age Groups</b>                                      |     |
| Children and Youth (0-15)                              | 2%  |
| Transition Age Youth (16-25)                           | 13% |
| Adults (26-59)                                         | 82% |
| Older Adults (60+)                                     | 1%  |
| Declined to Answer (or Unknown)                        | 2%  |
| <b>Race</b>                                            |     |
| American Indian or Alaska Native                       | 10% |
| Asian                                                  | 1%  |
| Black or African American                              | <1% |
| White                                                  | 2%  |
| Other                                                  | 85% |
| Declined to Answer (or Unknown)                        | 2%  |
| <b>Ethnicity: Hispanic or Latino/Latina/Latinx</b>     |     |
| Central American                                       | 45% |
| Mexican/Mexican-American/Chicano                       | 29% |
| South American                                         | 8%  |
| Other                                                  | 8%  |
| Declined to Answer (or Unknown)                        | 7%  |
| <b>Ethnicity: Non-Hispanic or Latino/Latina/Latinx</b> |     |
| African                                                | <1% |
| Asian Indian/South Asian                               | 1%  |
| Chinese                                                | <1% |

|                                             |     |
|---------------------------------------------|-----|
| Eastern European                            | <1% |
| Middle Eastern                              | <1% |
| Other                                       | <1% |
| <b>Primary Language</b>                     |     |
| English                                     | 3%  |
| Spanish                                     | 83% |
| Declined to Answer (or Unknown)             | 14% |
| <b>Sexual Orientation</b>                   |     |
| Gay or Lesbian                              | 28% |
| Heterosexual or Straight                    | 43% |
| Questioning or unsure of sexual orientation | 1%  |
| Queer                                       | 1%  |
| Another sexual orientation                  | 2%  |
| Declined to Answer (or Unknown)             | 25% |
| <b>Disability</b>                           |     |
| Difficulty Seeing                           | <1% |
| Other                                       | 1%  |
| No Disability                               | 95% |
| Declined to Answer (or Unknown)             | 4%  |
| <b>Veteran Status</b>                       |     |
| No                                          | 91% |
| Declined to Answer (or Unknown)             | 9%  |
| <b>Gender: Assigned Sex at Birth</b>        |     |
| Male                                        | 49% |
| Female                                      | 50% |
| Declined to Answer (or Unknown)             | 2%  |
| <b>Current Gender Identity</b>              |     |
| Male                                        | 46% |
| Female                                      | 50% |
| Transgender                                 | 1%  |
| Genderqueer                                 | 1%  |
| Declined to Answer (or Unknown)             | 2%  |

During the reporting timeframe 41 Support Group sessions were conducted reaching 26 individuals, and 76 individuals received One-on-One Supports. A total of 49 Trainings were conducted, reaching 78 individuals. There were 110 warm referrals for additional services and supports. The number and type of referrals were as follows: 31 Mental Health; 10 Physical Health; 33 Social Services; 36 other unspecified services.

Support Group feedback per participant self-report was as follows:

- 100% reported they liked participating in the Support Group;
- 100% indicated they would recommend the organization to a friend or family member;
- 100% indicated they felt safe, included and respected;
- 100% reported that they were able to deal more effectively with daily problems;
- 100% reported increased feelings of supports after participating in the support group.

Training feedback per participant self-report was as follows:

- 98% of participants indicated that they were satisfied with the training;
- 100% of participants indicated that the information in the training was informative;
- 100% of participants indicated that the training would help them in their work.

#### Project Successes:

- In the first fiscal year of this contract, an effective and efficient support services project was built to better serve members of the Latinx community through a holistic trauma-informed approach.
- Having a dedicated staff allowed the project to connect more deeply with Latinx community members, offering early intervention and prevention education, one-on-one supports, warm referrals to a wide range of social and mental health services, and two support groups (one for LGBTQ Latinx asylum seekers and one for Indigenous Maya Mam women).
- The project trained a total of seventy-eight staff and employees of partner agencies in the trauma-informed approach. These trainings were designed after the Program Manager interviewed key stakeholders within the organization about their understanding of trauma and what training needs they saw for improving services. Externally, customized trainings for partners working in healthcare, education, and social services were offered.
- The Support Services Manager strengthened partnerships with community agencies around a range of services that clients desperately needed, including health care, public benefits, services for survivors of domestic violence, housing, and many other needs.
- A sophisticated comprehensive system for identifying the resources available to community members and tracking referrals after initial contact using the Airtable platform, was created and utilized.

#### Project Challenges:

An early challenge was that the project was not able to hire a Support Services Program Manager until two months after the contract was initiated, however despite this delay, project goals were still met.



## PREVENTION & EARLY INTERVENTION COMBINED PROGRAMS

Prevention Program – Includes a set of related activities to reduce risk factors for developing a potentially serious mental illness and to build protective factors.

Early Intervention Program – Provides treatment and other services and interventions, including relapse prevention, to address and promote recovery and related functional outcomes for a mental illness early in its emergence, including the applicable negative outcomes that may result from untreated mental illness.

The City of Berkeley Prevention & Early Intervention combined programs are as follows:

### **Dynamic Mindfulness Program (DMind)**

Dynamic Mindfulness (DMind) is an evidence-based trauma-informed program implemented in BUSD middle and high schools. Validated by independent researchers as a transformative program for teaching children and youth, skills for optimal stress resilience and healing from trauma, the DMind program integrates mindful action, breathing, and centering into an intervention that is implemented in the classroom in 5-15 minute sessions, 3 to 5 times a week. This program has proven to be successful with vulnerable students who are exhibiting signs of chronic stress, trauma, and Post Traumatic Stress Disorder (PTSD) from Adverse Childhood Experiences (ACEs), and/or disengagement from school, chronic absences, and significant behavioral challenges, including emotion regulation, impulse control, anger management, and/or getting frequent referrals, or suspensions and at high risk of school failure. DMind also enables teacher and staff well-being, which has been shown to enhance student learning. Program components include in-class and after-school DMind sessions for students, student peer leadership development, and training and coaching of school staff.

**PEI Goals:** The goal of this program is to bring about mental health, including the reduction of school failure and the removal of children from their homes.

### **PEI Priorities:**

- Youth engagement and outreach strategies that target secondary school and transition age youth, with a priority on partnership with college mental health programs, and transition age youth not in college.
- Early identification programming of mental health symptoms and disorders, including but not limited to, anxiety, depression, and psychosis.

In FY22, DMIND was provided both live on-line and in-person. Training and coaching services were also provided through this program. The training and coaching services build capacity among teachers and staff, so they have the skills for their own self-care, stress resilience and personal sustainability, and for the professional application with students to teach emotional regulation as well as social-emotional learning. Training and coaching were also used to build capacity among student peer leaders, with structured opportunities for application in conflict resolution, peer mediation, restorative justice circles, and leading DMIND practice in their classrooms. Additionally, this program provided videos to the schools and Yoga at Independent Study. A total of 1,546 students and 139 teachers and school staff received services through

this program during the reporting timeframe as follows:

| School                         | Number of Students Served | Number of School Staff Served |
|--------------------------------|---------------------------|-------------------------------|
| • Berkeley High School         | 455                       | 76                            |
| • Berkeley Technical Institute | 28                        | 12                            |
| • King Middle School           | 248                       | 15                            |
| • Longfellow Middle School     | 127                       | 19                            |
| • Willard Middle School        | 688                       | 17                            |
| <b>Total</b>                   | <b>1,546</b>              | <b>139</b>                    |

Data on individuals served was not provided by BUSD.

### **Mental and Emotional Education Team (MEET)**

The Mental and Emotional Education Team (MEET) program implements a peer-to-peer mental health education curriculum to 9<sup>th</sup> graders, and an internship program for a cohort of high school students to serve as peers to their fellow students. The goals of the program are to increase student awareness of common mental health difficulties, resources, and healthy coping and intervention skills. Through this program, students are trained by a licensed BUSD clinician to conduct class presentations covering common mental health disorders, on and off campus resources, and basic coping and intervention skills.

**PEI Goals:** The goal of this program is to bring about mental health, including the reduction of school failure and the removal of children from their homes.

#### **PEI Priorities:**

- Youth engagement and outreach strategies that target secondary school and transition age youth, with a priority on partnership with college mental health programs, and transition age youth not in college.
- Early identification programming of mental health symptoms and disorders, including but not limited to, anxiety, depression, and psychosis.

In FY22, this program was not in operation.

### **African American Success Project**

The African American Success Project (AASP) implements “Umoja” - a daily elective class offered at Longfellow Middle School. Umoja provides African American students a safe affinity space to explore their cultural heritage and identity, while building positive peer relationships and establishing relational trust with adults. Umoja provides an ongoing focus on social and emotional development, including building skills, habits and mindsets that enable self-regulation, interpersonal skills, perseverance and resilience. This project aligns with stated needs found in key BUSD initiatives, and strategic actions, including but not limited to the: Black Lives Matter Resolution, Local Control & Accountability Plan (LCAP), the African American Success

Framework (AASF), and the Comprehensive Coordinated Early Intervention Services (CCEIS) Plan.

This project provides a unique chance to expose learners to content traditionally overlooked by educational institutions. Umoja course lessons are rooted in African and African American cultural precepts, and are composed to guide African American learners through:

- An exploration of their identities;
- An interrogation (questioning or query) of their ancestral history.
- Development of a positive sense of purpose and cultural pride.
- Envisioning their futures and outlining a path for fulfillment.
- Developing an awareness of their communal role.

Direct services for parents and guardians:

The project seeks to increase entry points for caregivers to be informed and involved in their child’s learning. Highlights in this area include:

- Providing digital newsletters, and updates using email marketing.
- Coordinating and hosting parent teacher conferences.
- Individual parent meetings/contacts, including advising, problem-solving, and updates regarding student progress.
- Hosting events including the Annual Kwanzaa celebration, and an end of the year meeting to gather qualitative program feedback.

Direct services for students (academic, social, behavioral):

- School-day cultural enrichment designed to uplift and empower African American learners using African centered pedagogical approaches.
- Equity centered support sessions (weekly).
- Structured class check-in sessions.

**PEI Goals:** The goal of this program is to bring about mental health, including the reduction of school failure and the removal of children from their homes.

**PEI Priorities:**

- Culturally competent and linguistically appropriate prevention and intervention, including community defined evidence practices (CDEPs).
- Early identification programming of mental health symptoms and disorders, including but not limited to, anxiety, depression, and psychosis.

In FY22, 73 students participated in this project. Outlined below are demographics on individuals served through this project:

| <b>DEMOGRAPHICS N=73</b> |      |
|--------------------------|------|
| <b>Age Groups</b>        |      |
| Children/Youth (0-15)    | 100% |

| <b>Race</b>                                        |      |
|----------------------------------------------------|------|
| Black or African American                          | 79%  |
| More than one Race                                 | 10%  |
| Declined to Answer (or Unknown)                    | 1%   |
| <b>Ethnicity: Hispanic or Latino/Latina/Latinx</b> |      |
| Hispanic/Latino/Latina/Latinx                      | 10%  |
| <b>Primary Language</b>                            |      |
| English                                            | 96%  |
| Other                                              | 4%   |
| <b>Sexual Orientation</b>                          |      |
| Declined to Answer (or Unknown)                    | 100% |
| <b>Disability</b>                                  |      |
| Other                                              | 25%  |
| <b>Veteran Status</b>                              |      |
| No                                                 | 100% |
| <b>Gender: Assigned sex at birth</b>               |      |
| Male                                               | 53%  |
| Female                                             | 47%  |
| <b>Current Gender Identity</b>                     |      |
| Male                                               | 53%  |
| Female                                             | 47%  |

Worth noting is this project's continued emphasis on school success and reinforcing literary skills. In addition to incorporating literacy structures into the class setting, the project made a strategic investment to establish a classroom library, which affords students access to over 100 unique titles. Efforts were made to select books written by Black/African American authors whose books feature Black/African American history, culture, and stories. Building the library was a direct response to a student survey conducted in a prior school year in which project participants indicated they would read more, if books were available that reflected their lived experience and related to their cultural background.

### **ACCESS AND LINKAGE TO TREATMENT**

Access and Linkage to Treatment Program – Connects children who are seriously emotionally disturbed, and adults and seniors with severe mental illness as early in the onset of these conditions as practicable, to medically necessary care and treatment, including but not limited to care provided by county mental health programs.

## **PREVENTION & EARLY INTERVENTION COMBINED PROGRAM WITH ACCESS AND LINKAGE TO TREATMENT COMPONENT**

Access and Linkage to Treatment Program – Connects children who are seriously emotionally disturbed, and adults and seniors with severe mental illness as early in the onset of these conditions as practicable, to medically necessary care and treatment, including but not limited to care provided by county mental health programs.

Prevention Program – Includes a set of related activities to reduce risk factors for developing a potentially serious mental illness and to build protective factors.

Early Intervention Program – Provides treatment and other services and interventions, including relapse prevention, to address and promote recovery and related functional outcomes for a mental illness early in its emergence, including the applicable negative outcomes that may result from untreated mental illness.

The City of Berkeley has one Prevention & Early Intervention combined program that also has an Access to Linkage and Treatment component:

### **High School Youth Prevention Program**

This program operates in conjunction with other health related services offered at Berkeley High School (BHS) and Berkeley Technology Academy (BTA) and has become a successful partnership between BUSD and the Public Health and Mental Health Divisions of Berkeley's HHCS Department. The program provides young people with the information and individual support they need to make positive and healthy decisions in their lives. The program includes: outreach activities designed to provide students with basic information around the risks of certain behaviors, and ways to protect themselves and make positive and safer decisions; classroom presentations to enable students to receive more in-depth information around a variety of health topics and available resources, and provide the opportunity for students to do a personal assessment of risk and current lifestyle choices; drop-in crisis, counseling services; individual appointments to identify young people who may need more intensive intervention; and short-term treatment. The individual appointments, held at the school-based health center, provide young people with the opportunity to hold very in-depth discussions around the choices they are making and the risks that are involved in their choices. They receive guidance about changes they can make to reduce or eliminate their risks, and are given the opportunity to identify barriers that might exist for them that prevent them from making healthier choices. In addition, they complete a 40 question, in-depth HEADSSS (Home, Education, Activities, Drugs/Alcohol, Sexuality, Safety, and Suicidality) assessment. Based on the outcome of the individual appointment and/or assessment, a young person may be referred to either a medical or mental health professional for follow-up care and intervention and/or treatment.

**PEI Goals:** The goal of this program is to bring about mental health, including the reduction of school failure or dropout.

**PEI Priorities:**

- Youth engagement and outreach strategies that target secondary school and transition age youth, with a priority on partnership with college mental health programs, and transition age youth not in college.
- Early identification programming of mental health symptoms and disorders, including but not limited to, anxiety, depression, and psychosis.

In FY22, approximately 233 students received services through this project. Demographics on youth served are outlined below:

| <b>DEMOGRAPHICS N=233</b>                                                                   |     |
|---------------------------------------------------------------------------------------------|-----|
| <b>Age Groups</b>                                                                           |     |
| 0-15 Years                                                                                  | 33% |
| 16-25 Years                                                                                 | 67% |
| <b>Race</b>                                                                                 |     |
| American Indian or Alaska Native                                                            | 2%  |
| Asian                                                                                       | 7%  |
| Black or African American                                                                   | 17% |
| Native Hawaiian or other Pacific Islander                                                   | <1% |
| White                                                                                       | 33% |
| More than one Race                                                                          | 14% |
| Other                                                                                       | 11% |
| Declined to Answer (or Unknown)                                                             | 16% |
| <b>Ethnicity: Hispanic or Latino/Latina/Latinx</b>                                          |     |
| Other                                                                                       | 22% |
| Declined to Answer (or Unknown)                                                             | 16% |
| <b>Primary Language</b>                                                                     |     |
| English                                                                                     | 93% |
| Spanish                                                                                     | 6%  |
| Declined to Answer (or Unknown)                                                             | 1%  |
| <b>Sexual Orientation</b>                                                                   |     |
| Gay or Lesbian or Bisexual or Questioning or Queer, or Unsure or Another Sexual Orientation | 21% |
| Heterosexual or Straight                                                                    | 35% |
| Declined to Answer (or Unknown)                                                             | 44% |

| <b>Disability</b>                               |      |
|-------------------------------------------------|------|
| Declined to Answer (or Unknown)                 | 100% |
| <b>Veteran Status</b>                           |      |
| No                                              | 100% |
| <b>Gender: Assigned sex at birth</b>            |      |
| Male                                            | 21%  |
| Female                                          | 45%  |
| Gender non-conforming, transgender, genderqueer | 11%  |
| Declined to Answer (or Unknown)                 | 23%  |
| <b>Current Gender Identity</b>                  |      |
| Male                                            | 21%  |
| Female                                          | 44%  |
| Transgender                                     | 3%   |
| Genderqueer                                     | 7%   |
| Another gender identity                         | <1%  |
| Declined to Answer (or Unknown)                 | 25%  |

Program Successes:

- Resumed providing the full range of services when students returned to full-time in-person learning.
- Following multiple staff transitions during the summer of 2021, this project was able to add two diverse, experienced, highly skilled, licensed clinicians, one of whom is a native bilingual Spanish speaker. Both clinicians quickly became part of a cohesive and collaborative mental health team and have integrated well into the larger Health Center team.
- The mental health team was able to substantially increase service utilization year-over-year compared to the FY21 school year. As half of the student body were new to campus in FY22, the project focused more of its efforts on outreach in order to familiarize students with the array of services.
- The mental health team maintained the use of the JotForm application for referrals. The team also integrated QR code technology into the referral form so that it can be more easily accessed and completed by students and school staff.
- The mental health team maintained a collaborative and productive relationship with the Berkeley High School Coordination of Services Team (COST) throughout the school year in order to ensure that appropriate referrals were made to the program.
- The mental health team provided an array of crisis support services following the tragic death of a Berkeley High School student in April 2022.
- The mental health team was also able to build upon and improve existing relationships and partnerships with Berkeley High School stakeholders. To this end the team collaborated with

several different on-campus programs throughout the year such as the Multi-cultural Program, McKinney-Vento Program, Special Education Program, and Intervention Counselors. The team also conducted stakeholder meetings at the end of the school year in order to elicit feedback around the services that are provided with a focus on how to improve collaboration, advance equity, and improve service accessibility.

Program Challenges:

- Two newly hired full-time Mental Health Clinicians were onboarded in FY22 in September and November. From August through December FY22 one full-time bilingual Mental Health Clinician was on parental leave. These staffing limitations contributed to the teams reduced service capacity during the Fall FY22 timeframe.
- Due to staff transitions during the preceding summer, the project was not able to host a cohort of graduate-level trainees, which also contributed to reduced service capacity during the FY22 school year.
- As a result of reduced staffing and service capacity, the mental health team did not facilitate support groups during the FY22 school year.
- Berkeley High School administration and staff also experienced difficulties with the transition back to full-time in-person learning and it took time to rebuild coordinated systems for supporting a range of student’s needs. Project leadership and Berkeley High School Administration continued to develop relevant protocols during the course of the school year to better support student accessibility to needed services.

In FY22, the RBA Measures that were established for this program were as follows:

| <b>Process Measures</b><br><b>How much did we do?</b>                                                                                                                         | <b>Quality Measures</b><br><b>How well did we do it?</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | <b>Impact Measures</b><br><b>Is Anyone Better off?</b>                                                                                                                                                                                                                                                                                         |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <ul style="list-style-type: none"> <li>• # of clients served</li> <li>• # of clients opened for ongoing services</li> <li>• # of services provided by service type</li> </ul> | <ul style="list-style-type: none"> <li>• # of clients screened for depression, trauma, and substance use</li> <li>• # of clients contacted within a week following a referral to the High School Health Center (HSHC)</li> <li>• % of school population served</li> <li>• % of clients satisfied with services, as measured by % of clients who agree with the following: HSHC Staff...                             <ul style="list-style-type: none"> <li>-Treat me with respect</li> <li>-Listen carefully to what I have to say</li> </ul> </li> <li>• Make me feel like there’s an adult at school who cares about me</li> </ul> | <ul style="list-style-type: none"> <li>• % of clients able to receive needed care, as measured by % of clients who agree with the following: The HSHC...                             <ul style="list-style-type: none"> <li>-Is easy to get help from when I need it</li> <li>-Helps me to meet many of my health needs</li> </ul> </li> </ul> |

\*Demographic data was reported at the program level, where available



| Measure                                                                                                 | Definition                                                                                                                                                                                                                                 | Data Source                 |
|---------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------|
| # clients served                                                                                        | Total clients served                                                                                                                                                                                                                       | ETO/RedCap                  |
| # services provided by service type                                                                     | # of services coded as behavioral_service with codes BHSV1-8. Key code accompanies Redcap data. Each incident could include more than one service provided.                                                                                | ETO/RedCap                  |
| % clients screened for depression, trauma, and substance use                                            | Percent of total clients that were recorded as having been screened for depression, trauma, and/or substance abuse at least one-time during reporting period.                                                                              | ETO/RedCap                  |
| % referrals to HSHC followed up within one week                                                         | Percentage of referrals that had 7 days or less between referral date and response date. Calculation reflects % of total referrals, not % of total clients.                                                                                | Referral Log                |
| % of school population served                                                                           | Unique clients served by HSHC divided by total student population                                                                                                                                                                          | ETO/RedCap; BHS data        |
| % of clients satisfied with services, as measured by % of clients who agree with various statements     | % of responses marked as "agree" or "strongly agree" for various survey questions. Note: these responses are from all students who accessed the health center and answered the survey, not just those who received mental health services. | Berkeley SBHC Client Survey |
| % of clients able to receive needed care, as measured by % of clients who agree with various statements | % of responses marked as "agree" or "strongly agree" for various survey questions. Note: these responses are from all students who accessed the health center and answered the survey, not just those who received mental health services. | Berkeley SBHC Client Survey |

Data Development Agenda: measures the team is interested in reporting on but for which reliable data was not available:

- Responsiveness of service (e.g. x days following qualifying event);
- % of clients who have at least one completed CANS/ANSA for each six-month period that they are in the program.

In FY22, the RBA Outcomes for this program were as follows:

# High School Health Center (HSHC)

## RBA Outcomes

Reporting Period: July 2021-June 2022 (Baseline)

### Process Outcomes ("How much did we do?")



233

Clients Served

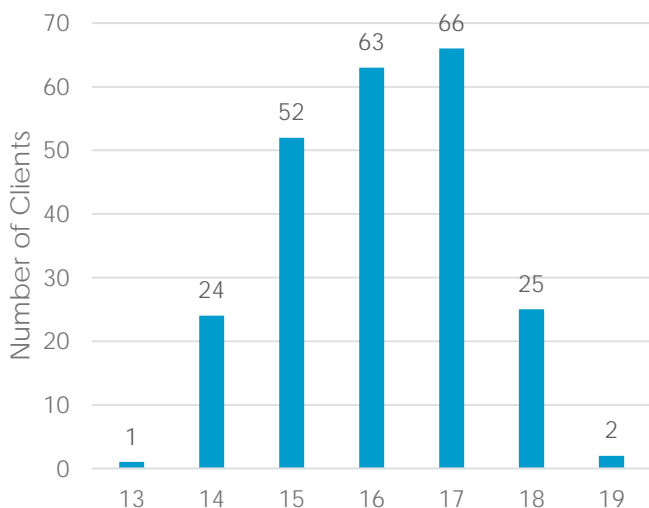


1 icon represents 20 clients

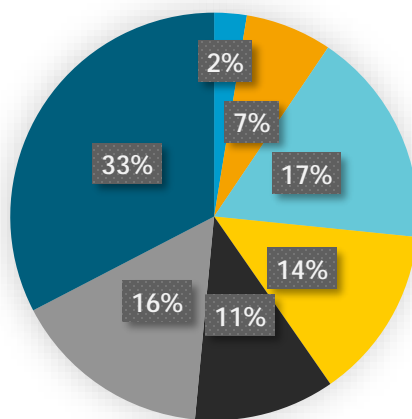
#### Program Description

The HSHC team provides mental health services on site at Berkeley High School; these services include individual and group therapy, crisis assessments, and drop in support. The program also hosts graduate students for training.

#### Demographics (Age)

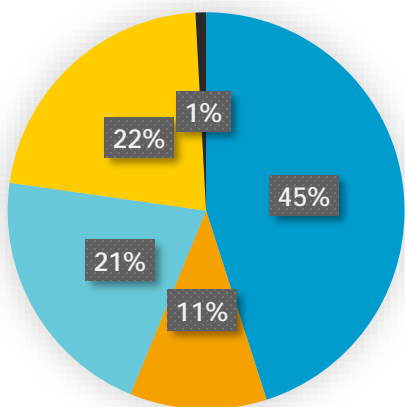


#### Demographics (Race)



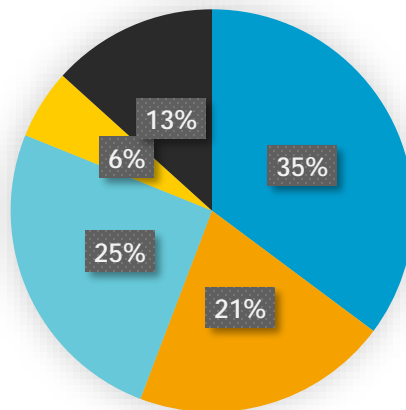
- Alaska Native or American Indian (2%)
- Asian or Pacific Islander (7%)
- Black or African American (17%)
- More than one race (14%)
- Other (11%)
- Prefer not to answer (16%)
- White (33%)

#### Demographics (Gender Identity)



- Female (45%)
- Gender nonconforming, transgender, genderqueer (11%)
- Male (21%)
- Missing (22%)
- Prefer not to answer (1%)

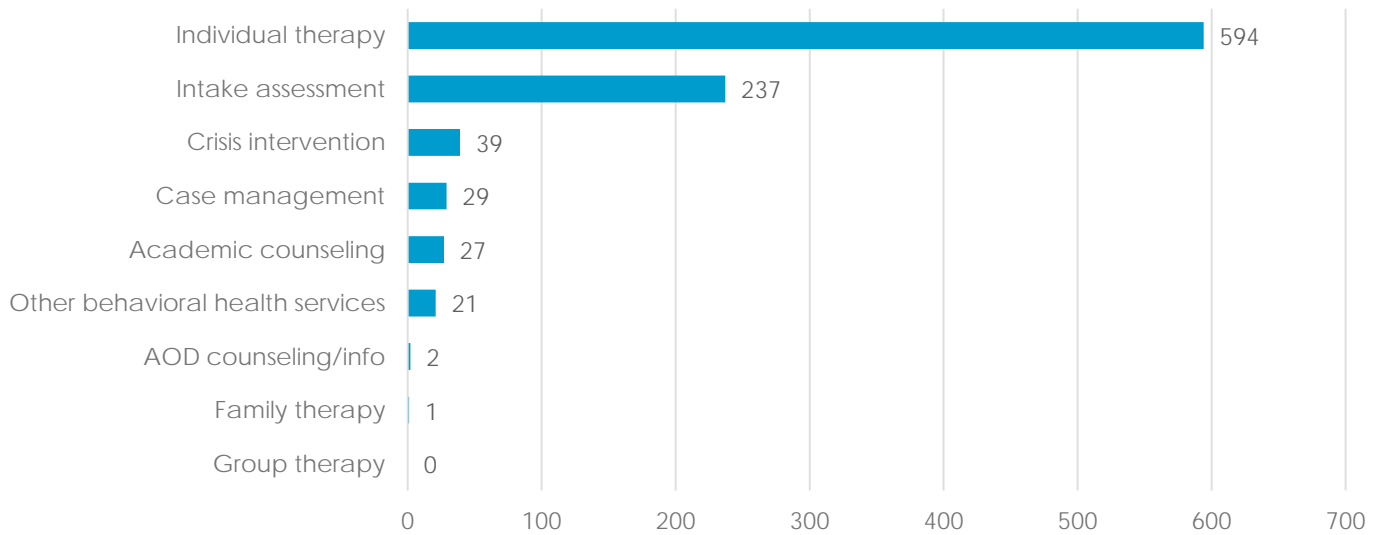
#### Demographics (Sexual Orientation)



- Heterosexual (35%)
- LGBTQ\* (21%)
- Missing (25%)
- Prefer not to answer (6%)
- Unknown/unsure (13%)

\*includes students who self-identified as aromantic, asexual, bisexual, gay, homosexual, lesbian, pansexual, queer, and questioning

### Services Provided by Service Type

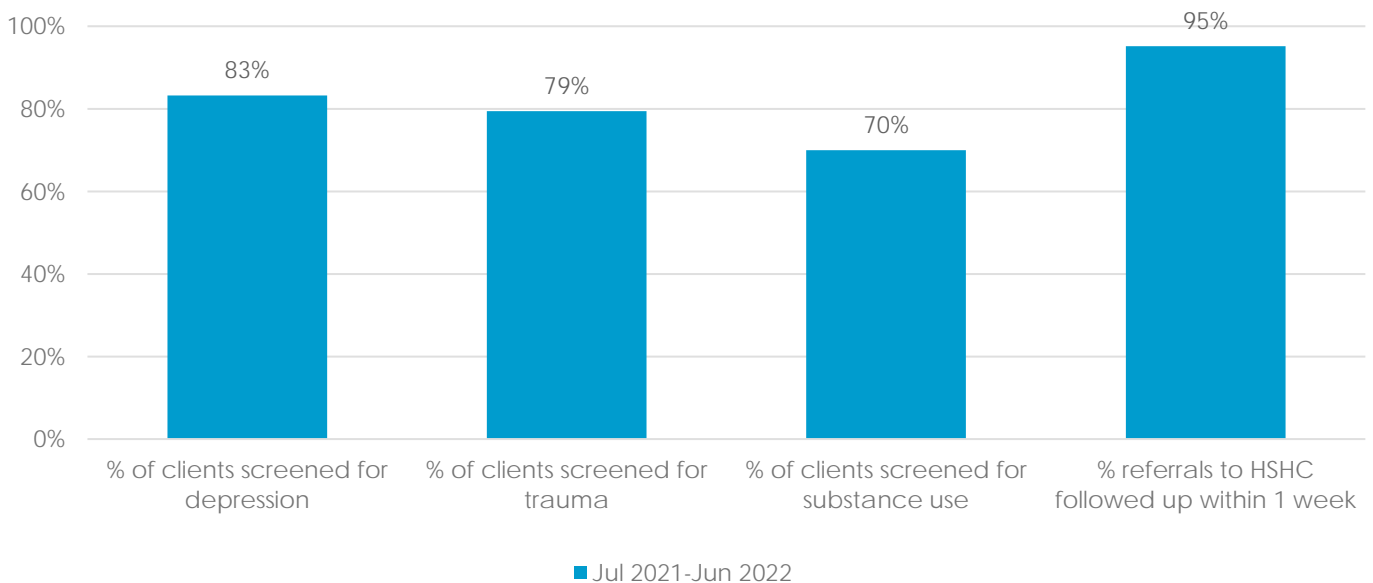


Note that multiple services could be provided in one visit (e.g. crisis assessment and referral) so total services by type (n=950) is greater than total encounters (n=846)

### Quality Outcomes ("How well did we do it?")

In 2021-2022, the HSHC program served **7%** of the school population.

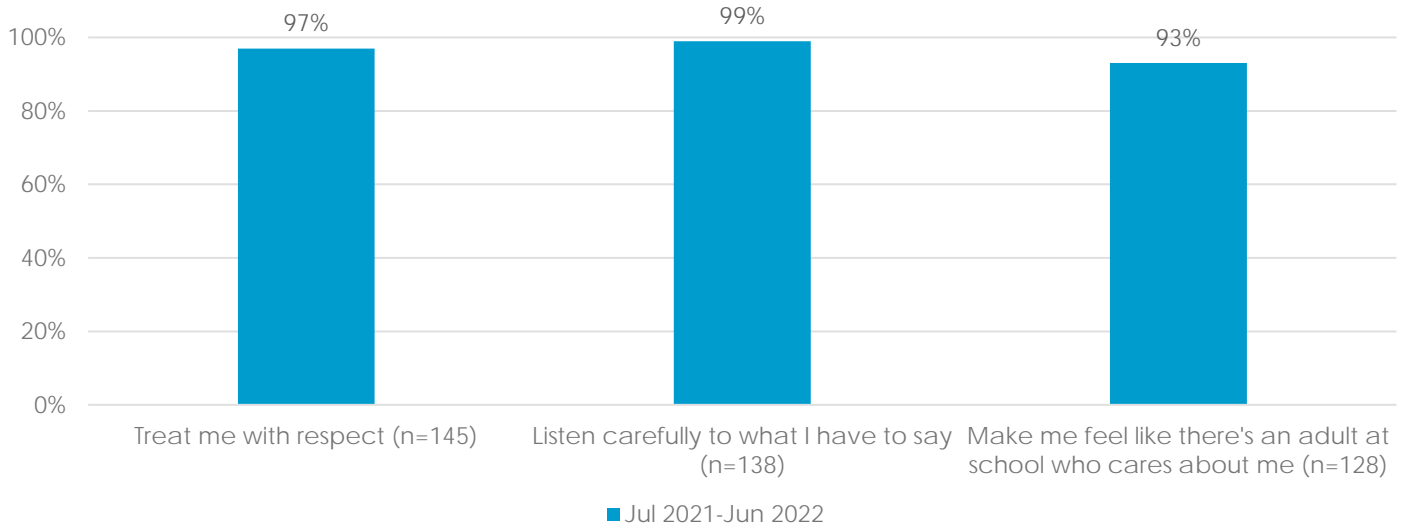
### Service Consistency



## Impact Outcomes ("Is anyone better off?")

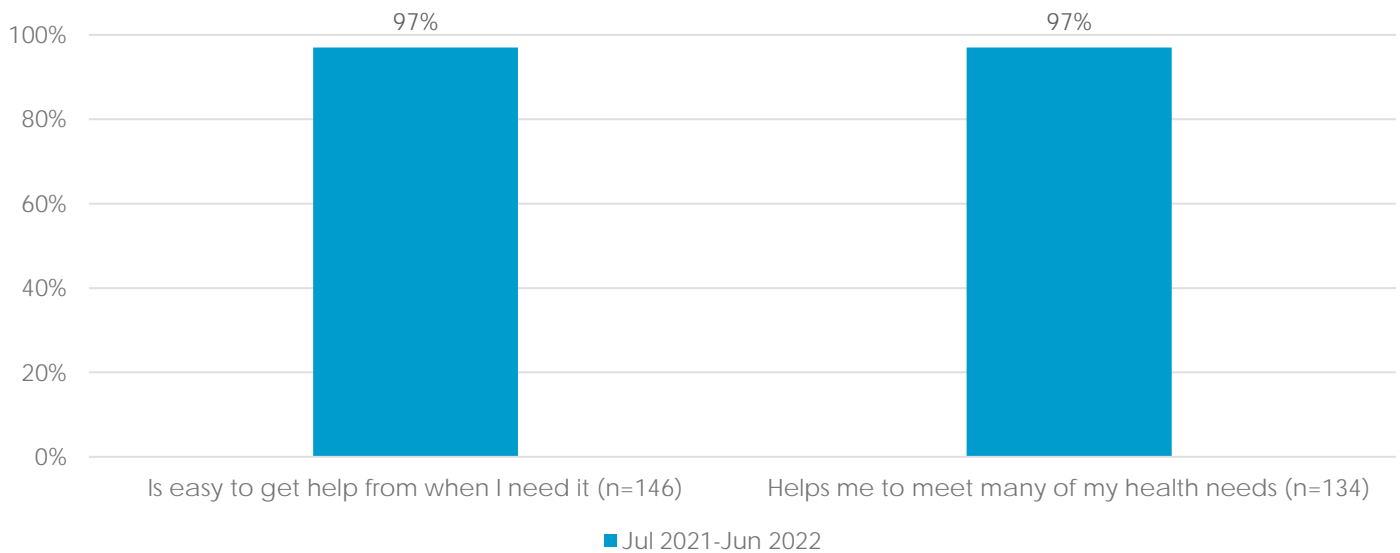
### Client Satisfaction

(% of clients who agree that "HSHC staff...")



### Client Satisfaction

(% of clients who agree that "The HSHC...")



## **EARLY INTERVENTION PROGRAM WITH ACCESS AND LINKAGE TO TREATMENT COMPONENT**

Access and Linkage to Treatment Program – Connects children who are seriously emotionally disturbed, and adults and seniors with severe mental illness as early in the onset of these conditions as practicable, to medically necessary care and treatment, including but not limited to care provided by county mental health programs.

Early Intervention Program – Provides treatment and other services and interventions, including relapse prevention, to address and promote recovery and related functional outcomes for a mental illness early in its emergence, including the applicable negative outcomes that may result from untreated mental illness.

The City of Berkeley provides funding for one Early Intervention program that also has an Access to Treatment component. The program is as follows:

### **Specialized Care Unit**

As outlined in the CSS section of this Annual Update, on July 14, 2020 City Council passed Resolution No, 69,501-N.S.; a package of items providing direction for the development of a new paradigm of public safety in Berkeley. One of the items adopted by City Council directed the City Manager to analyze and develop a pilot program to re-assign mental health and substance use calls, that do not include a threat of violence to a Specialized Care Unit (SCU). The SCU will consist of trained crisis-response field workers who will respond to behavioral health occurrences that do not pose an imminent threat to safety without the involvement of law enforcement. The SCU will be implemented as a pilot model and lessons-learned will inform the long-term implementation. Through the FY22 Annual Update the City of Berkeley provided a one-time amount of CSS and PEI funding to support this program, while the City determines how to best fund this initiative.

**PEI Goals:** The goal of this program is to connect individuals who have severe mental illnesses as early in the onset of these conditions as practicable, to medically necessary care and treatment, including but not limited to, care provided by county mental health programs.

**PEI Priority:** Early identification programming of mental health symptoms and disorders, including but not limited to, anxiety, depression, and psychosis.

In FY21, Resource Development Associates (RDA), chosen through a competitive Request for Proposal (RFP) process to evaluate the current crisis system in Berkeley, received an expanded scope of work to provide recommendations on the implementation of the SCU. To oversee and advise RDA in their work, the City formed an SCU Steering Committee consisting of Health, Housing and Community Services Department and Fire Department staff, and community representatives from the Mental Health Commission and the Berkeley Community Safety Commission. The Steering Committee met from January 2021 through January 2022 and advised on RDA's completion of three critical reports. The first two reports summarized crisis response programs in the United States and internationally as well as gathered perspectives from community and City stakeholders regarding the crisis response system. This included

gathering input from City of Berkeley and Alameda County agencies, local community-based organizations (CBOs), local community leaders, and utilizers of Berkeley's crisis response services. These reports laid the foundation for the twenty-five recommendations that were the subject of the third and final report to inform the SCU model. Each recommendation put forth in the final report is deeply rooted in the stakeholder feedback included in the two previous reports.

In Spring 2022, the design for the SCU received City Council approval and the work of the SCU Steering Committee transitioned from planning to implementation. At the beginning of FY23, the City of Berkeley launched a competitive RFP process, which included providing live question and answer as well as published resources on the City website. After an extensive review process, the City chose Bonita House to implement the SCU pilot program.

Since the beginning of 2023, Bonita House has taken initial steps to implementing the SCU including: selecting an operating location for the program, working with the City to obtain response vehicles, and hiring staff. The Berkeley and Bonita House teams are hoping to launch a version of the SCU at the end of FY23, or beginning of FY24, as the full program ramps up.

## **STIGMA AND DISCRIMINATION PROGRAM**

Stigma and Discrimination Program - Directs activities to reduce negative feelings, attitudes, beliefs, perceptions, stereotypes and/or discrimination related to being diagnosed with a mental illness, having a mental illness, or to seeking mental health services and to increase acceptance, dignity, inclusion, and equity for individuals with mental illness, and members of their families.

The City of Berkeley Stigma and Discrimination program is as follows:

### **Social Inclusion Program**

**PEI Goals:** To reduce negative feelings, attitudes, beliefs, perceptions, stereotypes and/or discrimination related to being diagnosed with a mental illness, having a mental illness, or to seeking mental health services and to increase acceptance, dignity, inclusion, and equity for individuals with mental illness, and members of their families. To create changes in attitude, knowledge and/or behaviors related to seeking mental health services or related to mental illness.

**PEI Priority:** Culturally competent and linguistically appropriate prevention and intervention, including community defined evidence practices (CDEPs).

The Social Inclusion program was created to combat stigma, attitudes and discrimination around individuals with mental health issues. Through this program, a "Telling Your Story" group provides mental health peers with opportunities to be trained, compensated and empowered to share their stories of healing in a supportive peer environment. When they feel ready, individuals can elect to be community presenters, sharing their inspirational stories at pre-arranged local public venues to dispel myths and educate others. This program serves approximately 10-20 individuals a year.

In FY22, 13 unduplicated individuals participated in the program. Demographics on program participants served were as follows:

| <b>DEMOGRAPHICS N= 13</b>                                  |       |
|------------------------------------------------------------|-------|
| <b>Age Groups</b>                                          |       |
| 26-59 (Adult)                                              | 38.5% |
| Ages 60+ (Older Adult)                                     | 38.5% |
| Declined to Answer (or Unknown)                            | 23%   |
| <b>Race</b>                                                |       |
| Asian                                                      | 8%    |
| Black or African American                                  | 23.5% |
| White                                                      | 38.5% |
| Other                                                      | 15%   |
| Declined to Answer (or Unknown)                            | 15%   |
| <b>Ethnicity: Hispanic or Latino/Latina/Latinx</b>         |       |
| Mexican/Mexican-American Chicano                           | 8%    |
| Puerto Rican                                               | 8%    |
| <b>Ethnicity: Non-Hispanic or Non-Latino/Latina/Latinx</b> |       |
| African                                                    | 15%   |
| European                                                   | 15%   |
| Japanese                                                   | 8%    |
| Other                                                      | 31%   |
| Declined to Answer (or Unknown)                            | 31%   |
| <b>Primary Language Used</b>                               |       |
| English                                                    | 84%   |
| Declined to Answer (or Unknown)                            | 16%   |
| <b>Sexual Orientation</b>                                  |       |
| Gay or Lesbian                                             | 8%    |
| Heterosexual or Straight                                   | 54%   |
| Bisexual                                                   | 15%   |
| Questioning or Unsure                                      | 8%    |
| Declined to Answer (or Unknown)                            | 15%   |

| <b>Disability</b>                            |       |
|----------------------------------------------|-------|
| Difficulty Hearing                           | 15%   |
| Mental Domain not including a mental illness | 15%   |
| Physical Mobility domain                     | 31%   |
| Chronic Health Condition                     | 23%   |
| Other (Specify):                             | 8%    |
| Declined to Answer (or Unknown)              | 31%   |
| <b>Veteran Status</b>                        |       |
| Yes                                          | 77%   |
| No                                           | 33%   |
| <b>Gender: Assigned sex at birth</b>         |       |
| Male                                         | 15.4% |
| Female                                       | 69.2% |
| Declined to Answer (or Unknown)              | 15.4% |
| <b>Current Gender Identity</b>               |       |
| Male                                         | 15%   |
| Female                                       | 54%   |
| Questioning or unsure                        | 8%    |
| Another gender identity                      | 8%    |
| Declined to Answer (or Unknown)              | 15%   |

**Program Successes:**

In FY22 the Telling Your Story group had more consistent attendees who were prepared to share based on the topics provided. The structure of having a brainstorming session proved to be really beneficial for the attendees. Some participants enjoyed having the group virtually in the comfort of their home, they felt safer and the hassle of commuting was eliminated. Participants felt more prepared during their shares and enjoyed the support they received from their peers.

**Program Challenges:**

The Telling Your Story group challenges were a lack of in-person connection and some participants who didn't have access to Zoom were unable to see others on the screen. This group provided gift cards for each session that a person participated within the program guidelines. There was a challenge for some individuals to come into the office to sign for the gift cards which created some disdain from the participants, or they waited months before they decided to have their gift card mailed. A similar gift card challenge was that some participants



waited for months until they picked them up, so it would be worth the commute they had to make to come to the office.

The RBA measures and outcomes for this program are reported with the CSS System Development, Wellness Recovery program.

### **SUICIDE PREVENTION PROGRAM**

Suicide Prevention Program – An optional program that provides activities to prevent suicide as a consequence of mental illness.

The City of Berkeley has one Suicide Prevention Program through a partnership with the California Mental Health Services Authority as follows:

#### **California Mental Health Services Authority (CalMHSA) - PEI Statewide Projects**

In 2009, California's counties formed the California Mental Health Services Authority (CalMHSA) as a Joint Powers Authority. Contributing jurisdictions are members of a CalMHSA board that provides direction into the types of initiatives that are implemented. One of the initiatives that was implemented is the PEI Statewide Projects. With an approved combined funding level of \$40 million per year for four years during the timeframe of 2011 through 2015, CalMHSA implemented statewide initiatives in the following areas: Suicide Prevention, Stigma and Discrimination Reduction, and Student Mental Health.

Following 2015, funding for PEI Statewide projects was generated through pooled contributions from individual mental health jurisdictions. In order to continue to sustain programming, CalMHSA previously asked jurisdictions to allocate 4% of their annual local PEI allocation each year to these statewide initiatives. In the City of Berkeley, this has varied from year to year depending on the amount of PEI revenue received. The Division is proposing to allocate 4% of PEI funds each year of the three-year timeframe for this initiative, and to execute a participation agreement with CalMHSA to access services.

In FY22, through this initiative resources on Suicide Prevention, Student Mental Health and Stigma and Discrimination reached approximately 1,624 individuals. Additionally, resources were distributed via email to local schools, community agencies and community members.

### **INNOVATION (INN)**

The Innovation (INN) funding component is for short-term pilot projects that increase learning in the mental health field.

The City of Berkeley's initial INN Plan was approved in February 2012. Subsequent updates to the initial plan were approved in May 2013, January 2014, June 2014 and January 2015. Per the initial INN Plan and/or through Plan Updates the following seven pilot projects were implemented from June 2012 – June 2015 through this funding component:

- A Community Empowerment project for African Americans;

- Services and supports for Ex-offenders re-entering the community, Veterans returning home from being deployed or at war, and their families;
- Cultural Wellness strategies for Asian Pacific Islanders;
- A Holistic Health care project for TAY;
- Technology Support Groups for senior citizens;
- Nutrition, Healthy Meal Preparation, and Exercise classes for Board and Care residents;
- Mental Health services and supports for LGBTQI located in community agencies.

Since the initial plan was approved, INN requirements were changed to require approvals from the State Mental Health Services Oversight and Accountability Commission (MHSOAC) in addition to local approval.

In May 2016, the second MHSA INN Plan was approved by the MHSOAC. This plan implemented a Trauma Informed Care project in BUSD for students, educators, and school staff. An update to this plan was subsequently approved by the MHSOAC in December 2018 which added funds to the project and switched the initial target population from BUSD students and staff to children, teachers and parents at YMCA Head Start sites in Berkeley.

In September 2018, the Division received approval from the MHSOAC for a third INN project to allocate funds to join the Technology Suite Multi-County Collaborative (later re-named Help@Hand Project) and in April 2022, the Division received approval for a fourth INN Project to allocate funds for an Encampment Based Mobile Wellness Center Project.

### **INN Reporting Requirements**

Per MHSA INN regulations, all INN funded programs have to collect state identified outcome measures and detailed demographic information. INN Evaluations are required to be included in each MHSA Annual Update or Three-Year Plan. The Innovation (INN) Fiscal Year (FY) 2021/2022 (FY22) Annual Evaluation Report is located in Appendix E of this Three-Year Plan.

A description of current INN programs that are proposed to be continued in the Three-Year Plan, and FY22 data are outlined below:

### **Help@Hand Project**

In September 2018, following a four-month community planning process and approval from City Council, the [City of Berkeley Technology Suite Project](#) (which has since been renamed “Help@Hand”) was approved by the MHSOAC. This project allocates INN funding to participate in a Statewide Collaborative with other California counties to pilot a Mental Health Technology Project that makes various technology-based mental health services and supports applications (Apps) locally available in Berkeley.

The [Help@Hand Project](#) seeks to learn whether the use of the Apps will increase access to mental health services and supports; and whether it will lead to better outcomes. Since plan approval, the Division worked both internally and with the California Mental Health Services Authority (CaIMHSA), the fiscal intermediary for this project, to prepare for citywide implementation. Due to

a need for additional community mental health supports as a result of the pandemic, the priority population for accessing Apps was changed from the original primary focus being on TAY and Older Adults, to include anyone who lives, works and goes to school in Berkeley.

Per a competitive recruitment process, the Division contracted with Resource Development Associates (RDA), who conducted Project Coordination work through early FY22 on this project. Following that time frame the BMH MHSA Coordinator has served as the Project Coordinator for this project.

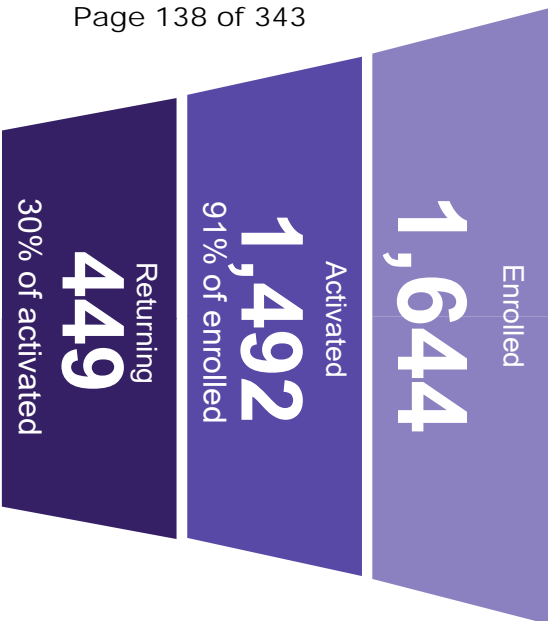
On behalf of the City and with locally designated Help@Hand project funds, CalMHSA executed a contract with Uptown Studios, in early FY22 to conduct a marketing and social media campaign for this project. In November 2021, as a result of this project, free access to the HeadSpace and MyStrength Apps became locally available in Berkeley for a limited timeframe. The MyStrength App was available through October 2022 and the HeadSpace App will be available through September 2023. A large interest in the HeadSpace App in FY22 led the Division to decide to allocate a portion of non-MHSA funds to add additional Headspace licenses for the community.

The Division is currently participating in a State Evaluation with other counties in this project. The evaluation is being conducted by the University of California at Irvine (UCI). Additionally, following a competitive recruitment process, the Division entered into a contract with Hatchuel, Tabernik & Associates to conduct a local evaluation of this project. The evaluations are currently underway and will be reported on in future MHSA Plans and Annual Updates.

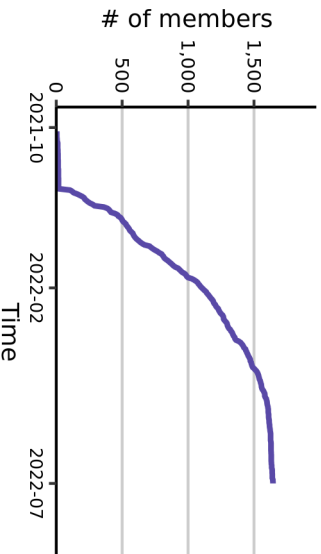
In FY22 there were 1,644 Berkeley community members who accessed MyStrength, and 5,097 accessed Headspace. Each App company collected and provided reporting on various user data measures. Local usage data in FY22 for each App is outlined on the preceding pages.

Program launch: 2021-09-20 Data thru: 2022-06-30

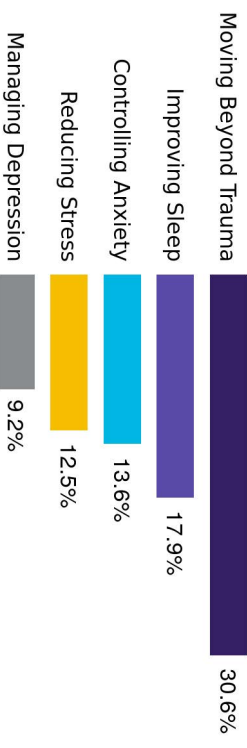
## Members enrolled



## Enrollment trends

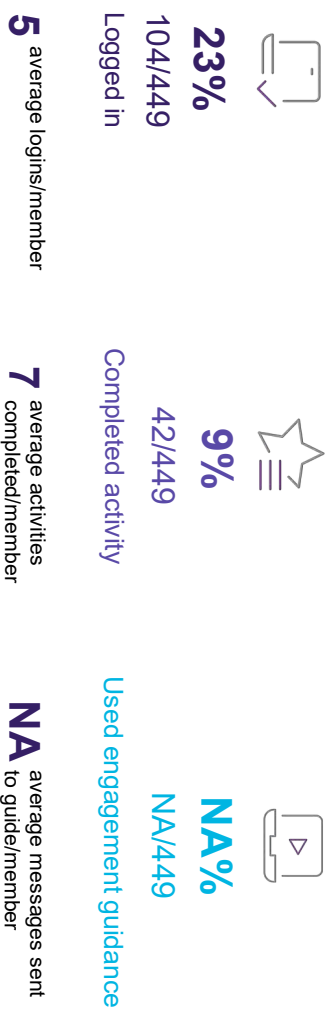


## Top 5 digital recommendations



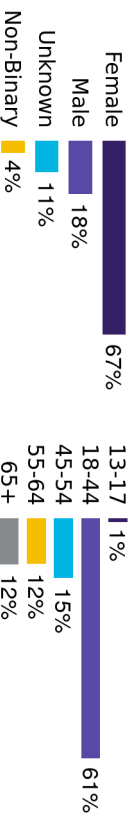
## Program engagement

Average 90 day member engagement rates (% of returning)



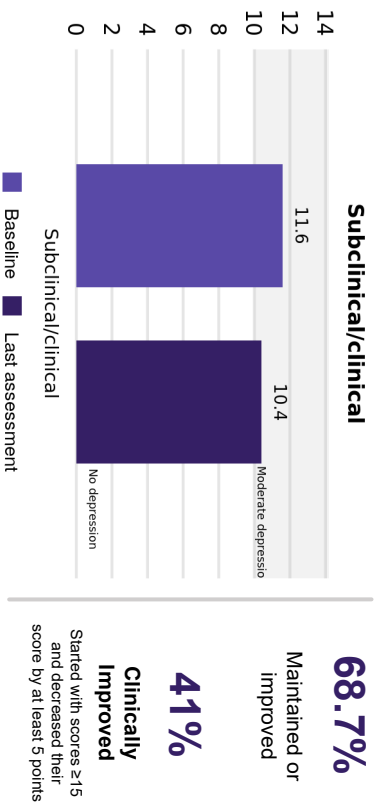
## Member demographics

(% of enrolled)



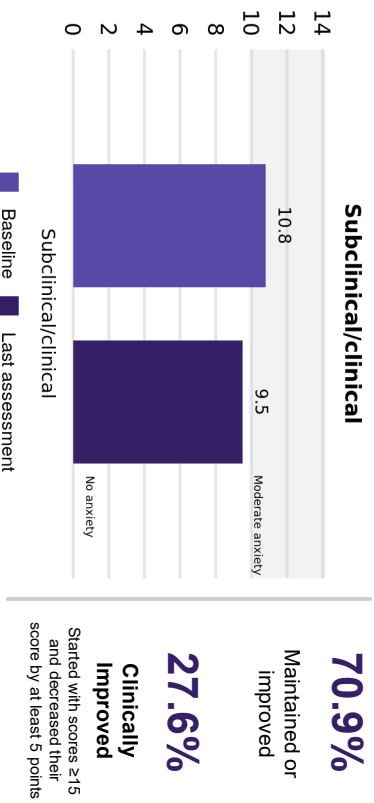
Program launch: 2021-09-20 Data thru: 2022-06-30

## Depression outcomes



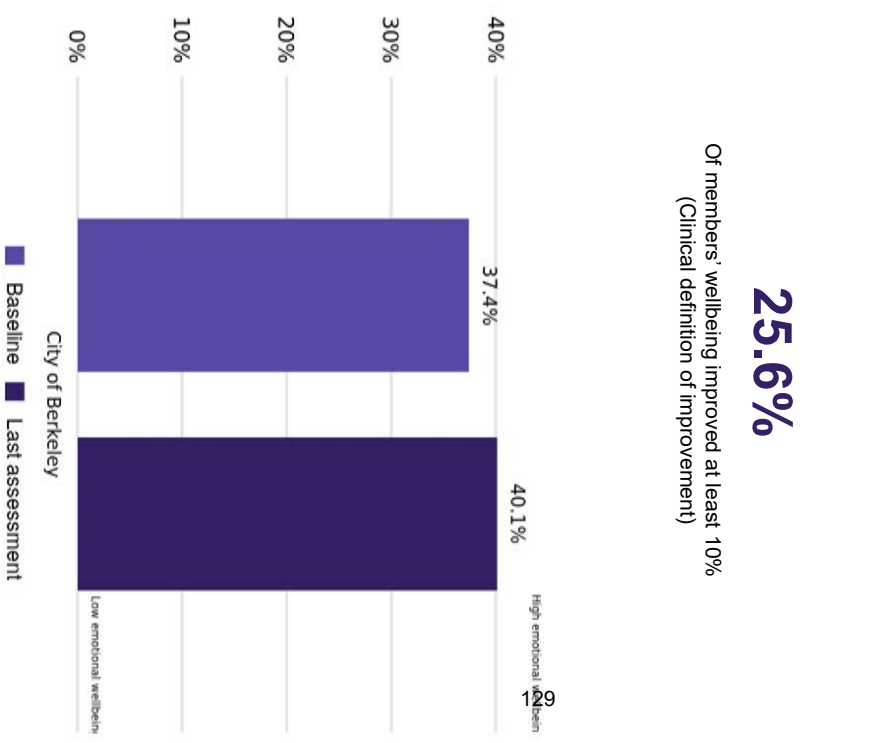
A PHQ-9 score indicates the severity level of a member's symptoms, where a score of 0-4 is nonclinical, 5-14 is subclinical, and 15+ is clinical.

## Anxiety outcomes



A GAD-7 score indicates the severity level of a member's symptoms, where a score of 0-4 is nonclinical, 5-14 is subclinical, and 15+ is clinical.

## Wellbeing outcomes



A WHO-5 score below 52% (13 points) indicates poor well-being.

### DATA DEFINITIONS



### Members enrolled

**Enrolled:** Number of members who registered and successfully enrolled

**Activated:** Number of members who completed the onboarding assessment

**Returning:** Number of activated members who have logged into the myStrength program at least once after onboarding assessment completion

**Enrollment trends:** Number of members who have enrolled (current enrolled) over time since the program launch date

### Top 5 digital recommendations

The percentage of returning members that were recommended “Just for You” content or digital courses and programs.

### Program engagement



**Logged in:** The percentage of returning members that logged into the myStrength application via the mobile app or the myStrength website at least once in the last 90 days.



**Completed activity:** The percentage of returning members that completed at least one activity in the last 90 days. Members must click the “Finish” button after going through all the steps in order to be counted.



**Engagement guidance:** The percentage of returning members that have sent at least one message to a guide in the last 90 days.

\*N/A will display if engagement guidance is not a part of the program that was purchased

### Clinical outcomes

**PHQ-9** is a validated depression screening tool. Total score is between 0 and 27 with higher scores meaning more symptoms. Metrics show % of members who have taken the PHQ-9 assessment at least twice – once at baseline and at least once more after baseline.

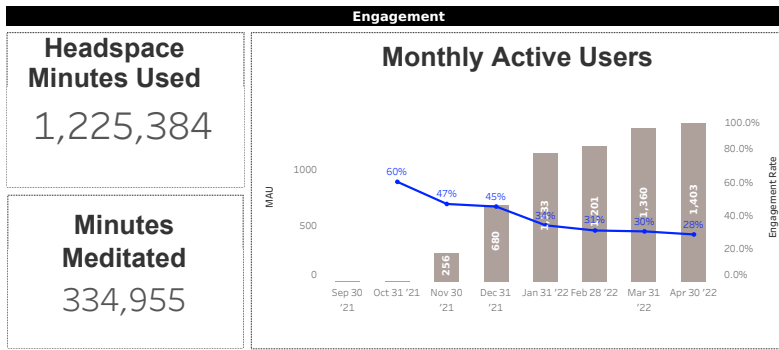
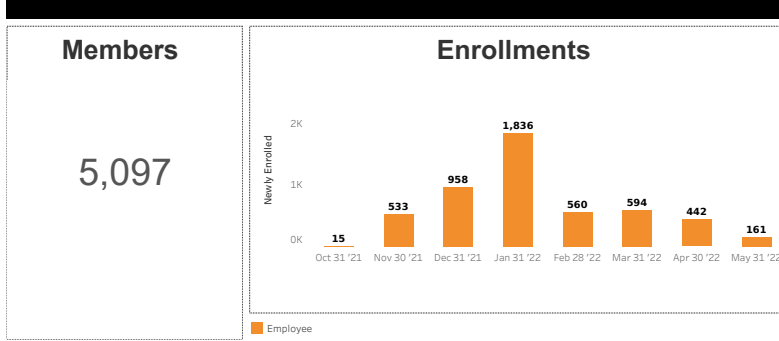
**GAD-7** is a validated anxiety screening tool. Total score is between 0 and 21 with higher scores meaning more symptoms. Metrics show % of members who have taken the GAD-7 assessment at least twice – once at baseline and at least once more after baseline.

**WHO-5** is a validated measure of general wellbeing (not a specific diagnosis or problem). Total score is between 0 and 25 with lower scores showing lower quality of life and higher scores showing higher quality of life. Raw scores are multiplied by 4 to get a percentage score. Metrics show % of members who have taken the WHO-5 assessment at least twice – once at baseline and at least once more after baseline.

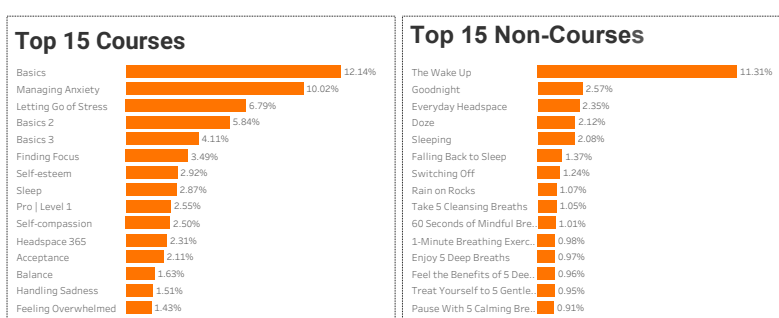
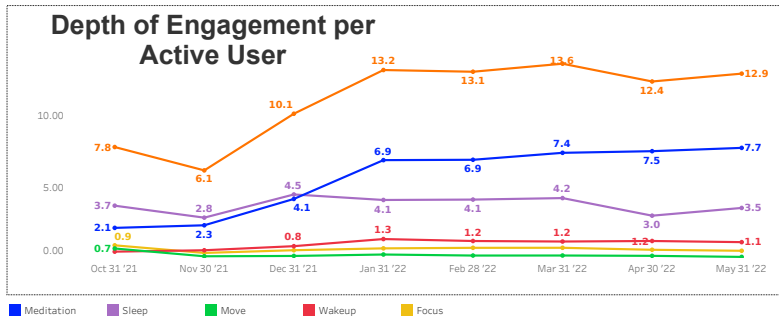
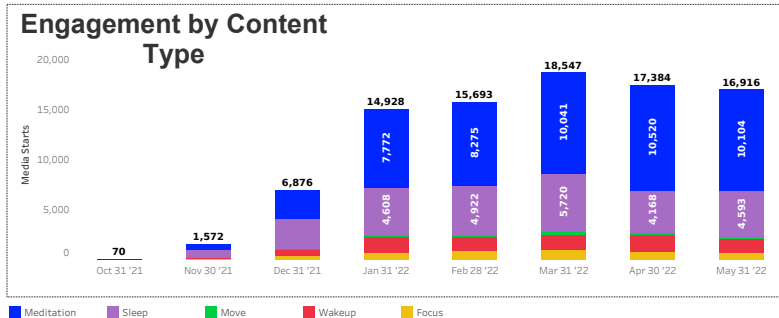
\*For each clinical outcome, the reported population has at least 10 members in the program and completed at least two assessments.



# Help@Hand FY22 Report



■ Engagement Rate new ■ MAU W Dateview new



### **Encampment-Based Mobile Wellness Center Project**

In April 2022, the Division received approval to implement an [Encampment-Based Mobile Wellness Center Project](#) from the Berkeley City Council and the State Mental Health Oversight and Accountability Commission (MHSOAC). This new project will pilot a Mobile Wellness Center at Homeless encampments in Berkeley. The Mobile Wellness Center project will provide an on-site, customizable menu of services that are chosen by individuals who reside at the encampments. The project will be led by peers with lived experience of homelessness, and include partners from encampment communities to encourage participation, help define service needs, and support service provision at the site. The project will be implemented through a community partner who will be chosen through a competitive Request For Proposal (RFP) process.

The project will seek to learn whether on-site wellness center services have a positive impact on mental health outcomes including an increase in the uptake of mental health services. The project will also assess the impact of how having individuals from the community help to provide services, shapes service delivery, and the participant satisfaction with services.

The RFP process was executed in the third quarter of FY23 and it is envisioned that the program will be implemented in early FY24. The program will include an evaluation which will be reported on in future MHSO Plans and Annual Updates.

### **WORKFORCE, EDUCATION & TRAINING (WET)**

The Workforce, Education & Training (WET) funding component is primarily for strategies to identify and remedy mental health occupational shortages, promote cultural competency and the employment of mental health peers and family members in the workplace

The City of Berkeley's WET Plan was approved in July 2010. A subsequent update was approved in May 2013. Specific programs in the approved WET Plan included:

- Peer Leadership Coordination;
- Staff Development and MHSO Training;
- High School Career Pathways Program;
- Graduate Level Training Stipend Program;
- Peer Leader Stipend Program.

WET programs were funded for an initial period through FY18 and FY19, and per the local [MHSO AB114 Reversion Expenditure Plan](#) (which is posted on the City of Berkeley MHSO Webpage) the Graduate Level Training Stipend Program was extended through FY20. Since the end of the WET Plan and the Reversion Expenditure Plan, in order to fund new programs and services out of the WET component, the state requires that funds are transferred to WET from the CSS funding component, through an approved MHSO Plan or Annual Update.



Outlined below is a description of the Loan Repayment Program that the Division is proposing to continue in this Three-Year Plan, and a proposed transfer of funds from CSS to WET to fund the addition of a Workforce Development Coordinator.

### **Greater Bay Area Workforce, Education and Training Regional Partnership - Loan Repayment Program**

The Department of Health Care Access and Information (HCAI) (formerly the Office of Statewide Health Planning and Development) allocated \$40 million in Workforce, Education and Training funds through FY25 for Regional Partnerships across the state for various mental health workforce strategies. A total of 2.6 million of funds was allocated to the Greater Bay Area (GBA) Workforce, Education & Training Regional Partnership. In order to participate in the GBA Regional Partnership, and receive a portion of funds to implement workforce development strategies, mental health jurisdictions were required to contribute a portion of local funds towards this initiative. The Division allocated funds for this program through previously approved MHSA Plans and Annual Updates.

Through this initiative, which is administered through California Mental Health Services Authority (CalMHSA), the City is participating in a Loan Repayment Program. This program enables eligible staff to apply to have a portion of their Student Loan paid, in exchange for working at BMH for a period of two years. This program was implemented in FY23.

### **Workforce Development Coordinator**

Through this Three-Year Plan the Division is proposing to transfer CSS System Development Funds to the WET Component to fund the Workforce Development Coordinator position through the following process:

*Per MHSA Statute, (Welfare and Institutions Code, Section 5892 (b)): "In any year after 2007 -08, programs for services pursuant to Part 3 (commencing with Section 5800), and Part 4 (commencing with Section 5850) of this division may include funds for technological needs and capital facilities, human resource needs, and a prudent reserve to ensure services do not have to be significantly reduced in years in which revenues are below average of previous years. The total allocation for purposes authorized by this subdivision shall not exceed 20 percent of the average amount of funds allocated to that county for the previous five years pursuant to this section."*

This new position will support staff recruitment and retention for the Division; oversee Intern recruitment; and coordinate training and support for graduate level interns.

### **CAPITAL FACILITIES AND TECHNOLOGICAL NEEDS (CFTN)**

The Capital Facilities and Technological Needs (CFTN) funding component is for capital projects on owned buildings and on mental health technology projects.

The City of Berkeley CFTN Plan was approved in April 2011, with updates to the plan in May 2015, June 2016, and January 2017. Through previously approved MHSA Plans and/or Annual Updates, BMH allocated a total of \$3,773,811 towards the renovation of the Adult Mental Health Clinic. The Adult Clinic serves Berkeley's most at-risk and fragile population through crisis intervention, case management, individual/or group supports, psychiatric medication support, Full Services Partnership Intensive Case Management Teams, Clinical services, Mobile Crisis, and Transitional Outreach Services. Construction on the Adult Clinic began in FY19, and in June 2021, the renovation was completed, staff moved back into the building, and the clinic was re-opened for services.

**FY22 AVERAGE COST PER CLIENT\***

\*(Includes FY22 expenditures attributed to the MHSA Funding component)

| <b>COMMUNITY SERVICES &amp; SUPPORTS</b>                                                                                                                                                                                                                                                                   |                             |             |                                |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------|-------------|--------------------------------|
| <b>Program Name</b>                                                                                                                                                                                                                                                                                        | <b>Approx. # of Clients</b> | <b>Cost</b> | <b>Average Cost Per Client</b> |
| Children and Youth Intensive Support Services FSP                                                                                                                                                                                                                                                          | 12                          | \$267,599   | \$22,300                       |
| TAY, Adult & Older Adult FSP                                                                                                                                                                                                                                                                               | 75                          | \$937,541   | \$12,501                       |
| Homeless FSP                                                                                                                                                                                                                                                                                               | 36                          | \$971,797   | \$26,994                       |
| System Development (includes: Wellness Recovery Services; Family Support Services; Benefits Advocacy; Employment/Educational Services; Housing Services and Supports; Crisis Services; TOT; FIT; TAY Case Management Services; Hearing Voices; Berkeley Wellness Center; Case Management for Older Adults) | 1,455                       | \$1,839,530 | \$1,264                        |
| <b>PREVENTION &amp; EARLY INTERVENTION</b>                                                                                                                                                                                                                                                                 |                             |             |                                |
| Be A Star                                                                                                                                                                                                                                                                                                  | 1,654                       | \$36,250    | \$22                           |
| Supportive Schools Program                                                                                                                                                                                                                                                                                 | 591                         | \$110,000   | \$186                          |
| Living Well Project                                                                                                                                                                                                                                                                                        | 14                          | \$32,046    | \$2,289                        |
| LGBTQI Trauma Project                                                                                                                                                                                                                                                                                      | 45                          | \$100,000   | \$2,222                        |
| TAY Trauma Project                                                                                                                                                                                                                                                                                         | 105                         | \$32,046    | \$305                          |
| SoulSpace Project                                                                                                                                                                                                                                                                                          | 17                          | \$75,000    | \$4,412                        |
| Trauma Project for Latinx                                                                                                                                                                                                                                                                                  | 224                         | \$100,000   | \$446                          |
| High School Youth Prevention Program                                                                                                                                                                                                                                                                       | 223                         | \$422,057   | \$1,893                        |
| Dynamic Mindfulness                                                                                                                                                                                                                                                                                        | 1,685                       | \$95,000    | \$56                           |
| African American Success Project                                                                                                                                                                                                                                                                           | 73                          | \$150,000   | \$2,055                        |

### **PRUDENT RESERVE FUNDS**

Per MHSa legislation mental health jurisdictions are required to maintain a local Prudent Reserve to be able to fund the most crucial CSS support services in the event there is a year where there is a downturn in the amount of MHSa funds received at the state. Beginning in 2019, new state regulations required a report out on the level of local Prudent Reserves every five years. Mental health jurisdictions must show that the amount of the Prudent Reserve is not higher than 33% of a total of the past five years of MHSa funding distributions and must submit the "Mental Health Services Act Prudent Reserve Assessment/Reassessment" form attesting to the amount in the Prudent Reserve fund.

Based on state regulations on how to calculate the allowable amount in the Prudent Reserve, the City of Berkeley's MHSa Prudent Reserve should not exceed \$2,140,243. The current amount of the City of Berkeley's MHSa Prudent Reserve is \$1,237,629, which does not exceed the allowable amount.

The signed "Mental Health Services Act Prudent Reserve Assessment/Reassessment" form will be submitted to the state by 6/30/23.

State of California  
Health and Human Services Agency

Department of Health Care Services

### MENTAL HEALTH SERVICES ACT PRUDENT RESERVE ASSESSMENT/REASSESSMENT

County/City: City of Berkeley

Fiscal Year: 2023

**Local Mental Health Director**

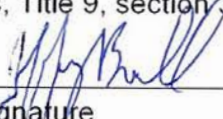
Name: Jeffrey Buell, LCSW

Telephone: (510) 981-7682

Email: jbuell@berkeleyca.gov or jbuell@cityofberkeley.info

I hereby certify<sup>1</sup> under penalty of perjury, under the laws of the State of California, that the Prudent Reserve assessment/reassessment is accurate to the best of my knowledge and was completed in accordance with California Code of Regulations, Title 9, section 3420.20 (b).

Jeffrey Buell



5/8/23

Local Mental Health Director (PRINT NAME)

Signature

Date

<sup>1</sup> Welfare and Institutions Code section 5892 (b)(2)  
DHCS 1819 (02/19)

## **BUDGET NARRATIVE**

The enclosed budget provides estimated revenue and expenditures for this Three-Year Plan. The Division obtains financial projections from the state on the amount of MHSA revenue to be allocated in a given year. Financial projections for this Three-Year Plan reflect an increase in MHSA funds in FY24, followed by estimated decreases in FY25 and FY26.

The budget includes funding allocations for most of the proposed new staffing in FY24 calculated at 85% of the total costs, which is based on the projected amount of time it will take to recruit and hire for each position. Additionally, two of the proposed new positions are calculated at 50% of the total costs, as it is estimated they will be hired by mid-year. Savings from previous years (due to staff vacancies, slower start-ups with new programs, etc.), and projected additional revenue in FY24, will assist in providing funding to support MHSA programs and services over the next couple of years when the MHSA fund is estimated to decrease.

The Division will continue to closely monitor the City of Berkeley MHSA allotments and expenditures to assess whether program changes are needed in the future. Any proposed program changes will be vetted for community input and reflected in the Annual Updates to this Three-Year Plan.

# **APPENDIX A**

## **PROGRAM BUDGETS**

**FY 2023-24 Through FY 2025-26 Three-Year Mental Health Services Act Expenditure Plan  
Funding Summary**

County: City of Berkeley

Date: 5/16/23

|                                                    | MHSA Funding                    |                                   |            |                                  |                                            |                 |
|----------------------------------------------------|---------------------------------|-----------------------------------|------------|----------------------------------|--------------------------------------------|-----------------|
|                                                    | A                               | B                                 | C          | D                                | E                                          | F               |
|                                                    | Community Services and Supports | Prevention and Early Intervention | Innovation | Workforce Education and Training | Capital Facilities and Technological Needs | Prudent Reserve |
| <b>A. Estimated FY 2023/24 Funding</b>             |                                 |                                   |            |                                  |                                            |                 |
| 1. Estimated Unspent Funds from Prior Fiscal Years | 8,810,925                       | 2,437,727                         | 1,858,707  | 0                                | 0                                          | 1,237,629       |
| 2. Estimated New FY2023/24 Funding                 | 9,302,674                       | 2,325,669                         | 612,018    |                                  |                                            |                 |
| 3. Transfer in FY2023/24 <sup>a/</sup>             | (170,535)                       |                                   |            | 170,535                          |                                            |                 |
| 4. Access Local Prudent Reserve in FY2023/24       |                                 |                                   |            |                                  |                                            |                 |
| 5. Estimated Available Funding for FY2023/24       | 17,943,065                      | 4,763,395                         | 2,470,725  | 170,535                          | 0                                          | 1,237,629       |
| <b>B. Estimated FY2023/24 MHSA Expenditures</b>    | 8,115,066                       | 2,085,566                         | 1,223,159  | 170,535                          | 0                                          |                 |
| <b>C. Estimated FY2024/25 Funding</b>              |                                 |                                   |            |                                  |                                            |                 |
| 1. Estimated Unspent Funds from Prior Fiscal Years | 9,827,999                       | 2,677,830                         | 1,247,566  | 0                                | 0                                          | 1,237,629       |
| 2. Estimated New FY2024/25 Funding                 | 4,605,820                       | 1,151,455                         | 303,014    |                                  |                                            |                 |
| 3. Transfer in FY2024/25 <sup>a/</sup>             | (208,654)                       |                                   |            | 208,654                          |                                            |                 |
| 4. Access Local Prudent Reserve in FY2024/25       |                                 |                                   |            |                                  |                                            | 0               |
| 5. Estimated Available Funding for FY2024/25       | 14,225,164                      | 3,829,285                         | 1,550,581  | 208,654                          | 0                                          | 1,237,629       |
| <b>D. Estimated FY2024/25 Expenditures</b>         | 8,735,316                       | 2,066,785                         | 534,334    | 208,654                          | 0                                          |                 |
| <b>E. Estimated FY2025/26 Funding</b>              |                                 |                                   |            |                                  |                                            |                 |
| 1. Estimated Unspent Funds from Prior Fiscal Years | 5,489,849                       | 1,762,499                         | 1,016,247  | 0                                | 0                                          | 1,237,629       |
| 2. Estimated New FY2025/26 Funding                 | 4,543,527                       | 1,135,882                         | 298,916    |                                  |                                            |                 |
| 3. Transfer in FY2025/26 <sup>a/</sup>             | (217,000)                       |                                   |            | 217,000                          |                                            |                 |
| 4. Access Local Prudent Reserve in FY2025/26       |                                 |                                   |            |                                  |                                            | 0               |
| 5. Estimated Available Funding for FY2025/26       | 9,816,375                       | 2,898,381                         | 1,315,163  | 217,000                          | 0                                          | 1,237,629       |
| <b>F. Estimated FY2025/26 Expenditures</b>         | 9,037,987                       | 2,115,658                         | 534,334    | 217,000                          | 0                                          |                 |
| <b>G. Estimated FY2025/26 Unspent Fund Balance</b> | 778,388                         | 782,723                           | 780,829    | 0                                | 0                                          | 1,237,629       |

| <b>H. Estimated Local Prudent Reserve Balance</b>             |           |
|---------------------------------------------------------------|-----------|
| 1. Estimated Local Prudent Reserve Balance on June 30, 2023   | 1,237,629 |
| 2. Contributions to the Local Prudent Reserve in FY 2023/24   | 0         |
| 3. Distributions from the Local Prudent Reserve in FY 2023/24 | 0         |
| 4. Estimated Local Prudent Reserve Balance on June 30, 2024   | 1,237,629 |
| 5. Contributions to the Local Prudent Reserve in FY 2024/25   | 0         |
| 6. Distributions from the Local Prudent Reserve in FY 2024/25 | 0         |
| 7. Estimated Local Prudent Reserve Balance on June 30, 2025   | 1,237,629 |
| 8. Contributions to the Local Prudent Reserve in FY 2025/26   | 0         |
| 9. Distributions from the Local Prudent Reserve in FY 2025/26 | 0         |
| 10. Estimated Local Prudent Reserve Balance on June 30, 2026  | 1,237,629 |

a/ Pursuant to Welfare and Institutions Code Section 5892(b), Counties may use a portion of their CSS funds for WET, CFTN, and the Local Prudent Reserve. The total amount of CSS funding used for this purpose shall not exceed 20% of the total average amount of funds allocated to that County for the previous five years.



**FY 2023-24 Through FY 2025-26 Three-Year Mental Health Services Act Expenditure Plan  
Community Services and Supports (CSS) Component Worksheet**

County: City of Berkeley

Date: 5/16/23

|                                                 | Fiscal Year 2023/24                              |                          |                           |                               |                                                 |                            |
|-------------------------------------------------|--------------------------------------------------|--------------------------|---------------------------|-------------------------------|-------------------------------------------------|----------------------------|
|                                                 | A                                                | B                        | C                         | D                             | E                                               | F                          |
|                                                 | Estimated Total<br>Mental Health<br>Expenditures | Estimated CSS<br>Funding | Estimated Medi<br>Cal FFP | Estimated 1991<br>Realignment | Estimated<br>Behavioral<br>Health<br>Subaccount | Estimated<br>Other Funding |
| <b>FSP Programs</b>                             |                                                  |                          |                           |                               |                                                 |                            |
| 1. TAY, Adult & Older Adult FSP                 | 1,716,647                                        | 1,716,647                |                           |                               |                                                 |                            |
| 2. Children's FSP                               | 594,640                                          | 594,640                  |                           |                               |                                                 |                            |
| 3. Homeless FSP                                 | 1,324,009                                        | 1,324,009                |                           |                               |                                                 |                            |
| 4.                                              | 0                                                |                          |                           |                               |                                                 |                            |
| 5.                                              | 0                                                |                          |                           |                               |                                                 |                            |
| 6.                                              | 0                                                |                          |                           |                               |                                                 |                            |
| 7.                                              | 0                                                |                          |                           |                               |                                                 |                            |
| 8.                                              | 0                                                |                          |                           |                               |                                                 |                            |
| 9.                                              | 0                                                |                          |                           |                               |                                                 |                            |
| 10.                                             | 0                                                |                          |                           |                               |                                                 |                            |
| 11.                                             | 0                                                |                          |                           |                               |                                                 |                            |
| 12.                                             | 0                                                |                          |                           |                               |                                                 |                            |
| 13.                                             | 0                                                |                          |                           |                               |                                                 |                            |
| 14.                                             | 0                                                |                          |                           |                               |                                                 |                            |
| 15.                                             | 0                                                |                          |                           |                               |                                                 |                            |
| 16.                                             | 0                                                |                          |                           |                               |                                                 |                            |
| 17.                                             | 0                                                |                          |                           |                               |                                                 |                            |
| 18.                                             | 0                                                |                          |                           |                               |                                                 |                            |
| 19.                                             | 0                                                |                          |                           |                               |                                                 |                            |
| <b>Non-FSP Programs</b>                         |                                                  |                          |                           |                               |                                                 |                            |
| 1. Multicultural Outreach & Engagement          | 217,132                                          | 217,132                  |                           |                               |                                                 |                            |
| 2. CSS System Development                       | 3,008,414                                        | 3,008,414                |                           |                               |                                                 |                            |
| 3.                                              |                                                  |                          |                           |                               |                                                 |                            |
| 4.                                              |                                                  |                          |                           |                               |                                                 |                            |
| 5.                                              | 0                                                |                          |                           |                               |                                                 |                            |
| 6.                                              | 0                                                |                          |                           |                               |                                                 |                            |
| 7.                                              | 0                                                |                          |                           |                               |                                                 |                            |
| 8.                                              | 0                                                |                          |                           |                               |                                                 |                            |
| 9.                                              | 0                                                |                          |                           |                               |                                                 |                            |
| 10.                                             | 0                                                |                          |                           |                               |                                                 |                            |
| 11.                                             | 0                                                |                          |                           |                               |                                                 |                            |
| 12.                                             | 0                                                |                          |                           |                               |                                                 |                            |
| 13.                                             | 0                                                |                          |                           |                               |                                                 |                            |
| 14.                                             | 0                                                |                          |                           |                               |                                                 |                            |
| 15.                                             | 0                                                |                          |                           |                               |                                                 |                            |
| 16.                                             | 0                                                |                          |                           |                               |                                                 |                            |
| 17.                                             | 0                                                |                          |                           |                               |                                                 |                            |
| 18.                                             | 0                                                |                          |                           |                               |                                                 |                            |
| 19.                                             | 0                                                |                          |                           |                               |                                                 |                            |
| <b>CSS Administration</b>                       | 1,254,223                                        | 1,254,223                |                           |                               |                                                 |                            |
| <b>CSS MHSA Housing Program Assigned Funds</b>  |                                                  |                          |                           |                               |                                                 |                            |
| <b>Total CSS Program Estimated Expenditures</b> | 8,115,066                                        | 8,115,066                | 0                         | 0                             | 0                                               | 0                          |
| <b>FSP Programs as Percent of Total</b>         | 44.8%                                            |                          |                           |                               |                                                 |                            |

**FY 2023-24 Through FY 2025-26 Three-Year Mental Health Services Act Expenditure Plan  
Community Services and Supports (CSS) Component Worksheet**

County: City of Berkeley

Date: 5/16/23

|                                                 | Fiscal Year 2024/25                              |                          |                           |                               |                                                 |                            |
|-------------------------------------------------|--------------------------------------------------|--------------------------|---------------------------|-------------------------------|-------------------------------------------------|----------------------------|
|                                                 | A                                                | B                        | C                         | D                             | E                                               | F                          |
|                                                 | Estimated Total<br>Mental Health<br>Expenditures | Estimated CSS<br>Funding | Estimated Medi<br>Cal FFP | Estimated 1991<br>Realignment | Estimated<br>Behavioral<br>Health<br>Subaccount | Estimated<br>Other Funding |
| <b>FSP Programs</b>                             |                                                  |                          |                           |                               |                                                 |                            |
| 1. TAY, Adult & Older Adult FSP                 | 1,791,768                                        | 1,791,768                |                           |                               |                                                 |                            |
| 2. Children's FSP                               | 618,426                                          | 618,426                  |                           |                               |                                                 |                            |
| 3. Homeless FSP and Outreach Team               | 1,438,908                                        | 1,438,908                |                           |                               |                                                 |                            |
| 4.                                              | 0                                                |                          |                           |                               |                                                 |                            |
| 5.                                              | 0                                                |                          |                           |                               |                                                 |                            |
| 6.                                              | 0                                                |                          |                           |                               |                                                 |                            |
| 7.                                              | 0                                                |                          |                           |                               |                                                 |                            |
| 8.                                              | 0                                                |                          |                           |                               |                                                 |                            |
| 9.                                              | 0                                                |                          |                           |                               |                                                 |                            |
| 10.                                             | 0                                                |                          |                           |                               |                                                 |                            |
| 11.                                             | 0                                                |                          |                           |                               |                                                 |                            |
| 12.                                             | 0                                                |                          |                           |                               |                                                 |                            |
| 13.                                             | 0                                                |                          |                           |                               |                                                 |                            |
| 14.                                             | 0                                                |                          |                           |                               |                                                 |                            |
| 15.                                             | 0                                                |                          |                           |                               |                                                 |                            |
| 16.                                             | 0                                                |                          |                           |                               |                                                 |                            |
| 17.                                             | 0                                                |                          |                           |                               |                                                 |                            |
| 18.                                             | 0                                                |                          |                           |                               |                                                 |                            |
| 19.                                             | 0                                                |                          |                           |                               |                                                 |                            |
| <b>Non-FSP Programs</b>                         |                                                  |                          |                           |                               |                                                 |                            |
| 1. Multicultural Outreach & Engagement          | 225,817                                          | 225,817                  |                           |                               |                                                 |                            |
| 2. CSS System Development                       | 3,358,394                                        | 3,358,394                |                           |                               |                                                 |                            |
| 3.                                              |                                                  | 0                        |                           |                               |                                                 |                            |
| 4.                                              |                                                  | 0                        |                           |                               |                                                 |                            |
| 5.                                              | 0                                                |                          |                           |                               |                                                 |                            |
| 6.                                              | 0                                                |                          |                           |                               |                                                 |                            |
| 7.                                              | 0                                                |                          |                           |                               |                                                 |                            |
| 8.                                              | 0                                                |                          |                           |                               |                                                 |                            |
| 9.                                              | 0                                                |                          |                           |                               |                                                 |                            |
| 10.                                             | 0                                                |                          |                           |                               |                                                 |                            |
| 11.                                             | 0                                                |                          |                           |                               |                                                 |                            |
| 12.                                             | 0                                                |                          |                           |                               |                                                 |                            |
| 13.                                             | 0                                                |                          |                           |                               |                                                 |                            |
| 14.                                             | 0                                                |                          |                           |                               |                                                 |                            |
| 15.                                             | 0                                                |                          |                           |                               |                                                 |                            |
| 16.                                             | 0                                                |                          |                           |                               |                                                 |                            |
| 17.                                             | 0                                                |                          |                           |                               |                                                 |                            |
| 18.                                             | 0                                                |                          |                           |                               |                                                 |                            |
| 19.                                             | 0                                                |                          |                           |                               |                                                 |                            |
| <b>CSS Administration</b>                       | 1,302,001                                        | 1,302,001                |                           |                               |                                                 |                            |
| <b>CSS MHSA Housing Program Assigned Funds</b>  | 0                                                |                          |                           |                               |                                                 |                            |
| <b>Total CSS Program Estimated Expenditures</b> | 8,735,316                                        | 8,735,315.52             | 0                         | 0                             | 0                                               | 0                          |
| <b>FSP Programs as Percent of Total</b>         | 44.1%                                            |                          |                           |                               |                                                 |                            |

**FY 2023-24 Through FY 2025-26 Three-Year Mental Health Services Act Expenditure Plan  
Community Services and Supports (CSS) Component Worksheet**

County: City of Berkeley

Date: 5/16/23

|                                                 | Fiscal Year 2025/26                              |                          |                           |                               |                                                 |                            |
|-------------------------------------------------|--------------------------------------------------|--------------------------|---------------------------|-------------------------------|-------------------------------------------------|----------------------------|
|                                                 | A                                                | B                        | C                         | D                             | E                                               | F                          |
|                                                 | Estimated Total<br>Mental Health<br>Expenditures | Estimated CSS<br>Funding | Estimated Medi<br>Cal FFP | Estimated 1991<br>Realignment | Estimated<br>Behavioral<br>Health<br>Subaccount | Estimated<br>Other Funding |
| <b>FSP Programs</b>                             |                                                  |                          |                           |                               |                                                 |                            |
| 1. TAY, Adult & Older Adult FSP                 | 1,886,161                                        | 1,886,161                |                           |                               |                                                 |                            |
| 2. Children's FSP                               | 643,163                                          | 643,163                  |                           |                               |                                                 |                            |
| 3. Homeless FSP and Outreach Team               | 1,492,384                                        | 1,492,384                |                           |                               |                                                 |                            |
| 4.                                              | 0                                                |                          |                           |                               |                                                 |                            |
| 5.                                              | 0                                                |                          |                           |                               |                                                 |                            |
| 6.                                              | 0                                                |                          |                           |                               |                                                 |                            |
| 7.                                              | 0                                                |                          |                           |                               |                                                 |                            |
| 8.                                              | 0                                                |                          |                           |                               |                                                 |                            |
| 9.                                              | 0                                                |                          |                           |                               |                                                 |                            |
| 10.                                             | 0                                                |                          |                           |                               |                                                 |                            |
| 11.                                             | 0                                                |                          |                           |                               |                                                 |                            |
| 12.                                             | 0                                                |                          |                           |                               |                                                 |                            |
| 13.                                             | 0                                                |                          |                           |                               |                                                 |                            |
| 14.                                             | 0                                                |                          |                           |                               |                                                 |                            |
| 15.                                             | 0                                                |                          |                           |                               |                                                 |                            |
| 16.                                             | 0                                                |                          |                           |                               |                                                 |                            |
| 17.                                             | 0                                                |                          |                           |                               |                                                 |                            |
| 18.                                             | 0                                                |                          |                           |                               |                                                 |                            |
| 19.                                             | 0                                                |                          |                           |                               |                                                 |                            |
| <b>Non-FSP Programs</b>                         |                                                  |                          |                           |                               |                                                 |                            |
| 1. Multicultural Outreach & Engagement          | 234,850                                          | 234,850                  |                           |                               |                                                 |                            |
| 2. CSS System Development                       | 3,448,106                                        | 3,448,106                |                           |                               |                                                 |                            |
| 3.                                              | 0                                                |                          |                           |                               |                                                 |                            |
| 4.                                              | 0                                                |                          |                           |                               |                                                 |                            |
| 5.                                              | 0                                                |                          |                           |                               |                                                 |                            |
| 6.                                              | 0                                                |                          |                           |                               |                                                 |                            |
| 7.                                              | 0                                                |                          |                           |                               |                                                 |                            |
| 8.                                              | 0                                                |                          |                           |                               |                                                 |                            |
| 9.                                              | 0                                                |                          |                           |                               |                                                 |                            |
| 10.                                             | 0                                                |                          |                           |                               |                                                 |                            |
| 11.                                             | 0                                                |                          |                           |                               |                                                 |                            |
| 12.                                             | 0                                                |                          |                           |                               |                                                 |                            |
| 13.                                             | 0                                                |                          |                           |                               |                                                 |                            |
| 14.                                             | 0                                                |                          |                           |                               |                                                 |                            |
| 15.                                             | 0                                                |                          |                           |                               |                                                 |                            |
| 16.                                             | 0                                                |                          |                           |                               |                                                 |                            |
| 17.                                             | 0                                                |                          |                           |                               |                                                 |                            |
| 18.                                             | 0                                                |                          |                           |                               |                                                 |                            |
| 19.                                             | 0                                                |                          |                           |                               |                                                 |                            |
| <b>CSS Administration</b>                       | 1,333,323                                        | 1,333,323                |                           |                               |                                                 |                            |
| <b>CSS MHSA Housing Program Assigned Funds</b>  | 0                                                |                          |                           |                               |                                                 |                            |
| <b>Total CSS Program Estimated Expenditures</b> | 9,037,987                                        | 9,037,987                | 0                         | 0                             | 0                                               | 0                          |
| <b>FSP Programs as Percent of Total</b>         | 44.5%                                            |                          |                           |                               |                                                 |                            |

**FY 2023-24 Through FY 2025-26 Three-Year Mental Health Services Act Expenditure Plan  
Prevention and Early Intervention (PEI) Component Worksheet**

County: City of Berkeley

Date: 5/16/23

|                                                 | Fiscal Year 2023/24                              |                          |                           |                               |                                                 |                            |
|-------------------------------------------------|--------------------------------------------------|--------------------------|---------------------------|-------------------------------|-------------------------------------------------|----------------------------|
|                                                 | A                                                | B                        | C                         | D                             | E                                               | F                          |
|                                                 | Estimated Total<br>Mental Health<br>Expenditures | Estimated PEI<br>Funding | Estimated Medi<br>Cal FFP | Estimated 1991<br>Realignment | Estimated<br>Behavioral<br>Health<br>Subaccount | Estimated<br>Other Funding |
| <b>PEI Programs - Prevention</b>                |                                                  |                          |                           |                               |                                                 |                            |
| 1. High School Prevention Program               | 362,097                                          | 362,097                  |                           |                               |                                                 |                            |
| 2. Social Inclusion                             | 9,000                                            | 9,000                    |                           |                               |                                                 |                            |
| 3. African American Success Project             | 37,500                                           | 37,500                   |                           |                               |                                                 |                            |
| 4. Cal MHSA                                     | 93,027                                           | 93,027                   |                           |                               |                                                 |                            |
| 5. Dynamic Mindfulness                          | 71,250                                           | 71,250                   |                           |                               |                                                 |                            |
| 6. Mental Health Peer Education Program (MEET)  | 34,792                                           | 34,792                   |                           |                               |                                                 |                            |
| 7.                                              |                                                  |                          |                           |                               |                                                 |                            |
| 8.                                              |                                                  |                          |                           |                               |                                                 |                            |
| 9.                                              |                                                  |                          |                           |                               |                                                 |                            |
| 10.                                             |                                                  |                          |                           |                               |                                                 |                            |
| <b>PEI Programs - Early Intervention</b>        |                                                  |                          |                           |                               |                                                 |                            |
| 11. BE A STAR                                   | 38,550                                           | 38,550                   |                           |                               |                                                 |                            |
| 12. Community Education & Supports              | 364,092                                          | 364,092                  |                           |                               |                                                 |                            |
| 13. High School Prevention Program              | 362,097                                          | 362,097                  |                           |                               |                                                 |                            |
| 14. African American Success Project            | 112,500                                          | 112,500                  |                           |                               |                                                 |                            |
| 15. Dynamic Mindfulness                         | 23,750                                           | 23,750                   |                           |                               |                                                 |                            |
| 16. Mental Health Peer Education Program (MEET) | 11,597                                           | 11,597                   |                           |                               |                                                 |                            |
| 17. Supportive Schools                          | 110,000                                          | 110,000                  |                           |                               |                                                 |                            |
| 18.                                             |                                                  |                          |                           |                               |                                                 |                            |
| 19.                                             |                                                  |                          |                           |                               |                                                 |                            |
| <b>PEI Administration</b>                       | 455,313                                          | 455,313                  |                           |                               |                                                 |                            |
| <b>PEI Assigned Funds</b>                       | 0                                                |                          |                           |                               |                                                 |                            |
| <b>Total PEI Program Estimated Expenditures</b> | 2,085,566                                        | 2,085,566                | 0                         | 0                             | 0                                               | 0                          |

**FY 2023-24 Through FY 2025-26 Three-Year Mental Health Services Act Expenditure Plan  
Prevention and Early Intervention (PEI) Component Worksheet**

County: City of Berkeley

Date: 5/16/23

|                                                 | Fiscal Year 2024/25                              |                          |                           |                               |                                                 |                            |
|-------------------------------------------------|--------------------------------------------------|--------------------------|---------------------------|-------------------------------|-------------------------------------------------|----------------------------|
|                                                 | A                                                | B                        | C                         | D                             | E                                               | F                          |
|                                                 | Estimated Total<br>Mental Health<br>Expenditures | Estimated PEI<br>Funding | Estimated Medi<br>Cal FFP | Estimated 1991<br>Realignment | Estimated<br>Behavioral<br>Health<br>Subaccount | Estimated<br>Other Funding |
| <b>PEI Programs - Prevention</b>                |                                                  |                          |                           |                               |                                                 |                            |
| 1. High School Prevention Program               | 410,334                                          | 410,334                  |                           |                               |                                                 |                            |
| 2. Social Inclusion                             | 9,360                                            | 9,360                    |                           |                               |                                                 |                            |
| 3. African American Success Project             | 37,500                                           | 37,500                   |                           |                               |                                                 |                            |
| 4. Cal MHSA                                     | 46,058                                           | 46,058                   |                           |                               |                                                 |                            |
| 5. Dynamic Mindfulness                          | 71,250                                           | 71,250                   |                           |                               |                                                 |                            |
| 6. Mental Health Peer Education Program (MEET)  | 34,792                                           | 34,792                   |                           |                               |                                                 |                            |
| 7.                                              |                                                  |                          |                           |                               |                                                 |                            |
| 8.                                              |                                                  |                          |                           |                               |                                                 |                            |
| 9.                                              |                                                  |                          |                           |                               |                                                 |                            |
| 10.                                             |                                                  |                          |                           |                               |                                                 |                            |
| <b>PEI Programs - Early Intervention</b>        |                                                  |                          |                           |                               |                                                 |                            |
| 11. BE A STAR                                   | 40,092                                           | 40,092                   |                           |                               |                                                 |                            |
| 12. Community Education & Supports              | 364,092                                          | 364,092                  |                           |                               |                                                 |                            |
| 13. High School Prevention Program              | 410,334                                          | 410,334                  |                           |                               |                                                 |                            |
| 14. African American Success Project            | 112,500                                          | 112,500                  |                           |                               |                                                 |                            |
| 15. Dynamic Mindfulness                         | 23,750                                           | 23,750                   |                           |                               |                                                 |                            |
| 16. Mental Health Peer Education Program (MEET) | 11,597                                           | 11,597                   |                           |                               |                                                 |                            |
| 17. Supportive Schools                          | 110,000                                          | 110,000                  |                           |                               |                                                 |                            |
| 18.                                             |                                                  |                          |                           |                               |                                                 |                            |
| 19.                                             | 0                                                |                          |                           |                               |                                                 |                            |
| <b>PEI Administration</b>                       | 385,125                                          | 385,125                  |                           |                               |                                                 |                            |
| <b>PEI Assigned Funds</b>                       | 0                                                |                          |                           |                               |                                                 |                            |
| <b>Total PEI Program Estimated Expenditures</b> | 2,066,785                                        | 2,066,785                | 0                         | 0                             | 0                                               | 0                          |

**FY 2023-24 Through FY 2025-26 Three-Year Mental Health Services Act Expenditure Plan  
Prevention and Early Intervention (PEI) Component Worksheet**

County: City of Berkeley

Date: 5/16/23

|                                                 | Fiscal Year 2025/26                              |                          |                           |                               |                                                 |                            |
|-------------------------------------------------|--------------------------------------------------|--------------------------|---------------------------|-------------------------------|-------------------------------------------------|----------------------------|
|                                                 | A                                                | B                        | C                         | D                             | E                                               | F                          |
|                                                 | Estimated Total<br>Mental Health<br>Expenditures | Estimated PEI<br>Funding | Estimated Medi<br>Cal FFP | Estimated 1991<br>Realignment | Estimated<br>Behavioral<br>Health<br>Subaccount | Estimated<br>Other Funding |
| <b>PEI Programs - Prevention</b>                |                                                  |                          |                           |                               |                                                 |                            |
| 1. High School Prevention Program               | 426,391                                          | 426,391                  |                           |                               |                                                 |                            |
| 2. Social Inclusion                             | 9,734                                            | 9,734                    |                           |                               |                                                 |                            |
| 3. African American Success Project             | 37,500                                           | 37,500                   |                           |                               |                                                 |                            |
| 4. Dynamic Mindfulness                          | 71,250                                           | 71,250                   |                           |                               |                                                 |                            |
| 5. Mental Health Peer Education Program (MEET)  | 34,792                                           | 34,792                   |                           |                               |                                                 |                            |
| 6. Cal MHSA                                     | 45,435                                           | 45,435                   |                           |                               |                                                 |                            |
| 7.                                              |                                                  |                          |                           |                               |                                                 |                            |
| 8.                                              |                                                  |                          |                           |                               |                                                 |                            |
| 9.                                              |                                                  |                          |                           |                               |                                                 |                            |
| 10.                                             |                                                  |                          |                           |                               |                                                 |                            |
| <b>PEI Programs - Early Intervention</b>        |                                                  |                          |                           |                               |                                                 |                            |
| 11. BE A STAR                                   | 41,696                                           | 41,696                   |                           |                               |                                                 |                            |
| 12. Community Education & Supports              | 364,092                                          | 364,092                  |                           |                               |                                                 |                            |
| 13. High School Prevention Program              | 426,391                                          | 426,391                  |                           |                               |                                                 |                            |
| 14. African American Success Project            | 112,500                                          | 112,500                  |                           |                               |                                                 |                            |
| 15. Dynamic Mindfulness                         | 23,750                                           | 23,750                   |                           |                               |                                                 |                            |
| 16. Mental Health Peer Education Program (MEET) | 11,597                                           | 11,597                   |                           |                               |                                                 |                            |
| 17. Supportive Schools                          | 110,000                                          | 110,000                  |                           |                               |                                                 |                            |
| 18.                                             |                                                  |                          |                           |                               |                                                 |                            |
| 19.                                             |                                                  |                          |                           |                               |                                                 |                            |
| 20.                                             |                                                  |                          |                           |                               |                                                 |                            |
| <b>PEI Administration</b>                       | 400,530                                          | 400,530                  |                           |                               |                                                 |                            |
| <b>PEI Assigned Funds</b>                       | 0                                                |                          |                           |                               |                                                 |                            |
| <b>Total PEI Program Estimated Expenditures</b> | 2,115,658                                        | 2,115,658                | 0                         | 0                             | 0                                               | 0                          |

**FY 2023-24 Through FY 2025-26 Three-Year Mental Health Services Act Expenditure Plan  
Innovations (INN) Component Worksheet**

County: City of Berkeley

Date: 5/16/23

|                                                 | Fiscal Year 2023/24                              |                          |                           |                               |                                                 |                            |
|-------------------------------------------------|--------------------------------------------------|--------------------------|---------------------------|-------------------------------|-------------------------------------------------|----------------------------|
|                                                 | A                                                | B                        | C                         | D                             | E                                               | F                          |
|                                                 | Estimated Total<br>Mental Health<br>Expenditures | Estimated INN<br>Funding | Estimated Medi<br>Cal FFP | Estimated 1991<br>Realignment | Estimated<br>Behavioral<br>Health<br>Subaccount | Estimated<br>Other Funding |
| <b>INN Programs</b>                             |                                                  |                          |                           |                               |                                                 |                            |
| 1. MHSA INN Encampment                          | 1,201,000                                        | 1,201,000                |                           |                               |                                                 |                            |
| 2. MHSA INN Tech Suite                          | 22,159                                           | 22,159                   |                           |                               |                                                 |                            |
| 3.                                              | 0                                                |                          |                           |                               |                                                 |                            |
| 4.                                              | 0                                                |                          |                           |                               |                                                 |                            |
| 5.                                              | 0                                                |                          |                           |                               |                                                 |                            |
| 6.                                              | 0                                                |                          |                           |                               |                                                 |                            |
| 7.                                              | 0                                                |                          |                           |                               |                                                 |                            |
| 8.                                              | 0                                                |                          |                           |                               |                                                 |                            |
| 9.                                              | 0                                                |                          |                           |                               |                                                 |                            |
| 10.                                             | 0                                                |                          |                           |                               |                                                 |                            |
| 11.                                             | 0                                                |                          |                           |                               |                                                 |                            |
| 12.                                             | 0                                                |                          |                           |                               |                                                 |                            |
| 13.                                             | 0                                                |                          |                           |                               |                                                 |                            |
| 14.                                             | 0                                                |                          |                           |                               |                                                 |                            |
| 15.                                             | 0                                                |                          |                           |                               |                                                 |                            |
| 16.                                             | 0                                                |                          |                           |                               |                                                 |                            |
| 17.                                             | 0                                                |                          |                           |                               |                                                 |                            |
| 18.                                             | 0                                                |                          |                           |                               |                                                 |                            |
| 19.                                             | 0                                                |                          |                           |                               |                                                 |                            |
| 20.                                             | 0                                                |                          |                           |                               |                                                 |                            |
| <b>INN Administration</b>                       |                                                  |                          |                           |                               |                                                 |                            |
| <b>Total INN Program Estimated Expenditures</b> | 1,223,159                                        | 1,223,159                | 0                         | 0                             | 0                                               | 0                          |

**FY 2023-24 Through FY 2025-26 Three-Year Mental Health Services Act Expenditure Plan  
Innovations (INN) Component Worksheet**

County: City of Berkeley

Date: 5/16/23

|                                                 | Fiscal Year 2024/25                              |                          |                           |                               |                                                 |                            |
|-------------------------------------------------|--------------------------------------------------|--------------------------|---------------------------|-------------------------------|-------------------------------------------------|----------------------------|
|                                                 | A                                                | B                        | C                         | D                             | E                                               | F                          |
|                                                 | Estimated Total<br>Mental Health<br>Expenditures | Estimated INN<br>Funding | Estimated Medi<br>Cal FFP | Estimated 1991<br>Realignment | Estimated<br>Behavioral<br>Health<br>Subaccount | Estimated<br>Other Funding |
| <b>INN Programs</b>                             |                                                  |                          |                           |                               |                                                 |                            |
| 1. MHSA INN Encampment                          | 534,334                                          | 534,334                  |                           |                               |                                                 |                            |
| 2.                                              | 0                                                |                          |                           |                               |                                                 |                            |
| 3.                                              | 0                                                |                          |                           |                               |                                                 |                            |
| 4.                                              | 0                                                |                          |                           |                               |                                                 |                            |
| 5.                                              | 0                                                |                          |                           |                               |                                                 |                            |
| 6.                                              | 0                                                |                          |                           |                               |                                                 |                            |
| 7.                                              | 0                                                |                          |                           |                               |                                                 |                            |
| 8.                                              | 0                                                |                          |                           |                               |                                                 |                            |
| 9.                                              | 0                                                |                          |                           |                               |                                                 |                            |
| 10.                                             | 0                                                |                          |                           |                               |                                                 |                            |
| 11.                                             | 0                                                |                          |                           |                               |                                                 |                            |
| 12.                                             | 0                                                |                          |                           |                               |                                                 |                            |
| 13.                                             | 0                                                |                          |                           |                               |                                                 |                            |
| 14.                                             | 0                                                |                          |                           |                               |                                                 |                            |
| 15.                                             | 0                                                |                          |                           |                               |                                                 |                            |
| 16.                                             | 0                                                |                          |                           |                               |                                                 |                            |
| 17.                                             | 0                                                |                          |                           |                               |                                                 |                            |
| 18.                                             | 0                                                |                          |                           |                               |                                                 |                            |
| 19.                                             | 0                                                |                          |                           |                               |                                                 |                            |
| 20.                                             | 0                                                |                          |                           |                               |                                                 |                            |
| <b>INN Administration</b>                       |                                                  |                          |                           |                               |                                                 |                            |
| <b>Total INN Program Estimated Expenditures</b> | 534,334                                          | 534,334                  | 0                         | 0                             | 0                                               | 0                          |



**FY 2023-24 Through FY 2025-26 Three-Year Mental Health Services Act Expenditure Plan  
Innovations (INN) Component Worksheet**

County: City of Berkeley

Date: 5/16/23

|                                                 | Fiscal Year 2025/26                              |                          |                           |                               |                                                 |                            |
|-------------------------------------------------|--------------------------------------------------|--------------------------|---------------------------|-------------------------------|-------------------------------------------------|----------------------------|
|                                                 | A                                                | B                        | C                         | D                             | E                                               | F                          |
|                                                 | Estimated Total<br>Mental Health<br>Expenditures | Estimated INN<br>Funding | Estimated Medi<br>Cal FFP | Estimated 1991<br>Realignment | Estimated<br>Behavioral<br>Health<br>Subaccount | Estimated<br>Other Funding |
| <b>INN Programs</b>                             |                                                  |                          |                           |                               |                                                 |                            |
| 1. MHSA INN Encampment                          | \$534,334.00                                     | 534,334                  |                           |                               |                                                 |                            |
| 2.                                              | 0                                                |                          |                           |                               |                                                 |                            |
| 3.                                              | 0                                                |                          |                           |                               |                                                 |                            |
| 4.                                              | 0                                                |                          |                           |                               |                                                 |                            |
| 5.                                              | 0                                                |                          |                           |                               |                                                 |                            |
| 6.                                              | 0                                                |                          |                           |                               |                                                 |                            |
| 7.                                              | 0                                                |                          |                           |                               |                                                 |                            |
| 8.                                              | 0                                                |                          |                           |                               |                                                 |                            |
| 9.                                              | 0                                                |                          |                           |                               |                                                 |                            |
| 10.                                             | 0                                                |                          |                           |                               |                                                 |                            |
| 11.                                             | 0                                                |                          |                           |                               |                                                 |                            |
| 12.                                             | 0                                                |                          |                           |                               |                                                 |                            |
| 13.                                             | 0                                                |                          |                           |                               |                                                 |                            |
| 14.                                             | 0                                                |                          |                           |                               |                                                 |                            |
| 15.                                             | 0                                                |                          |                           |                               |                                                 |                            |
| 16.                                             | 0                                                |                          |                           |                               |                                                 |                            |
| 17.                                             | 0                                                |                          |                           |                               |                                                 |                            |
| 18.                                             | 0                                                |                          |                           |                               |                                                 |                            |
| 19.                                             | 0                                                |                          |                           |                               |                                                 |                            |
| 20.                                             | 0                                                |                          |                           |                               |                                                 |                            |
| <b>INN Administration</b>                       |                                                  |                          |                           |                               |                                                 |                            |
| <b>Total INN Program Estimated Expenditures</b> | 534,334                                          | 534,334                  | 0                         | 0                             | 0                                               | 0                          |

**FY 2023-24 Through FY 2025-26 Three-Year Mental Health Services Act Expenditure Plan  
Workforce, Education and Training (WET) Component Worksheet**

County: City of Berkeley

Date: 5/16/23

|                                                 | Fiscal Year 2023/24                              |                          |                           |                               |                                                 |                            |
|-------------------------------------------------|--------------------------------------------------|--------------------------|---------------------------|-------------------------------|-------------------------------------------------|----------------------------|
|                                                 | A                                                | B                        | C                         | D                             | E                                               | F                          |
|                                                 | Estimated Total<br>Mental Health<br>Expenditures | Estimated WET<br>Funding | Estimated Medi<br>Cal FFP | Estimated 1991<br>Realignment | Estimated<br>Behavioral<br>Health<br>Subaccount | Estimated<br>Other Funding |
| <b>WET Programs</b>                             |                                                  |                          |                           |                               |                                                 |                            |
| 1. Workforce Development Coordinator            | 170,535                                          | 170,535                  |                           |                               |                                                 |                            |
| 2.                                              | 0                                                |                          |                           |                               |                                                 |                            |
| 3.                                              | 0                                                |                          |                           |                               |                                                 |                            |
| 4.                                              | 0                                                |                          |                           |                               |                                                 |                            |
| 5.                                              | 0                                                |                          |                           |                               |                                                 |                            |
| 6.                                              | 0                                                |                          |                           |                               |                                                 |                            |
| 7.                                              | 0                                                |                          |                           |                               |                                                 |                            |
| 8.                                              | 0                                                |                          |                           |                               |                                                 |                            |
| 9.                                              | 0                                                |                          |                           |                               |                                                 |                            |
| 10.                                             | 0                                                |                          |                           |                               |                                                 |                            |
| 11.                                             | 0                                                |                          |                           |                               |                                                 |                            |
| 12.                                             | 0                                                |                          |                           |                               |                                                 |                            |
| 13.                                             | 0                                                |                          |                           |                               |                                                 |                            |
| 14.                                             | 0                                                |                          |                           |                               |                                                 |                            |
| 15.                                             | 0                                                |                          |                           |                               |                                                 |                            |
| 16.                                             | 0                                                |                          |                           |                               |                                                 |                            |
| 17.                                             | 0                                                |                          |                           |                               |                                                 |                            |
| 18.                                             | 0                                                |                          |                           |                               |                                                 |                            |
| 19.                                             | 0                                                |                          |                           |                               |                                                 |                            |
| 20.                                             | 0                                                |                          |                           |                               |                                                 |                            |
| <b>WET Administration</b>                       | 0                                                |                          |                           |                               |                                                 |                            |
| <b>Total WET Program Estimated Expenditures</b> | 170,535                                          | 170,535                  | 0                         | 0                             | 0                                               | 0                          |

**FY 2023-24 Through FY 2025-26 Three-Year Mental Health Services Act Expenditure Plan  
Workforce, Education and Training (WET) Component Worksheet**

County: City of Berkeley

Date: 5/16/23

|                                                 | Fiscal Year 2024/25                              |                          |                           |                               |                                                 |                            |
|-------------------------------------------------|--------------------------------------------------|--------------------------|---------------------------|-------------------------------|-------------------------------------------------|----------------------------|
|                                                 | A                                                | B                        | C                         | D                             | E                                               | F                          |
|                                                 | Estimated Total<br>Mental Health<br>Expenditures | Estimated WET<br>Funding | Estimated Medi<br>Cal FFP | Estimated 1991<br>Realignment | Estimated<br>Behavioral<br>Health<br>Subaccount | Estimated<br>Other Funding |
| <b>WET Programs</b>                             |                                                  |                          |                           |                               |                                                 |                            |
| 1. Workforce Development Coordinator            | 208,654                                          | 208,654                  |                           |                               |                                                 |                            |
| 2.                                              | 0                                                |                          |                           |                               |                                                 |                            |
| 3.                                              | 0                                                |                          |                           |                               |                                                 |                            |
| 4.                                              | 0                                                |                          |                           |                               |                                                 |                            |
| 5.                                              | 0                                                |                          |                           |                               |                                                 |                            |
| 6.                                              | 0                                                |                          |                           |                               |                                                 |                            |
| 7.                                              | 0                                                |                          |                           |                               |                                                 |                            |
| 8.                                              | 0                                                |                          |                           |                               |                                                 |                            |
| 9.                                              | 0                                                |                          |                           |                               |                                                 |                            |
| 10.                                             | 0                                                |                          |                           |                               |                                                 |                            |
| 11.                                             | 0                                                |                          |                           |                               |                                                 |                            |
| 12.                                             | 0                                                |                          |                           |                               |                                                 |                            |
| 13.                                             | 0                                                |                          |                           |                               |                                                 |                            |
| 14.                                             | 0                                                |                          |                           |                               |                                                 |                            |
| 15.                                             | 0                                                |                          |                           |                               |                                                 |                            |
| 16.                                             | 0                                                |                          |                           |                               |                                                 |                            |
| 17.                                             | 0                                                |                          |                           |                               |                                                 |                            |
| 18.                                             | 0                                                |                          |                           |                               |                                                 |                            |
| 19.                                             | 0                                                |                          |                           |                               |                                                 |                            |
| 20.                                             | 0                                                |                          |                           |                               |                                                 |                            |
| <b>WET Administration</b>                       | 0                                                |                          |                           |                               |                                                 |                            |
| <b>Total WET Program Estimated Expenditures</b> | 208,654                                          | 208,654                  | 0                         | 0                             | 0                                               | 0                          |

**FY 2023-24 Through FY 2025-26 Three-Year Mental Health Services Act Expenditure Plan  
Workforce, Education and Training (WET) Component Worksheet**

County: City of Berkeley

Date: 5/16/23

|                                                 | Fiscal Year 2025/26                              |                          |                           |                               |                                                 |                            |
|-------------------------------------------------|--------------------------------------------------|--------------------------|---------------------------|-------------------------------|-------------------------------------------------|----------------------------|
|                                                 | A                                                | B                        | C                         | D                             | E                                               | F                          |
|                                                 | Estimated Total<br>Mental Health<br>Expenditures | Estimated WET<br>Funding | Estimated Medi<br>Cal FFP | Estimated 1991<br>Realignment | Estimated<br>Behavioral<br>Health<br>Subaccount | Estimated<br>Other Funding |
| <b>WET Programs</b>                             |                                                  |                          |                           |                               |                                                 |                            |
| 1. Workforce Development Coordinator            | 217,000                                          | 217,000                  |                           |                               |                                                 |                            |
| 2.                                              | 0                                                |                          |                           |                               |                                                 |                            |
| 3.                                              | 0                                                |                          |                           |                               |                                                 |                            |
| 4.                                              | 0                                                |                          |                           |                               |                                                 |                            |
| 5.                                              | 0                                                |                          |                           |                               |                                                 |                            |
| 6.                                              | 0                                                |                          |                           |                               |                                                 |                            |
| 7.                                              | 0                                                |                          |                           |                               |                                                 |                            |
| 8.                                              | 0                                                |                          |                           |                               |                                                 |                            |
| 9.                                              | 0                                                |                          |                           |                               |                                                 |                            |
| 10.                                             | 0                                                |                          |                           |                               |                                                 |                            |
| 11.                                             | 0                                                |                          |                           |                               |                                                 |                            |
| 12.                                             | 0                                                |                          |                           |                               |                                                 |                            |
| 13.                                             | 0                                                |                          |                           |                               |                                                 |                            |
| 14.                                             | 0                                                |                          |                           |                               |                                                 |                            |
| 15.                                             | 0                                                |                          |                           |                               |                                                 |                            |
| 16.                                             | 0                                                |                          |                           |                               |                                                 |                            |
| 17.                                             | 0                                                |                          |                           |                               |                                                 |                            |
| 18.                                             | 0                                                |                          |                           |                               |                                                 |                            |
| 19.                                             | 0                                                |                          |                           |                               |                                                 |                            |
| 20.                                             | 0                                                |                          |                           |                               |                                                 |                            |
| <b>WET Administration</b>                       | 0                                                |                          |                           |                               |                                                 |                            |
| <b>Total WET Program Estimated Expenditures</b> | 217,000                                          | 217,000                  | 0                         | 0                             | 0                                               | 0                          |

**FY 2023-24 Through FY 2025-26 Three-Year Mental Health Services Act Expenditure Plan  
Capital Facilities/Technological Needs (CFTN) Component Worksheet**

County: City of Berkeley

Date: 5/16/23

|                                                     | Fiscal Year 2023/24                              |                           |                           |                               |                                                 |                            |
|-----------------------------------------------------|--------------------------------------------------|---------------------------|---------------------------|-------------------------------|-------------------------------------------------|----------------------------|
|                                                     | A                                                | B                         | C                         | D                             | E                                               | F                          |
|                                                     | Estimated Total<br>Mental Health<br>Expenditures | Estimated CFTN<br>Funding | Estimated Medi<br>Cal FFP | Estimated 1991<br>Realignment | Estimated<br>Behavioral<br>Health<br>Subaccount | Estimated<br>Other Funding |
| <b>CFTN Programs - Capital Facilities Projects</b>  |                                                  |                           |                           |                               |                                                 |                            |
| 1.                                                  | 0                                                |                           |                           |                               |                                                 |                            |
| 2.                                                  | 0                                                |                           |                           |                               |                                                 |                            |
| 3.                                                  | 0                                                |                           |                           |                               |                                                 |                            |
| 4.                                                  | 0                                                |                           |                           |                               |                                                 |                            |
| 5.                                                  | 0                                                |                           |                           |                               |                                                 |                            |
| 6.                                                  | 0                                                |                           |                           |                               |                                                 |                            |
| 7.                                                  | 0                                                |                           |                           |                               |                                                 |                            |
| 8.                                                  | 0                                                |                           |                           |                               |                                                 |                            |
| 9.                                                  | 0                                                |                           |                           |                               |                                                 |                            |
| 10.                                                 | 0                                                |                           |                           |                               |                                                 |                            |
| <b>CFTN Programs - Technological Needs Projects</b> |                                                  |                           |                           |                               |                                                 |                            |
| 11.                                                 | 0                                                |                           |                           |                               |                                                 |                            |
| 12.                                                 | 0                                                |                           |                           |                               |                                                 |                            |
| 13.                                                 | 0                                                |                           |                           |                               |                                                 |                            |
| 14.                                                 | 0                                                |                           |                           |                               |                                                 |                            |
| 15.                                                 | 0                                                |                           |                           |                               |                                                 |                            |
| 16.                                                 | 0                                                |                           |                           |                               |                                                 |                            |
| 17.                                                 | 0                                                |                           |                           |                               |                                                 |                            |
| 18.                                                 | 0                                                |                           |                           |                               |                                                 |                            |
| 19.                                                 | 0                                                |                           |                           |                               |                                                 |                            |
| 20.                                                 | 0                                                |                           |                           |                               |                                                 |                            |
| <b>CFTN Administration</b>                          | 0                                                |                           |                           |                               |                                                 |                            |
| <b>Total CFTN Program Estimated Expenditures</b>    | 0                                                | 0                         | 0                         | 0                             | 0                                               | 0                          |

**FY 2023-24 Through FY 2025-26 Three-Year Mental Health Services Act Expenditure Plan  
Capital Facilities/Technological Needs (CFTN) Component Worksheet**

County: City of Berkeley

Date: 5/16/23

|                                                     | Fiscal Year 2024/25                              |                           |                           |                               |                                                 |                            |
|-----------------------------------------------------|--------------------------------------------------|---------------------------|---------------------------|-------------------------------|-------------------------------------------------|----------------------------|
|                                                     | A                                                | B                         | C                         | D                             | E                                               | F                          |
|                                                     | Estimated Total<br>Mental Health<br>Expenditures | Estimated CFTN<br>Funding | Estimated Medi<br>Cal FFP | Estimated 1991<br>Realignment | Estimated<br>Behavioral<br>Health<br>Subaccount | Estimated<br>Other Funding |
| <b>CFTN Programs - Capital Facilities Projects</b>  |                                                  |                           |                           |                               |                                                 |                            |
| 1.                                                  | 0                                                |                           |                           |                               |                                                 |                            |
| 2.                                                  | 0                                                |                           |                           |                               |                                                 |                            |
| 3.                                                  | 0                                                |                           |                           |                               |                                                 |                            |
| 4.                                                  | 0                                                |                           |                           |                               |                                                 |                            |
| 5.                                                  | 0                                                |                           |                           |                               |                                                 |                            |
| 6.                                                  | 0                                                |                           |                           |                               |                                                 |                            |
| 7.                                                  | 0                                                |                           |                           |                               |                                                 |                            |
| 8.                                                  | 0                                                |                           |                           |                               |                                                 |                            |
| 9.                                                  | 0                                                |                           |                           |                               |                                                 |                            |
| 10.                                                 | 0                                                |                           |                           |                               |                                                 |                            |
| <b>CFTN Programs - Technological Needs Projects</b> |                                                  |                           |                           |                               |                                                 |                            |
| 11.                                                 | 0                                                |                           |                           |                               |                                                 |                            |
| 12.                                                 | 0                                                |                           |                           |                               |                                                 |                            |
| 13.                                                 | 0                                                |                           |                           |                               |                                                 |                            |
| 14.                                                 | 0                                                |                           |                           |                               |                                                 |                            |
| 15.                                                 | 0                                                |                           |                           |                               |                                                 |                            |
| 16.                                                 | 0                                                |                           |                           |                               |                                                 |                            |
| 17.                                                 | 0                                                |                           |                           |                               |                                                 |                            |
| 18.                                                 | 0                                                |                           |                           |                               |                                                 |                            |
| 19.                                                 | 0                                                |                           |                           |                               |                                                 |                            |
| 20.                                                 | 0                                                |                           |                           |                               |                                                 |                            |
| <b>CFTN Administration</b>                          | 0                                                |                           |                           |                               |                                                 |                            |
| <b>Total CFTN Program Estimated Expenditures</b>    | 0                                                | 0                         | 0                         | 0                             | 0                                               | 0                          |

**FY 2023-24 Through FY 2025-26 Three-Year Mental Health Services Act Expenditure Plan  
Capital Facilities/Technological Needs (CFTN) Component Worksheet**

County: City of Berkeley

Date: 5/16/23

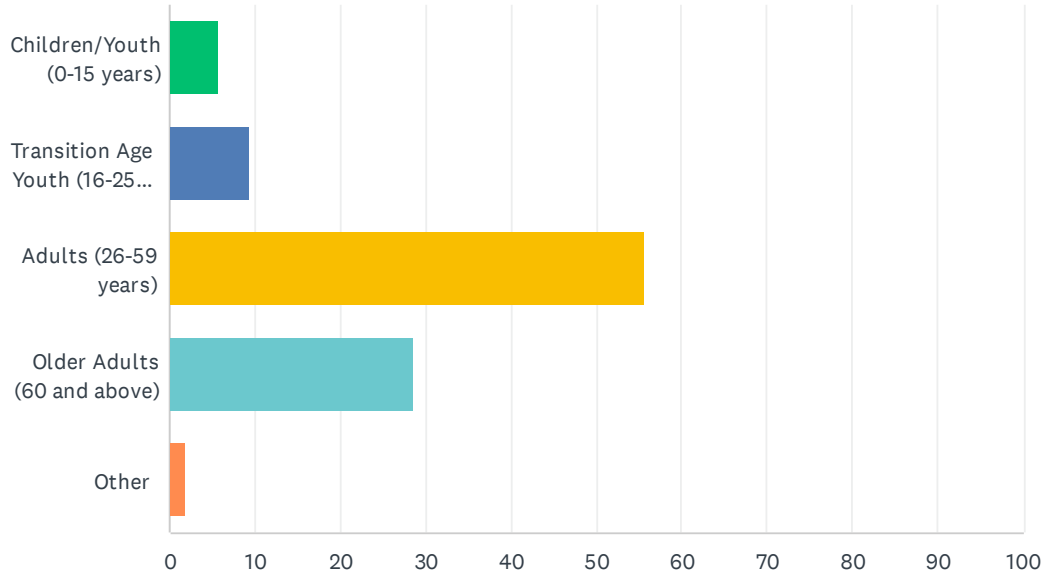
|                                                     | Fiscal Year 2025/26                              |                           |                           |                               |                                                 |                            |
|-----------------------------------------------------|--------------------------------------------------|---------------------------|---------------------------|-------------------------------|-------------------------------------------------|----------------------------|
|                                                     | A                                                | B                         | C                         | D                             | E                                               | F                          |
|                                                     | Estimated Total<br>Mental Health<br>Expenditures | Estimated CFTN<br>Funding | Estimated Medi<br>Cal FFP | Estimated 1991<br>Realignment | Estimated<br>Behavioral<br>Health<br>Subaccount | Estimated<br>Other Funding |
| <b>CFTN Programs - Capital Facilities Projects</b>  |                                                  |                           |                           |                               |                                                 |                            |
| 1.                                                  | 0                                                |                           |                           |                               |                                                 |                            |
| 2.                                                  | 0                                                |                           |                           |                               |                                                 |                            |
| 3.                                                  | 0                                                |                           |                           |                               |                                                 |                            |
| 4.                                                  | 0                                                |                           |                           |                               |                                                 |                            |
| 5.                                                  | 0                                                |                           |                           |                               |                                                 |                            |
| 6.                                                  | 0                                                |                           |                           |                               |                                                 |                            |
| 7.                                                  | 0                                                |                           |                           |                               |                                                 |                            |
| 8.                                                  | 0                                                |                           |                           |                               |                                                 |                            |
| 9.                                                  | 0                                                |                           |                           |                               |                                                 |                            |
| 10.                                                 | 0                                                |                           |                           |                               |                                                 |                            |
| <b>CFTN Programs - Technological Needs Projects</b> |                                                  |                           |                           |                               |                                                 |                            |
| 11.                                                 | 0                                                |                           |                           |                               |                                                 |                            |
| 12.                                                 | 0                                                |                           |                           |                               |                                                 |                            |
| 13.                                                 | 0                                                |                           |                           |                               |                                                 |                            |
| 14.                                                 | 0                                                |                           |                           |                               |                                                 |                            |
| 15.                                                 | 0                                                |                           |                           |                               |                                                 |                            |
| 16.                                                 | 0                                                |                           |                           |                               |                                                 |                            |
| 17.                                                 | 0                                                |                           |                           |                               |                                                 |                            |
| 18.                                                 | 0                                                |                           |                           |                               |                                                 |                            |
| 19.                                                 | 0                                                |                           |                           |                               |                                                 |                            |
| 20.                                                 | 0                                                |                           |                           |                               |                                                 |                            |
| <b>CFTN Administration</b>                          | 0                                                |                           |                           |                               |                                                 |                            |
| <b>Total CFTN Program Estimated Expenditures</b>    | 0                                                | 0                         | 0                         | 0                             | 0                                               | 0                          |

## **APPENDIX B**

### **MHSA CAPACITY ASSESSMENT DATA**

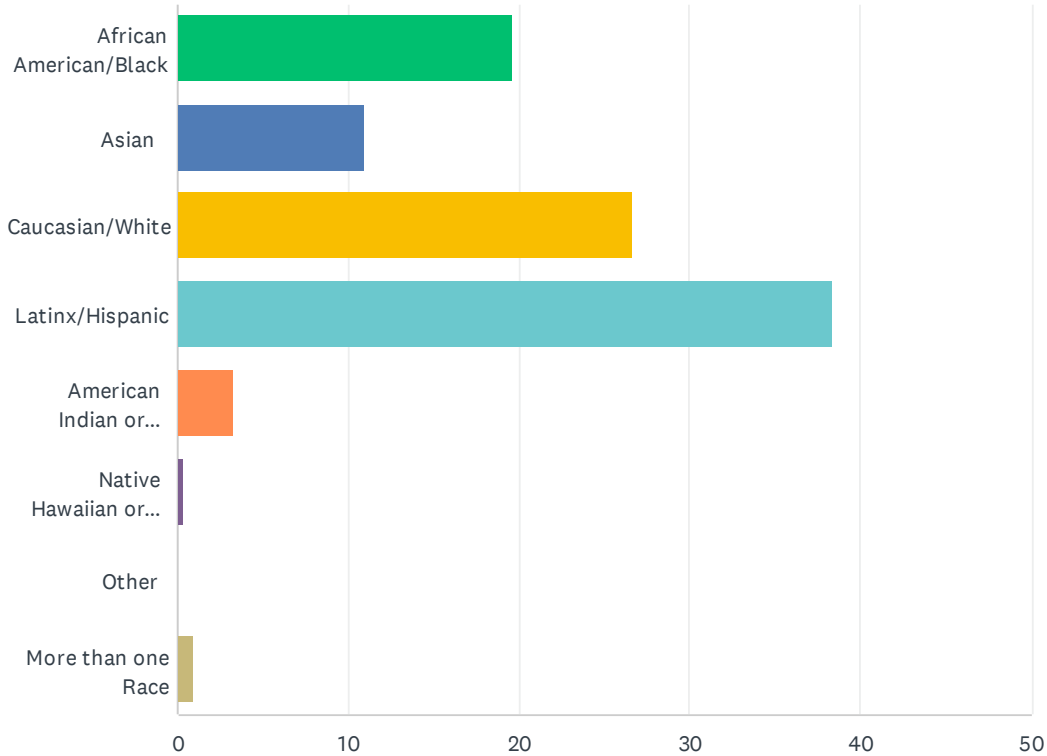


**Q1 Please indicate the percentage(s) of the primary age group(s) the organization currently serves.**



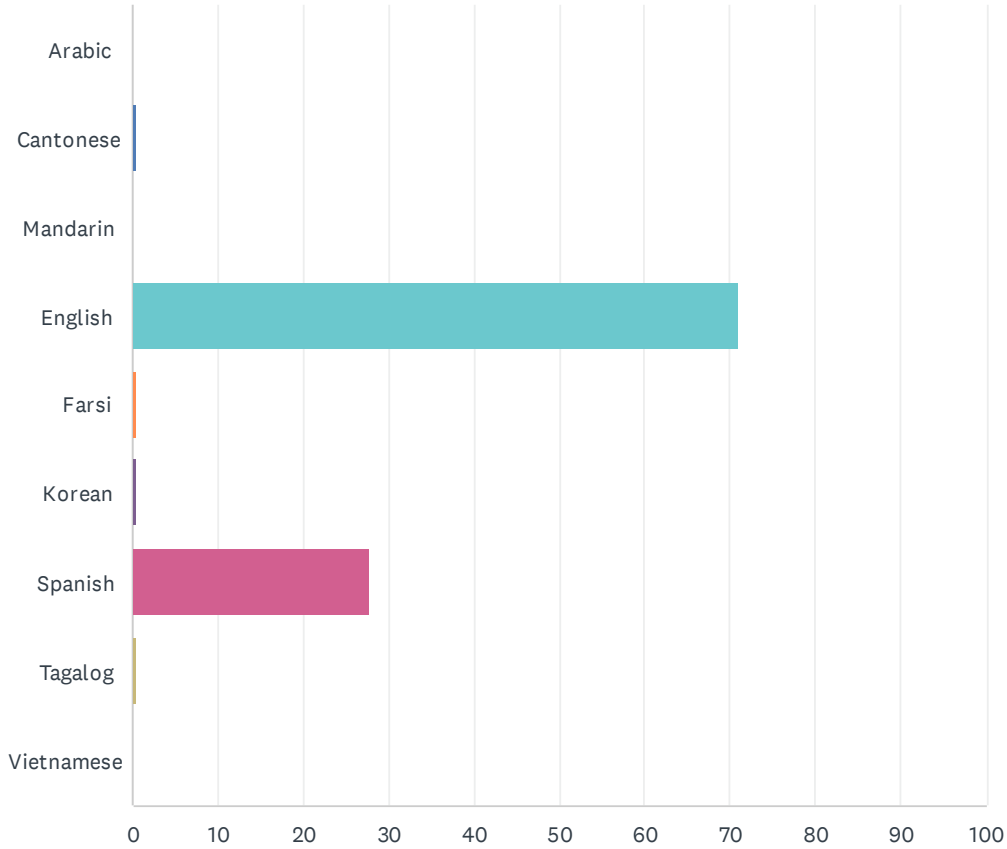
| ANSWER CHOICES                     | AVERAGE NUMBER | TOTAL NUMBER | RESPONSES |
|------------------------------------|----------------|--------------|-----------|
| Children/Youth (0-15 years)        | 6              | 17           | 3         |
| Transition Age Youth (16-25 years) | 9              | 28           | 3         |
| Adults (26-59 years)               | 56             | 167          | 3         |
| Older Adults (60 and above)        | 29             | 86           | 3         |
| Other                              | 2              | 2            | 1         |
| Total Respondents: 3               |                |              |           |

**Q2 Please indicate the percentage of the following diverse cultural, racial/ethnic, and linguistic groups that were served in your organization from July 2021 - June 2022.**



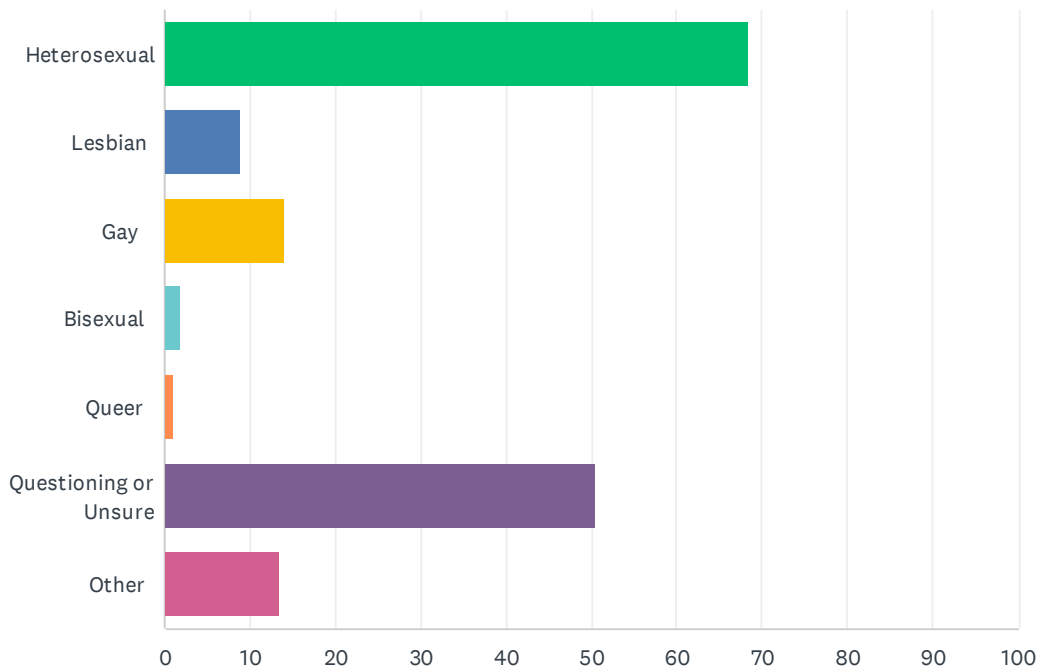
| ANSWER CHOICES                            | AVERAGE NUMBER | TOTAL NUMBER | RESPONSES |
|-------------------------------------------|----------------|--------------|-----------|
| African American/Black                    | 20             | 59           | 3         |
| Asian                                     | 11             | 33           | 3         |
| Caucasian/White                           | 27             | 80           | 3         |
| Latinx/Hispanic                           | 38             | 115          | 3         |
| American Indian or Alaska Native          | 3              | 10           | 3         |
| Native Hawaiian or other Pacific Islander | 0              | 1            | 3         |
| Other                                     | 0              | 0            | 1         |
| More than one Race                        | 1              | 2            | 2         |
| Total Respondents: 3                      |                |              |           |

**Q3 Please enter the percentage of your staff that are proficient in each threshold language listed below.**



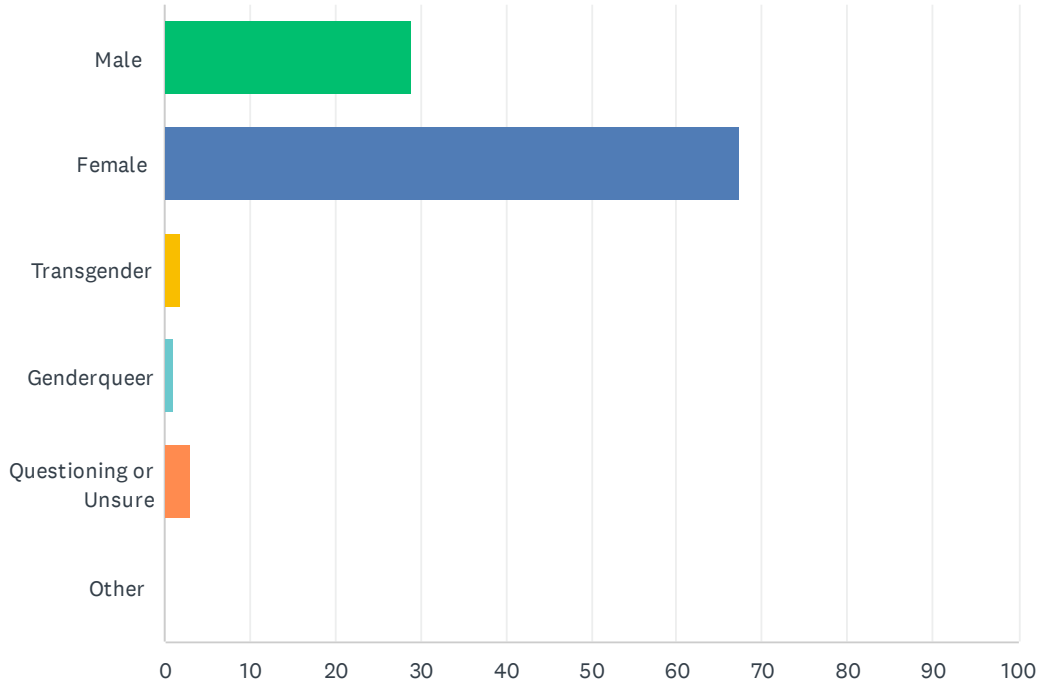
| ANSWER CHOICES       | AVERAGE NUMBER | TOTAL NUMBER | RESPONSES |
|----------------------|----------------|--------------|-----------|
| Arabic               | 0              | 0            | 2         |
| Cantonese            | 1              | 1            | 2         |
| Mandarin             | 0              | 0            | 2         |
| English              | 71             | 213          | 3         |
| Farsi                | 1              | 1            | 2         |
| Korean               | 1              | 1            | 2         |
| Spanish              | 28             | 83           | 3         |
| Tagalog              | 1              | 1            | 2         |
| Vietnamese           | 0              | 0            | 2         |
| Total Respondents: 3 |                |              |           |

**Q4 Please enter the percentage of individuals from the following sexual orientation groups that were served in your organization from July 2021-June 2022.**



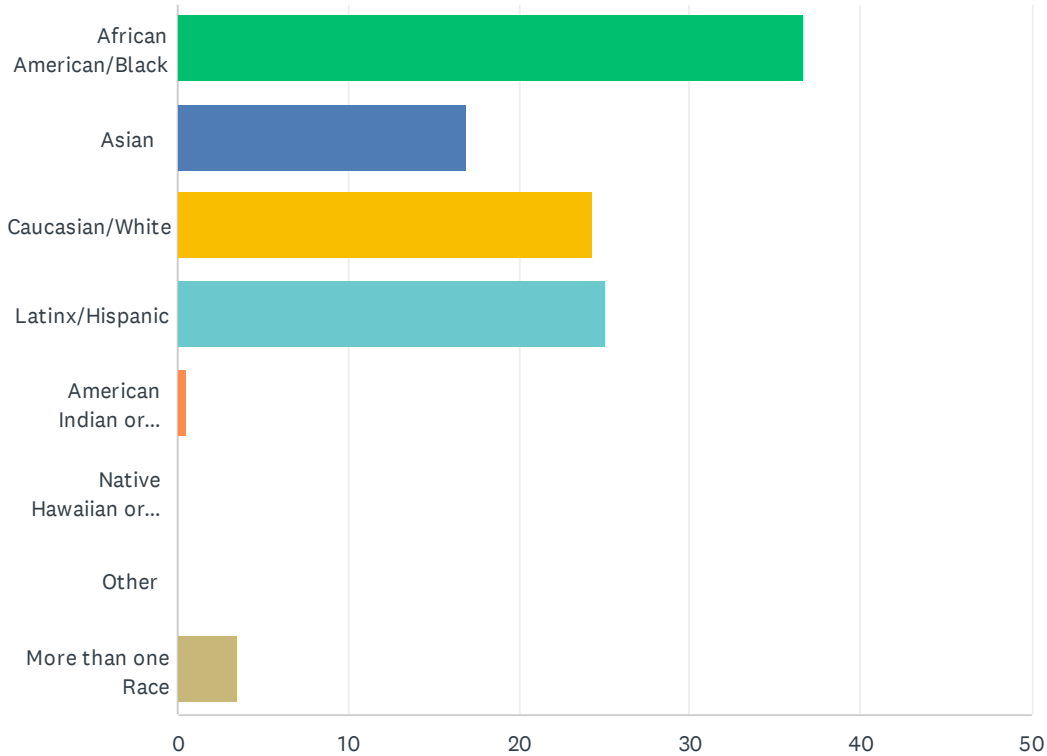
| ANSWER CHOICES        | AVERAGE NUMBER | TOTAL NUMBER | RESPONSES |
|-----------------------|----------------|--------------|-----------|
| Heterosexual          | 69             | 137          | 2         |
| Lesbian               | 9              | 18           | 2         |
| Gay                   | 14             | 14           | 1         |
| Bisexual              | 2              | 2            | 1         |
| Queer                 | 1              | 1            | 1         |
| Questioning or Unsure | 51             | 101          | 2         |
| Other                 | 14             | 27           | 2         |
| Total Respondents: 3  |                |              |           |

**Q5 Please indicate the percentage of individuals from the following gender identity groups that were served in your organization from July 2021-June 2022.**



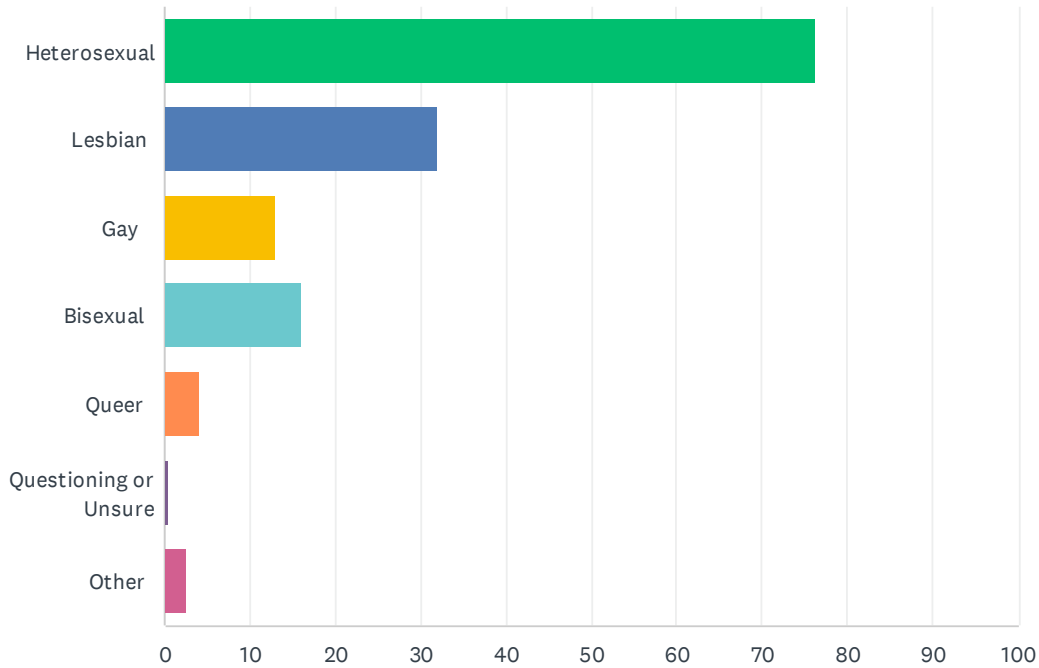
| ANSWER CHOICES        | AVERAGE NUMBER | TOTAL NUMBER | RESPONSES |
|-----------------------|----------------|--------------|-----------|
| Male                  | 29             | 87           | 3         |
| Female                | 67             | 202          | 3         |
| Transgender           | 2              | 4            | 2         |
| Genderqueer           | 1              | 1            | 1         |
| Questioning or Unsure | 3              | 6            | 2         |
| Other                 | 0              | 0            | 1         |
| Total Respondents: 3  |                |              |           |

**Q6 Please indicate the percentage of the following diverse cultural, racial/ethnic and linguistic groups that are currently represented among staff in your organization.**



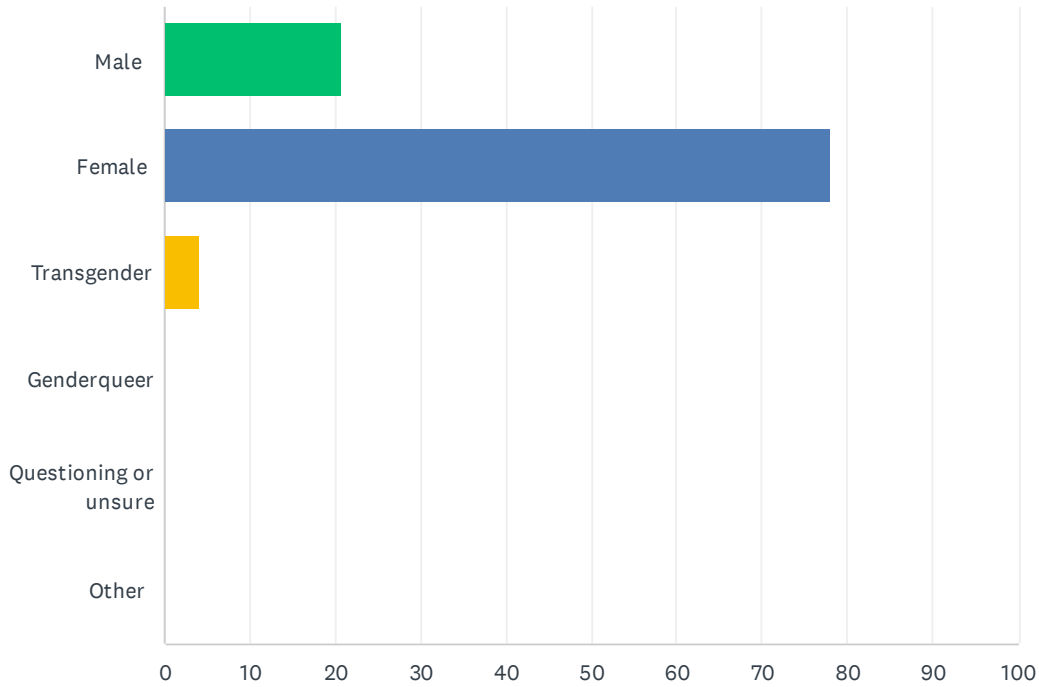
| ANSWER CHOICES                            | AVERAGE NUMBER | TOTAL NUMBER | RESPONSES |
|-------------------------------------------|----------------|--------------|-----------|
| African American/Black                    | 37             | 110          | 3         |
| Asian                                     | 17             | 34           | 2         |
| Caucasian/White                           | 24             | 73           | 3         |
| Latinx/Hispanic                           | 25             | 75           | 3         |
| American Indian or Alaska Native          | 1              | 1            | 2         |
| Native Hawaiian or Other Pacific Islander | 0              | 0            | 2         |
| Other                                     | 0              | 0            | 2         |
| More than one Race                        | 4              | 7            | 2         |
| Total Respondents: 3                      |                |              |           |

**Q7 Please indicate the percentage of the following sexual orientation groups that are currently represented among staff in your organization.**



| ANSWER CHOICES        | AVERAGE NUMBER | TOTAL NUMBER | RESPONSES |
|-----------------------|----------------|--------------|-----------|
| Heterosexual          | 76             | 229          | 3         |
| Lesbian               | 32             | 32           | 1         |
| Gay                   | 13             | 13           | 1         |
| Bisexual              | 16             | 16           | 1         |
| Queer                 | 4              | 4            | 1         |
| Questioning or Unsure | 1              | 1            | 2         |
| Other                 | 3              | 5            | 2         |
| Total Respondents: 3  |                |              |           |

**Q8 Please indicate the percentage of the following gender identity groups that are currently represented among staff in your organization.**



| ANSWER CHOICES        | AVERAGE NUMBER | TOTAL NUMBER | RESPONSES |
|-----------------------|----------------|--------------|-----------|
| Male                  | 21             | 62           | 3         |
| Female                | 78             | 234          | 3         |
| Transgender           | 4              | 4            | 1         |
| Genderqueer           | 0              | 0            | 1         |
| Questioning or unsure | 0              | 0            | 1         |
| Other                 | 0              | 0            | 1         |
| Total Respondents: 3  |                |              |           |



**Q9 For each question above where you choose "other" as a response please specify the definition of other per each response:**

-We do not ask or track employees sexual preference.

-Percentage(s) of the primary age group(s) the organization currently serves (2%) -preferred not to answer

-Percentage of individuals from the following sexual orientation groups that were served in your organization from July 2021 - 6/30/22 (25%) - preferred not to answer

-N/A

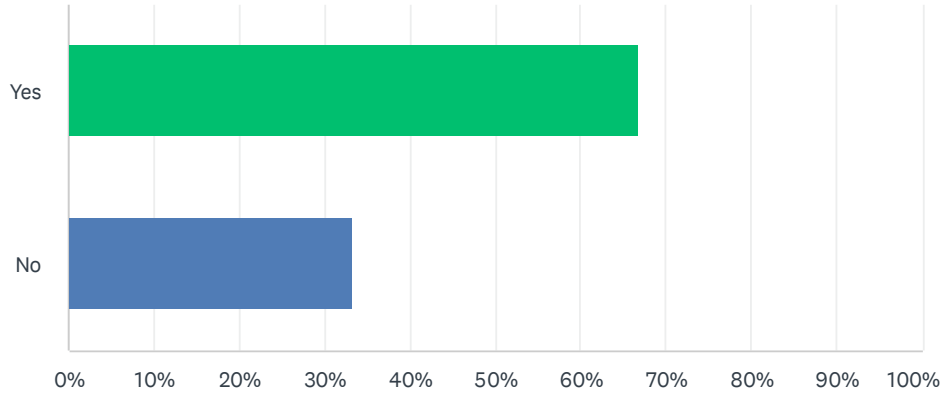
**Q10 Please describe any limitations that have impacted the organizations ability to meet the needs of racially and ethnically diverse populations.**

-No limitations. Aging Services has an ethnically diverse staff that possesses cultural awareness.

-Berkeley is a very diverse city, with speakers of many languages beyond those spoken by our staff (which include English, Spanish, Maya Mam, Portuguese, French, and Russian). We use volunteer interpreters for other languages, and remote interpretation when volunteers aren't available, but in terms of building trust and rapport with clients, having staff members who speak their language is vastly preferable.

-We have positions open and will be increasing our Spanish speaking staff.

**Q11 Has the organization experienced difficulties in recruiting/retaining Behavioral Health staff positions?**



| ANSWER CHOICES | RESPONSES |   |
|----------------|-----------|---|
| Yes            | 66.67%    | 2 |
| No             | 33.33%    | 1 |
| TOTAL          |           | 3 |

**Q12 Please provide the percentage of Behavioral Health staff positions that have been hard-to-fill and/or retain within the organization. Enter N/A if this is not applicable.**

-We have one part-time MFT, there are not enough candidates and we need more BIPOC counselors in the field.

-50%

-N/A

**Q13 Please list the titles of the Behavioral Health staff positions that are currently vacant within the organization. Enter N/A if this is not applicable.**

-Behavioral Health Clinician I

-Using funds from CDSS's new program for serving unaccompanied immigrant youth, we hoped to hire a licensed therapist (MFW/LCSW). Three months of searching produced zero serious candidates. In the end, we decided to have an existing staff member, who was serving as a caseworker for public benefits, shift into the role of a caseworker exclusively for unaccompanied minors (we then hired a new benefits caseworker).

-Currently none open but if we had more applicants and funding we would increase our staff in this category.

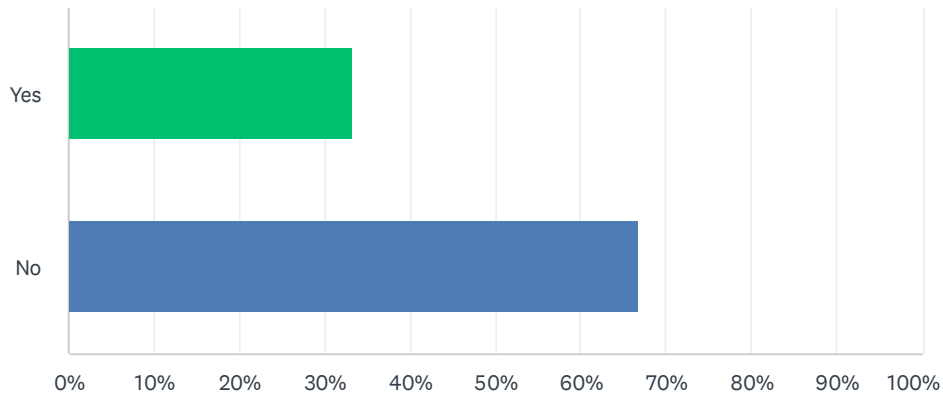
**Q14 Are the vacancies in the organizations Behavioral Health staff positions, currently creating barriers to implementing services? If yes, please describe how the vacancies are impacting the delivery of services to each affected population. Enter N/A if this is not applicable.**

-If we had additional funding and could hire additional highly skilled behavioral health providers then we could help more people if there were a place to refer higher need people...

-Switching our existing caseworker into a new role has worked very well in terms of meeting our clients' basic needs. She came to us with experience working with teenagers, and is clearly acting as a source of emotional support for these clients. Still, we were not able to hire a mental health professional as we had hoped. We are currently in the process of trying to recruit an on-site graduate student intern from U.C. Berkeley's MSW program.

-Yes. A licensed clinician is needed to provide case management services to Shelter+Care voucher holders. This is a high-need, high- acuity population, and we are currently short staffed in this unit. Current staffing is holding too high caseloads.

**Q15 Has the organization recently experienced difficulties in recruiting and/or retaining staff from various cultural, racial/ethnic and/or linguistic groups ?**



| ANSWER CHOICES | RESPONSES |   |
|----------------|-----------|---|
| Yes            | 33.33%    | 1 |
| No             | 66.67%    | 2 |
| TOTAL          |           | 3 |

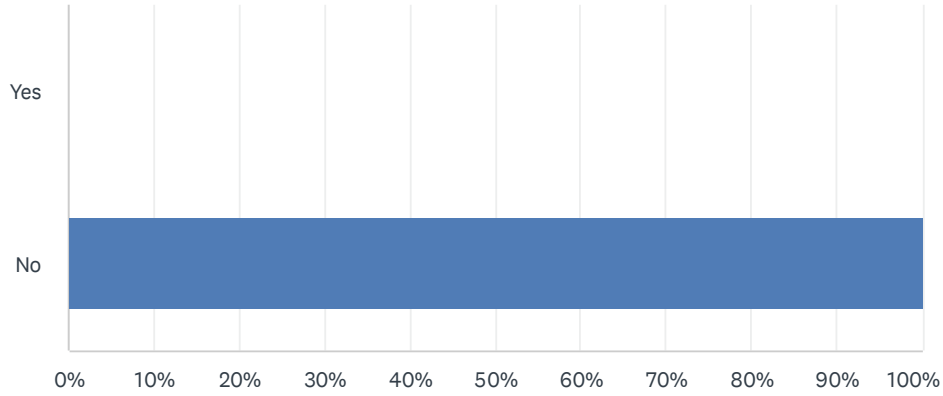
**Q16 Are the vacancies in staff from various cultural, racial/ethnic and linguistic groups currently creating barriers to implementing services? If yes, please describe how the vacancies are impacting each affected population.**

-No.

-As noted above, it would be ideal to have native speakers of all the languages spoken by our clients. Notable gaps include Dari, Pashto, and Ukrainian. But we have not found these gaps to be fundamental barriers to serving all immigrant communities.

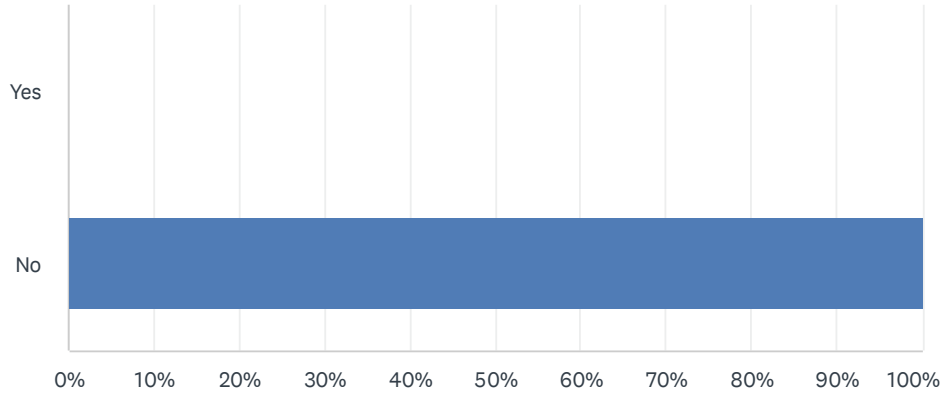
-We hope to fill open positions with Spanish speaking people.

**Q17 Has the organization recently experienced difficulties in recruiting and/or retaining staff from various diverse sexual orientation groups?**



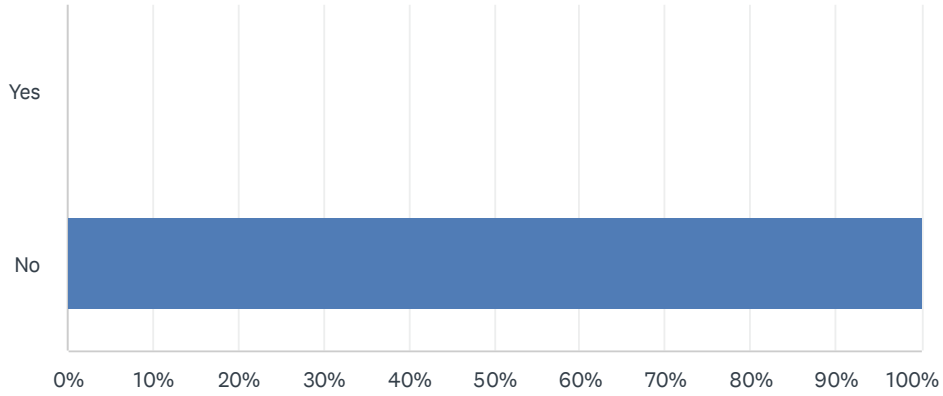
| ANSWER CHOICES | RESPONSES |          |
|----------------|-----------|----------|
| Yes            | 0.00%     | 0        |
| No             | 100.00%   | 3        |
| <b>TOTAL</b>   |           | <b>3</b> |

**Q18 Are the vacancies in staff from various diverse sexual orientation groups creating barriers to implementing services? If yes, please describe how the vacancies are impacting the delivery of services to each affected population.**



| ANSWER CHOICES | RESPONSES |   |
|----------------|-----------|---|
| Yes            | 0.00%     | 0 |
| No             | 100.00%   | 3 |
| TOTAL          |           | 3 |

**Q19 Has the organization recently experienced difficulties in recruiting and/or retaining staff from various diverse gender identity groups?**



| ANSWER CHOICES | RESPONSES |          |
|----------------|-----------|----------|
| Yes            | 0.00%     | 0        |
| No             | 100.00%   | 3        |
| <b>TOTAL</b>   |           | <b>3</b> |



**Q20 Are the vacancies in staff from various gender identity groups currently creating barriers to implementing services? If yes, please describe how the vacancies are impacting the delivery of services to each affected population.**

-No

-N/A

-No

**Q21 Please describe any other barriers the organization is currently experiencing in implementing Behavioral Health programs/services.**

-All of our staff should have the capacity to work with clients who may experience stress or mental health issues. Finding staff who have strong background and skills is always challenging although we are lucky to have a great team.

-The primary challenge has been, and continues to be, the scarcity of mental health care services available. We are fortunate to operate in an area with an abundance of excellent clinics, hospitals, and nonprofit mental health organizations, but the shortage of licensed professionals means that many of our clients must wait months to access care. This is not an issue of ability to pay or immigration status, as HealthPAC means that essentially all of our clients qualify for affordable care. It is an issue of scarcity. Another significant barrier is having mental health professionals who are linguistically and culturally competent.

-No other barriers.

**Q22 Please describe how the organization is currently addressing these barriers to implementing Behavioral Health programs and services.**

-N/A

-We pay close attention to what organizations are currently accepting new patients. We sometimes rely on organizations utilizing peer counseling, which tend to have shorter waits. For example, Communities United Against Violence in San Francisco provides peer counseling by phone to low-income LGBTQ survivors of violence anywhere in the Bay Area and has a wait-list of a few weeks, rather than a few months.

We have also been facilitating a range of support groups and workshops to help LGBTQIA and Latinx/Mam populations who might not feel comfortable seeking out one-on-one therapy. These groups are typically facilitated by mental health professionals and focus on peer support and psychosocial educational themes. We have found this to be a great way to address mental health needs and build trust and community for people who have been isolated and experiencing PTSD.

-Increasing funding to provide for more staff.

**Q23 What do you consider to be the most pressing Behavioral Health needs that the City should focus on over the next three years?**

-High needs clients who do not succeed with regular housing case management or life skills counseling. People who need to be in residential programs or who are deemed to be just below this need but still vulnerable and not safe to be on the street.

-From our perspective, the scarcity of mental health professionals to fill positions in clinics and nonprofits is a huge challenge. With MediCal soon expanding to cover all income-eligible undocumented people, demand will be greater than ever. Another gap is funding for culturally and linguistically accessible behavioral health programs - not just therapy, but support groups and community building for marginalized populations, especially recently arrived immigrants, LGBTQIA people, women, and youth. There are huge gaps for minority language groups such as Indigenous immigrants.

-The City's unhoused population is growing, and this population's need for high-level mental health services is growing as well. Also, as the percentage of older adults increases in our community, need for mental health services for this sub-population will also increase, including resources and referrals related to dementia.

**Q24 Please share any other comments or input you may have regarding any of your responses on this survey, or anything else you may want to share.**

-No additional comments.

-The City can play a crucial role in expanding services for underserved populations that do not currently have access to services - asylum seekers, LGBTQIA immigrants, unaccompanied minors, immigrant women and children who are survivors of gender-based violence, and Indigenous immigrant communities. Many thanks!

-More mental health services, regular engagement, more indoor places people can gather to feel safe and be in the presence of others who have the time and capacity to provide support.

## **APPENDIX C**

# **RESULTS BASED ACCOUNTABILITY (RBA) FY22 DIVISION-WIDE MEASURES AND OUTCOMES**

## Berkeley Mental Health Division-Level Measures

| Process Measures<br>How much did we do?                                                                                                            | Quality Measures<br>How well did we do it?                                                                                                                                                                                                                                                                                                                                                                                                                                                   | Impact Measures<br>Is anyone better off?                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
|----------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <ol style="list-style-type: none"> <li>1. # of clients served (ALL)</li> <li>2. # of unduplicated clients served (ALL but MCT, CAT/TOT)</li> </ol> | <ol style="list-style-type: none"> <li>3. Responsiveness of service (e.g. x days following qualifying event) (FSPs, CCT, FIT, CAT/TOT only)</li> <li>4. Consistency of service (e.g. % clients who had met targeted frequency of services) (FSPs, CCT, FIT only)</li> <li>5. Equity of services (e.g. client demographics compared to Medical population) (FSPs, CCT, FIT only)</li> <li>6. Customer service (% of clients who were satisfied with services) (ALL but Wellness)**</li> </ol> | <ol style="list-style-type: none"> <li>7. % of clients who had a reduction in psychiatric emergency services/inpatient/crisis stabilization units in the last 12 months compared to the 12 months before enrollment (FSPs, CCT, FIT only)</li> <li>8. % of clients with a decrease in hospitalizations/hospitalization days (FSPs, CCT, FIT only)</li> <li>9. % of clients with a decrease in incarceration days (FSPs, CCT, FIT only)</li> <li>10. % clients who had a primary care visit in the last year (FSPs, CCT, FIT only)</li> <li>11. % of clients who moved out of homelessness (i.e. homeless at intake, placed into housing) (ALL but MCT, CAT, and Wellness)**</li> </ol> |

\*Please note: demographic data will be reported at the division level, where available

\*\*Data not available for baseline reporting period, will include in future rounds of reporting

### Data Development Agenda – measures the team is interested in reporting on but for which reliable data are not available

1. % clients who feel they received culturally/racially responsive care
2. % of clients meeting treatment goals
3. % of community members eligible for BMH services that BMH serves
4. Timeliness of service (e.g., x days following a referral)
5. # of new clients opened for ongoing services

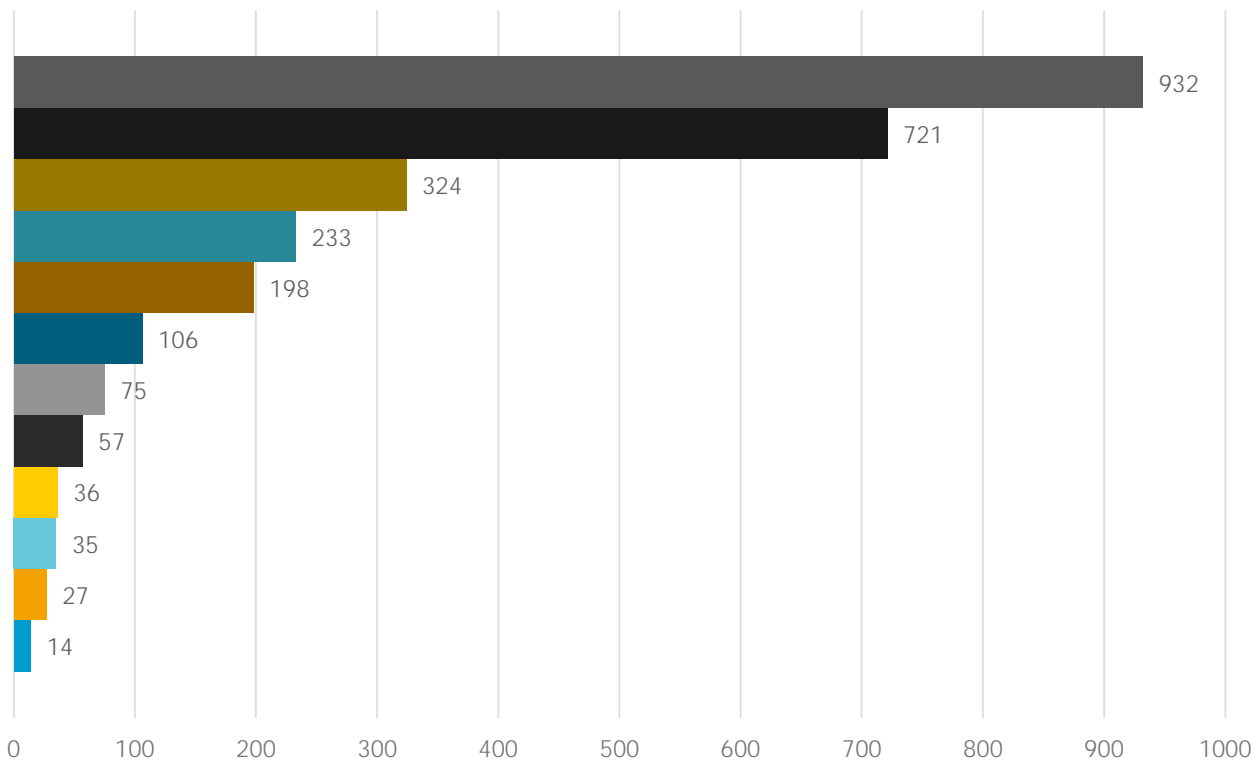
# BMH RBA Report FY 2022

Berkeley Mental Health - Division-Level  
Reporting Period: July 2021-June 2022 (Baseline)

## Process Outcomes ("How much did we do?")

**Description** Berkeley Mental Health provides mental health services to eligible adults, children, youth, and their families. Services focus on low-income residents and unhoused people with severe mental illnesses. Staff provide counseling and case management services with the goal of helping people to better manage their mental health symptoms, obtain and maintain housing and other community resources, and move forward in their recovery.

### Clients Served, by Program



- MCT
- CAT & TOT
- Med Services
- HSHC
- CCT
- FIT
- Adult FSP
- EPSDT
- Homeless FSP
- Wellness & Recovery
- ERMHS
- Child FSP

> 750



represents 50 clients

Unduplicated Clients Served (includes FSPs, CCT, FIT, ERMHS, EPSDT, HSHC, Medical Services, and Wellness)

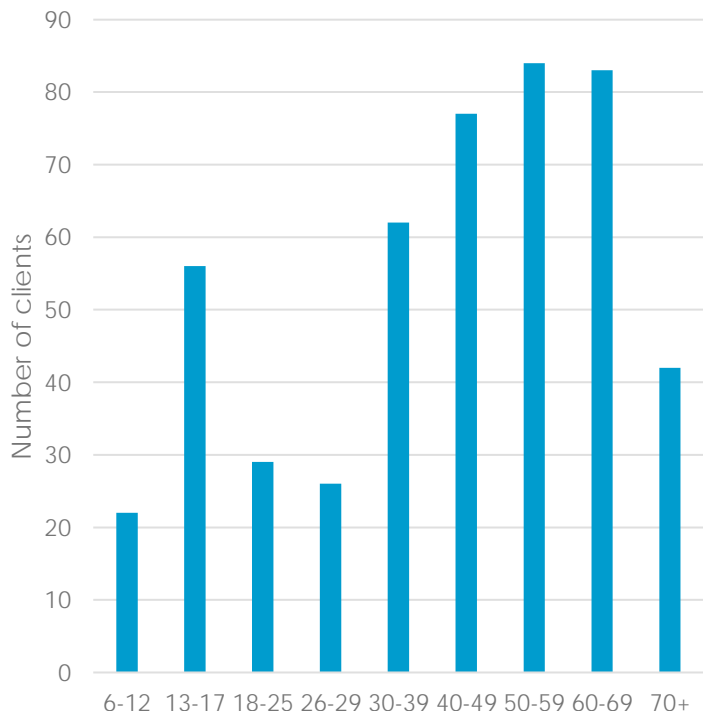
# BMH RBA Report FY 2022

## Quality Outcomes ("How well did we do it?")

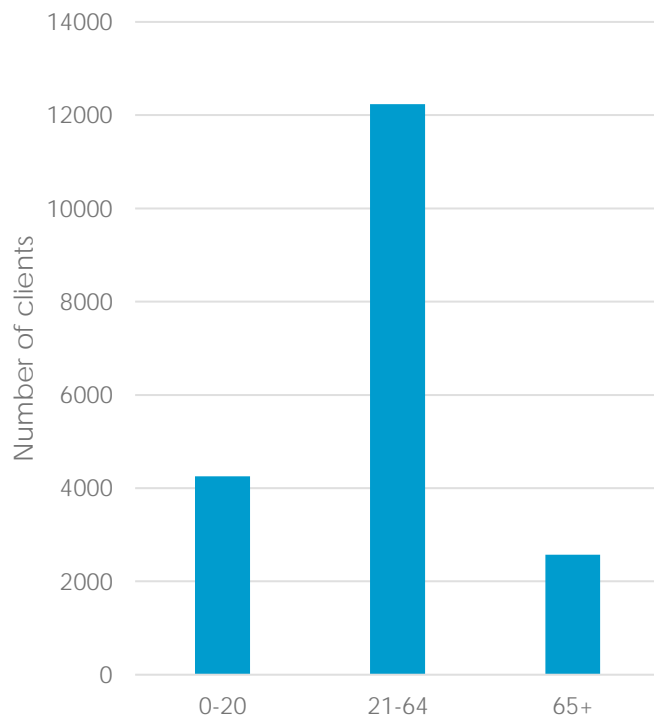
### Equity of Services

Client demographics compared to the Medi-Cal population of Berkeley

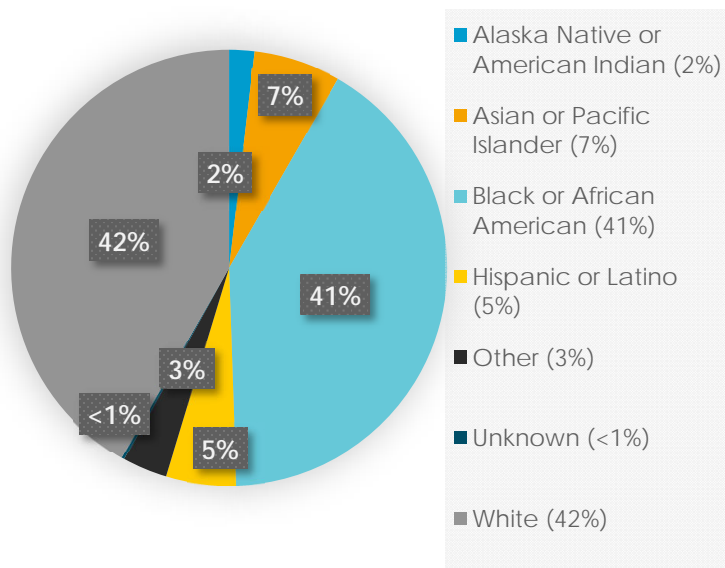
**BMH Demographics (Age)**  
(n=481)



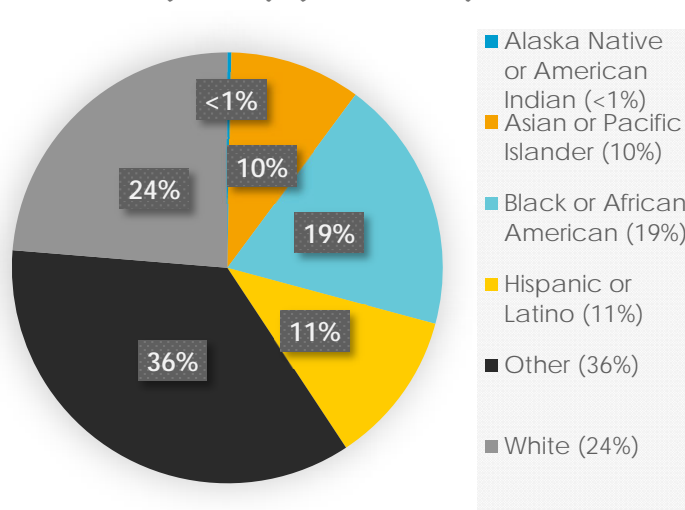
**Medi-Cal Demographics (Age)**  
(n=19,064)



**BMH Demographics (Race)**  
(n=481)

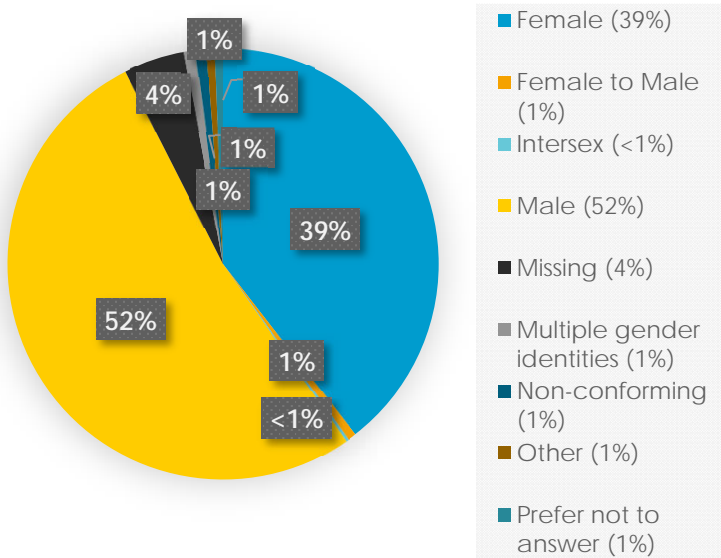


**Medi-Cal Demographics (Race)**  
(n=19,064)

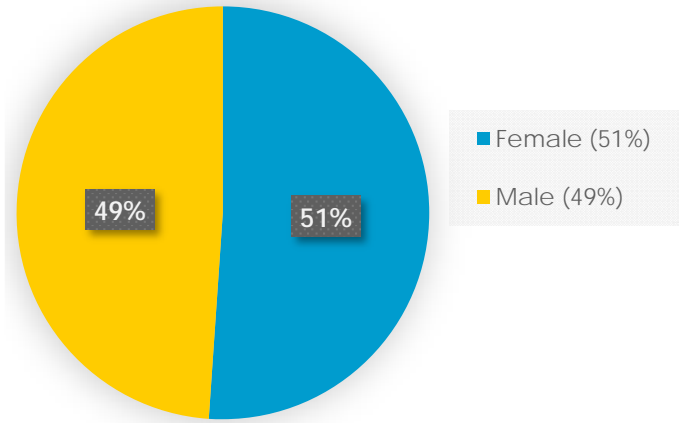


# BMH RBA Report FY 2022

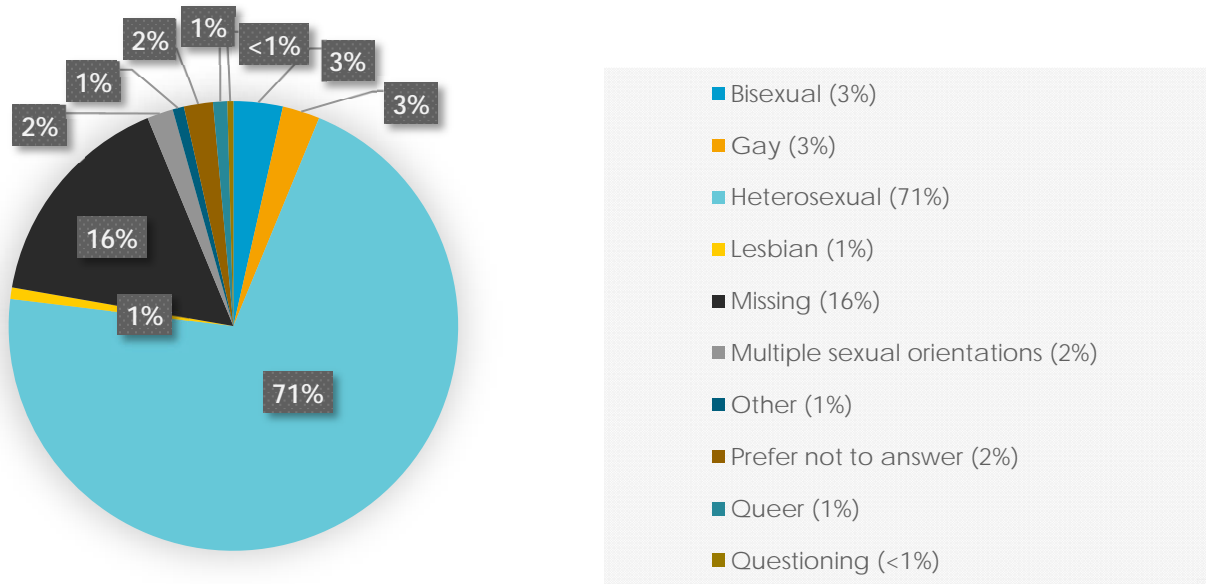
**BMH Demographics  
(Gender Identity) (n=481)**



**Medi-Cal Demographics  
(Gender Identity) (n=19,064)**



**BMH Demographics  
(Sexual Orientation) (n=481)**

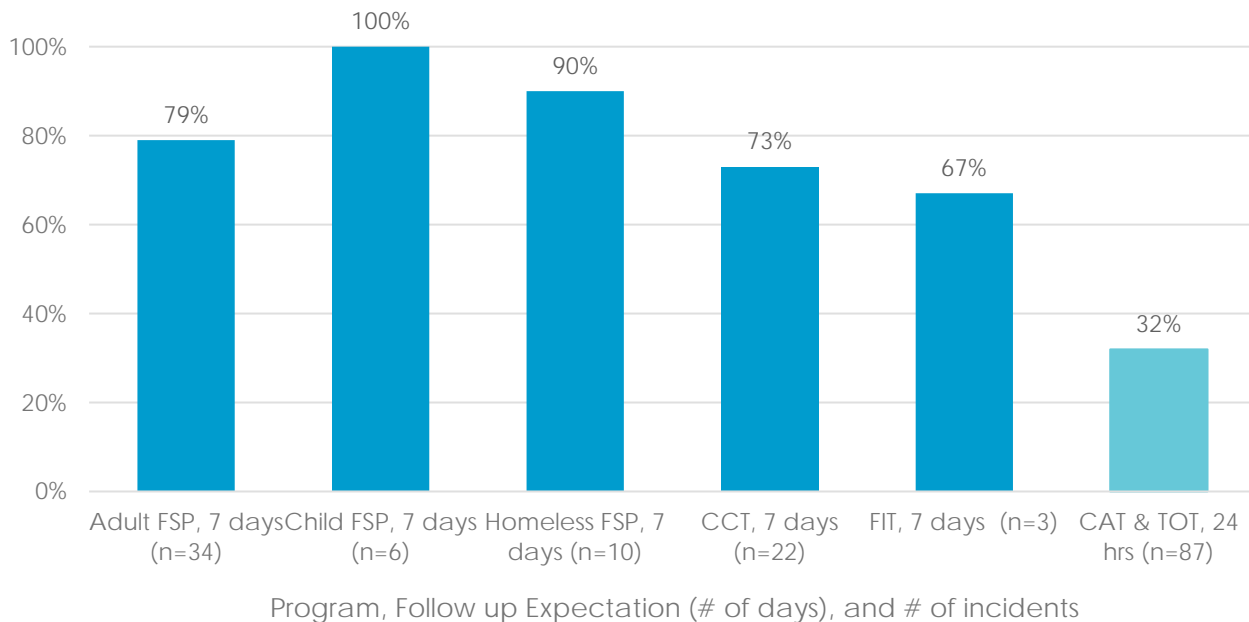




# BMH RBA Report FY 2022

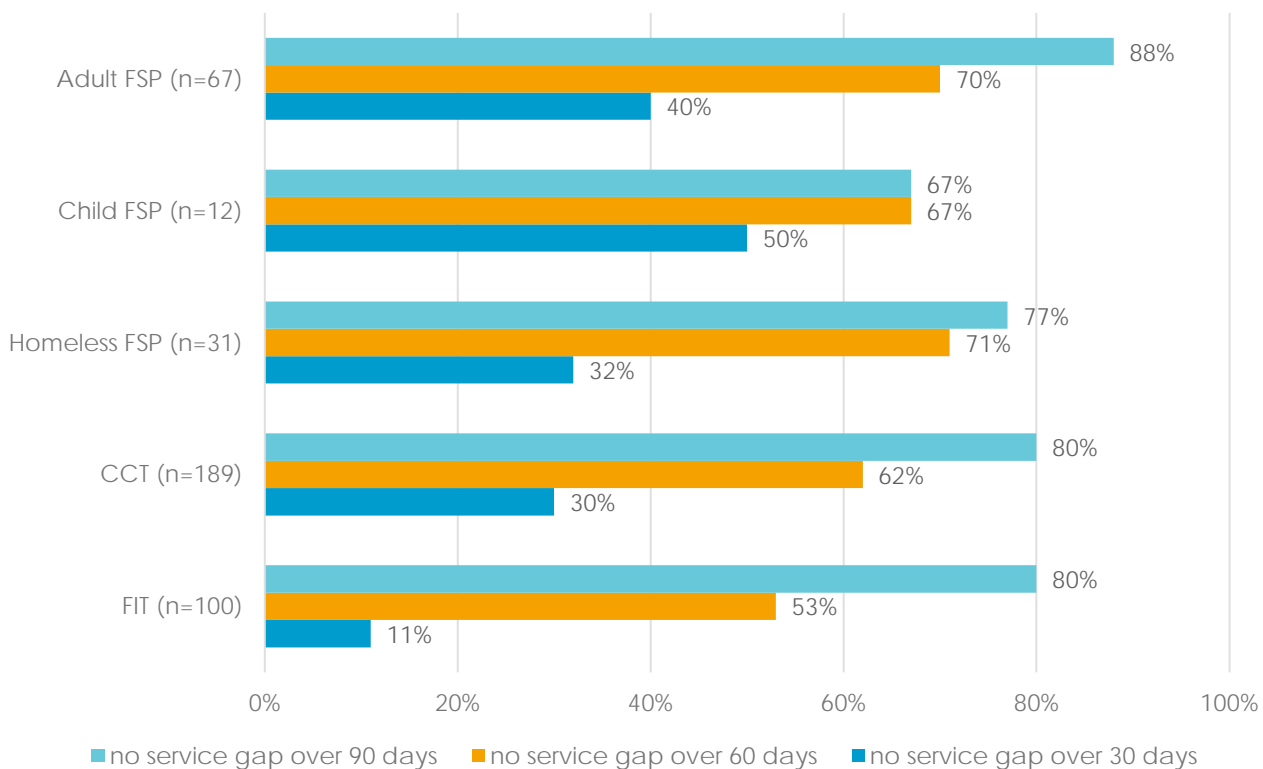
## Responsiveness of Service

(% of discharges from hospitalization or subacute who had a follow up visit within specified time period)



## Consistency of Service

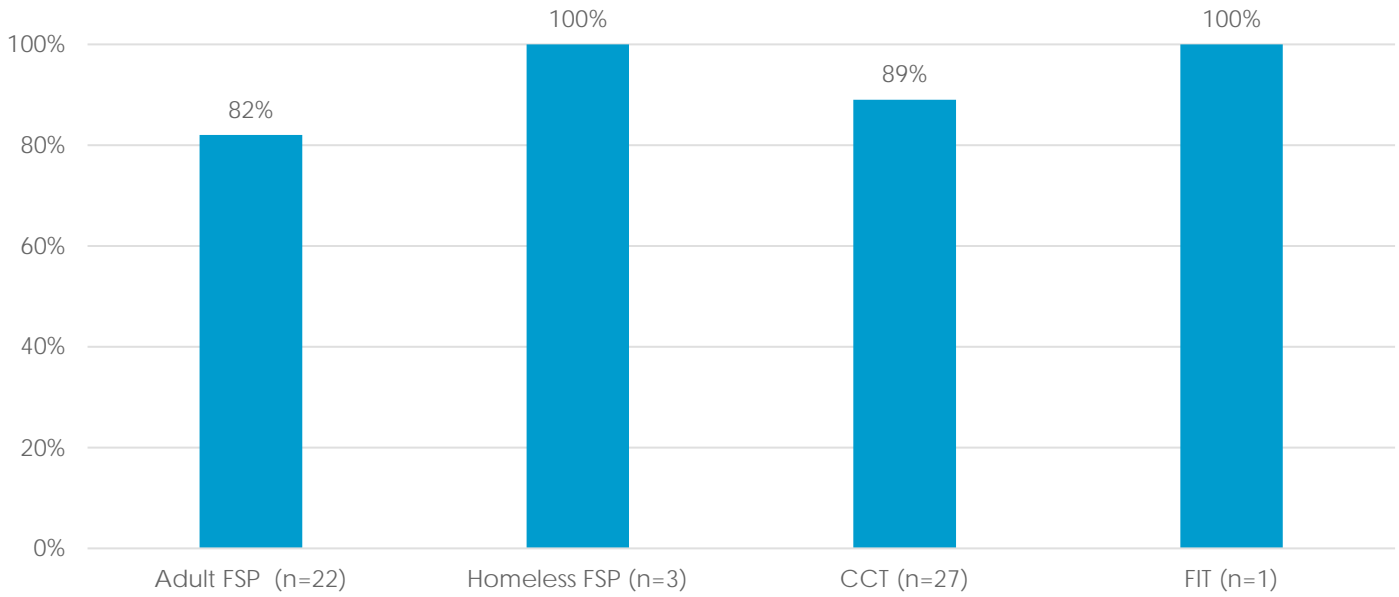
(% of clients with no service gap over 30/60/90 days)



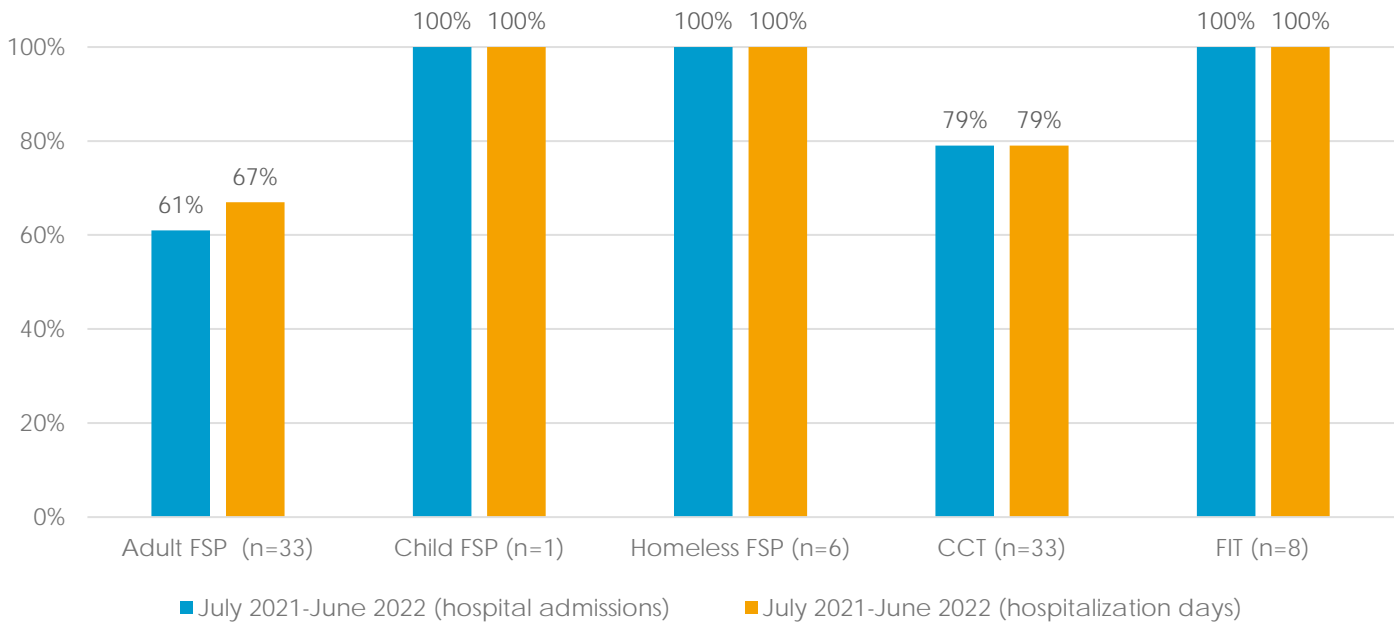
# BMH RBA Report FY 2022

## Impact Outcomes ("Is anyone better off?")

% of clients with a reduction in psychiatric emergency/inpatient/crisis stabilization\*

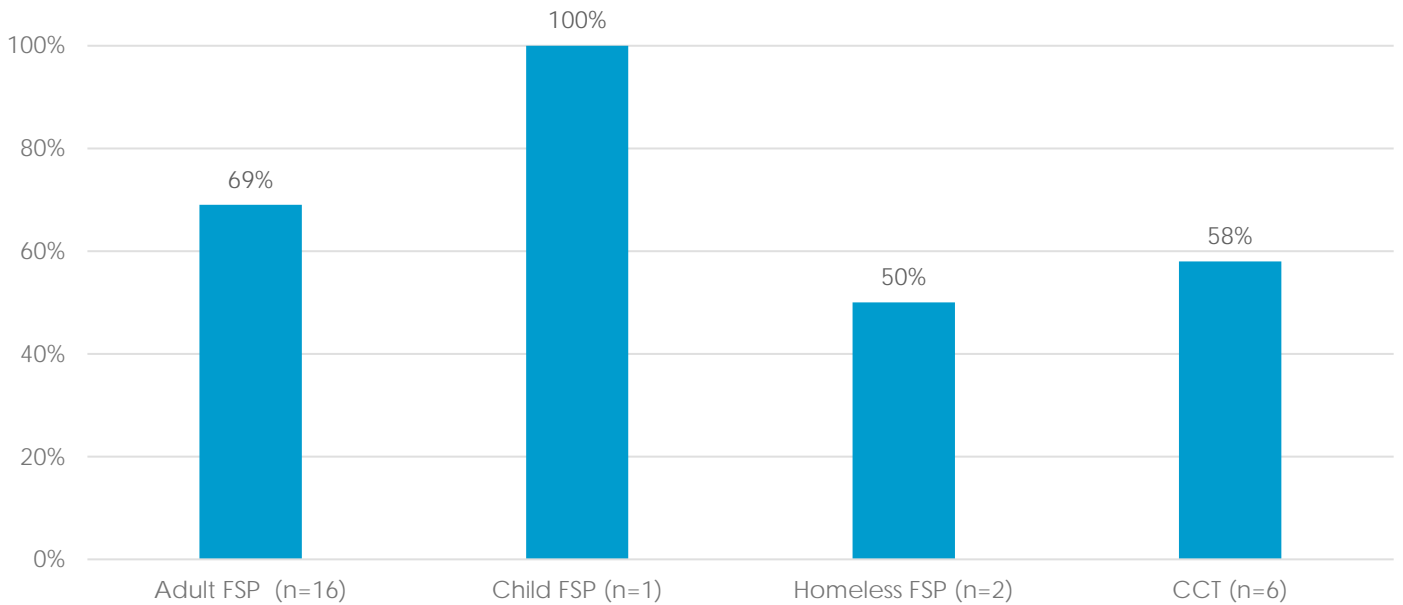


% of clients with a reduction in hospitalization

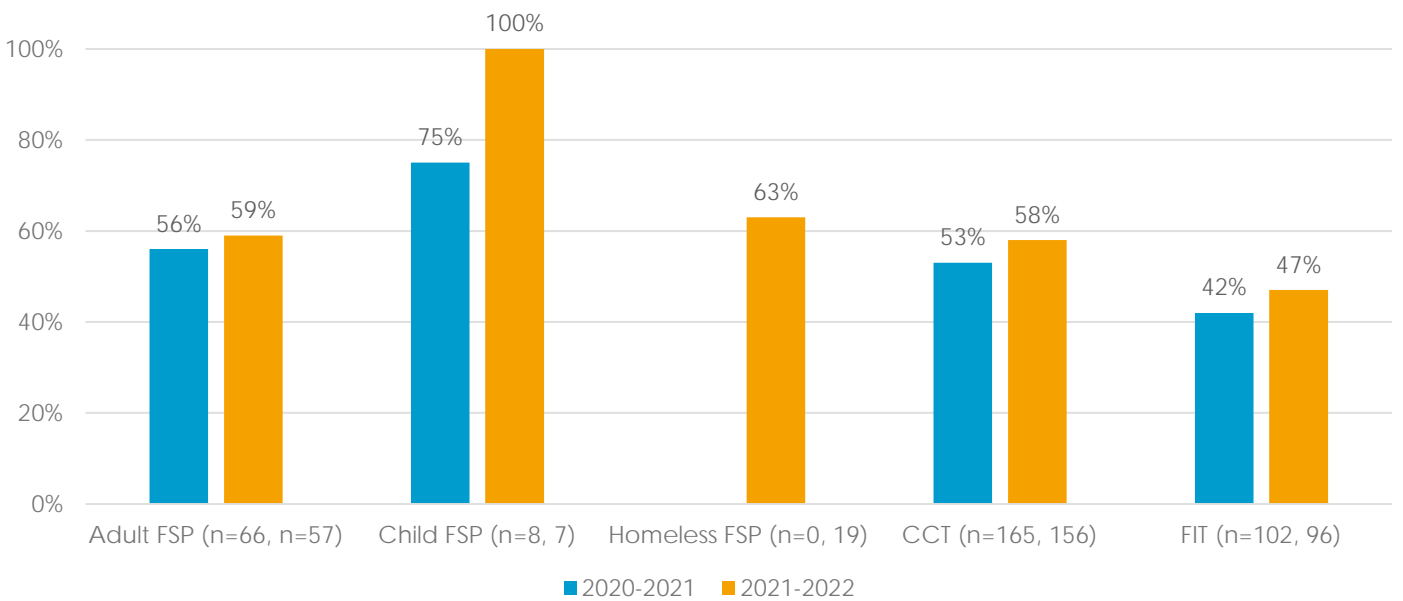


# BMH RBA Report FY 2022

% of clients with a decrease in incarceration days



% clients who had a primary care visit in the last year



# BMH RBA Report FY 2022

| Measure                                                                                                                             | Definition                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | Data Source                                        |
|-------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------|
| # clients served                                                                                                                    | Total number of clients served during the reporting period. <u>Available for:</u> all clients served for Adult FSP, Children's FSP, Homeless FSP, CCT, FIT, ERMHS, EPSDT, High School Health Center, Medical Services, and Wellness & Recovery Services. Does not include clients from MCT, CAT/TOT (may be duplicated)                                                                                                                                                                                                                                  | Yellowfin, ETO, Wellness Recovery Group Attendance |
| Equity of services (demographics compared to Medi-Cal population)                                                                   | Age, race, and gender identity of BMH clients and Medi-Cal beneficiaries in the City of Berkeley. <u>Available for:</u> Adult FSP, Children's FSP, Homeless FSP, CCT, FIT. No data available for sexual orientation of Medi-Cal beneficiaries. Does not include clients from CAT/TOT, High School Health Center, MCT, Medical Services, Wellness (may be duplicated or limited data available)                                                                                                                                                           | Yellowfin                                          |
| Responsiveness of service (% of discharges from hospitalization or subacute who had a follow up visit within specified time period) | Follow-up rates for individuals open to providers at the time of MH hospital discharge. Expected follow-up time period set by programs. <u>Available for:</u> Adult FSP, Children's FSP, Homeless FSP, CCT, FIT, CAT & TOT.                                                                                                                                                                                                                                                                                                                              | Yellowfin, CAT Contact Log                         |
| Consistency of service (% of clients with no service gap over 30/60/90 days)                                                        | % of clients with less than 30/60/90 days maximum without service during their episode(s) in the fiscal year. Only includes clients open to a provider for at least a total of 1/2/3 months during the reporting fiscal year. <u>Available for:</u> Adult FSP, Children's FSP, Homeless FSP, CCT, FIT.                                                                                                                                                                                                                                                   | Yellowfin                                          |
| % of clients who had a reduction in days in psychiatric emergency services/inpatient/crisis stabilization units                     | Of clients who completed six consecutive months during the 12-month fiscal year, percentage with a reduction in psychiatric emergency services, inpatient or crisis stabilization unit other than Amber House, when comparing unduplicated days from the 12 months prior to the fiscal year to the current 12-month fiscal year. Excludes clients if out of community (in jail and/or subacute) for six or more months during the current fiscal year or the prior fiscal year. <u>Available for:</u> Adult FSP, Children's FSP, Homeless FSP, CCT, FIT. | Yellowfin                                          |
| % of clients with a decrease in hospitalization                                                                                     | Decrease in hospital admits and hospitalization days in the years that a client was active in the program compared to the year prior to program admission. Includes clients who had at least one hospital admit in the 12 months prior to admission and remained in the program for at least 1 year <u>Available for:</u> Adult FSP, Children's FSP, Homeless FSP, CCT, FIT.                                                                                                                                                                             | Yellowfin                                          |

# BMH RBA Report FY 2022

|                                                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                  |
|----------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------|
| <p>% of clients with a decrease in incarcerations</p>          | <p>Of clients who completed six consecutive months during the 12-month fiscal year, percentage with a reduction in jail days, when comparing unduplicated days from the 12 months prior to the fiscal year to the current 12-month fiscal year. Excludes clients if out of community (in hospital and/or subacute) for six or more months during the current fiscal year or the prior fiscal year.<br/> <u>Available for:</u> Adult FSP, Children's FSP, Homeless FSP, CCT, FIT.</p> | <p>Yellowfin</p> |
| <p>% clients who had a primary care visit in the last year</p> | <p>Of clients who completed 6 consecutive months during the fiscal year, percentage who had an appointment with a Anthem/Alliance/CHCN primary care provider during the fiscal year. Metric excludes individuals with six or more months out of the community (in Subacute, MH hospital, and/or jail).<br/> <u>Available for:</u> Adult FSP, Children's FSP, Homeless FSP, CCT, FIT.</p>                                                                                             | <p>Yellowfin</p> |

## Adult Full Service Partnership (FSP)

| Process Measures<br>How much did we do?                                                                                                                                                                                                                                                           | Quality Measures<br>How well did we do it?                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | Impact Measures<br>Is anyone better off?                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <ol style="list-style-type: none"> <li>1. # clients served</li> <li>2. # of new clients opened for ongoing services</li> <li>3. Average # of days in FSP per client</li> <li>4. Average # of service hours per client per month</li> <li>5. Average # of services per client per month</li> </ol> | <ol style="list-style-type: none"> <li>6. % of clients who have at least one completed CANS/ANSA for each six-month period that they are in the program</li> <li>7. % of clients and/or their caregivers who receive an average of four or more face-to-face outpatient visits per month</li> <li>8. % of clients with no service gap of over 30 days</li> <li>9. % of discharges from hospitalization or subacute who had a follow up visit with FSP staff within 7 and within 30 calendar days</li> <li>10. #/% of clients closed, by reason closed</li> <li>11. #/% of clients transferred to another level of care</li> <li>12. % of clients who were satisfied with services**</li> </ol> | <ol style="list-style-type: none"> <li>13. % of clients who had a reduction in jail days in the last 12 months compared to the 12 months before enrollment</li> <li>14. % of clients who had a reduction in psychiatric emergency services/inpatient/crisis stabilization units in the last 12 months compared to the 12 months before enrollment</li> <li>15. % of clients with a decrease in hospitalizations/hospitalization days</li> <li>16. % of clients with a primary care visit in the last 12 months</li> <li>17. % of clients who moved out of homelessness**</li> </ol> |

\*Please note: demographic data will be reported at the program level, where available

\*\*Data not available for baseline reporting period, will include in future rounds of reporting

### Data Development Agenda – measures the team is interested in reporting on but for which reliable data are not available

1. % of clients who have a billable contact with FSP staff within 7 calendar days:
  - a. Following discharge (from a hospital, crisis residential or release from jail)
  - b. After assignment to the team
2. Client-to-staff ratio
3. % staff retention year-to-year
4. Average # of contacts per month per client

# BMH RBA Report FY 2022

Adult Full Service Partnership (FSP)  
Reporting Period: July 2021-June 2022 (Baseline)

## Process Outcomes ("How much did we do?")



75

Clients Served



11

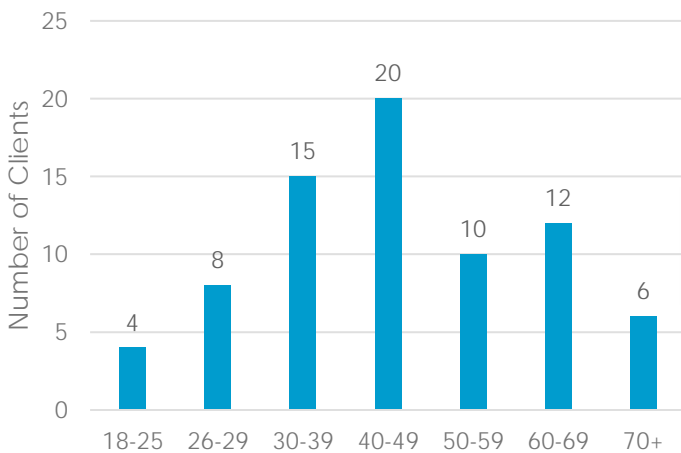
New Clients



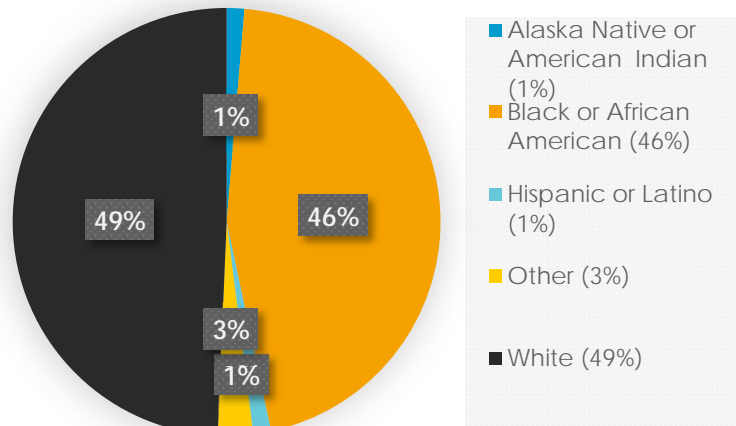
represents 10 clients

**Program Description:** The Full-Service Partnership (FSP) team provides services to clients who are considered the highest need within our adult mental health service system. The FSP team is based on an Assertive Community Treatment Model which involves low staff-to-client ratios at approximately 10:1 and a focus on providing care as a team rather than individual case load assignments. Services are primarily provided in the community rather than in an office setting.

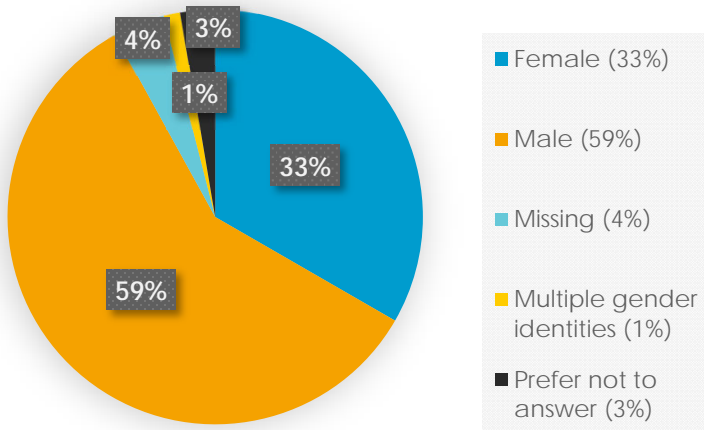
Demographics (Age)



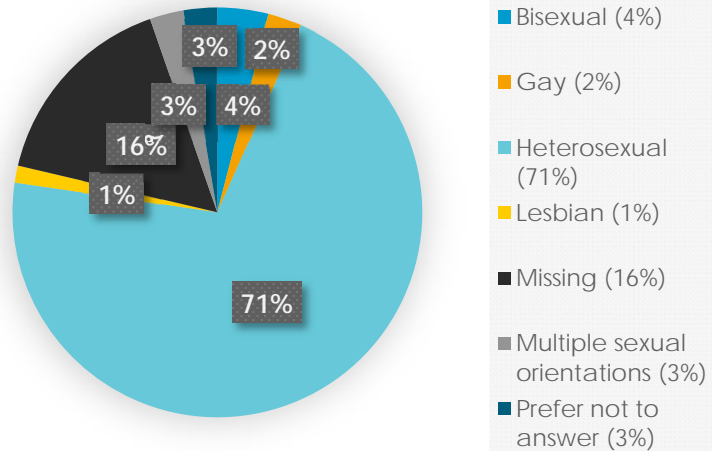
Demographics (Race)



Demographics (Gender Identity)



Demographics (Sexual Orientation)



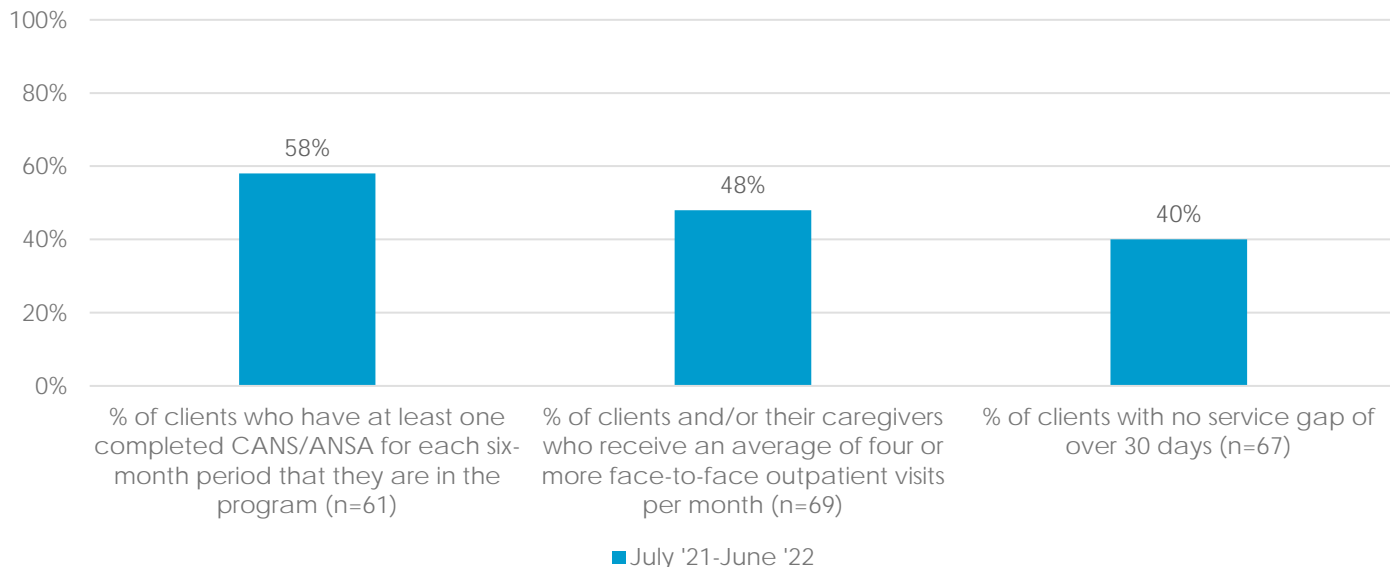
# BMH RBA Report FY 2022

The average client served in 2021-2022:

- remained in the FSP program for **1,231 days**
- received **5.17 hrs** of services per month
- received **4.53 services** per month

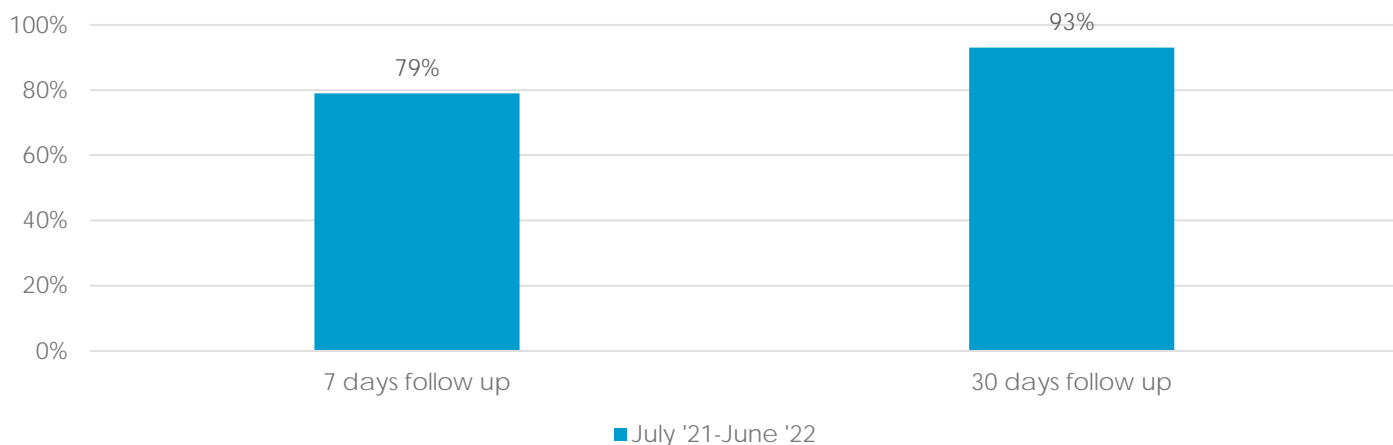
## Quality Outcomes ("How well did we do it?")

### Service Consistency



### Hospital Follow Up Consistency

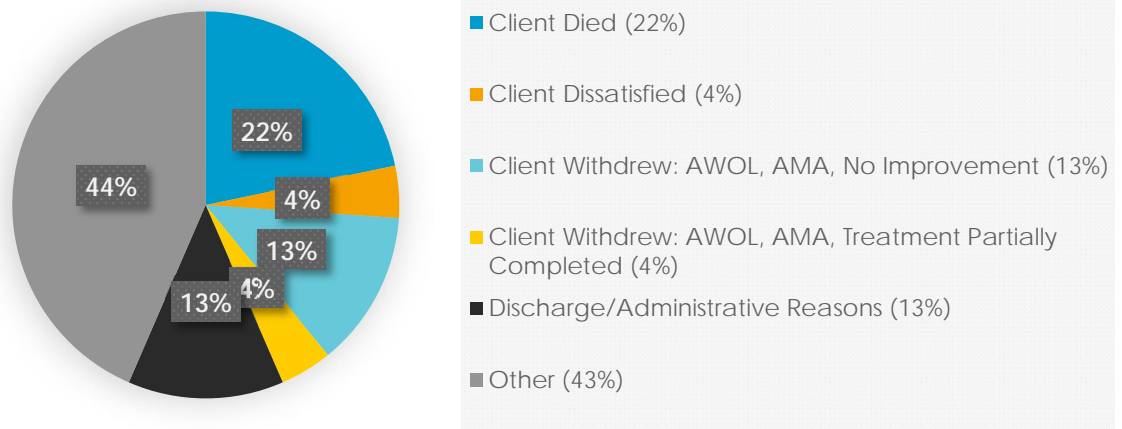
% of discharges from hospitalization or subacute who received FSP follow up within 7 and 30 days (n=28)



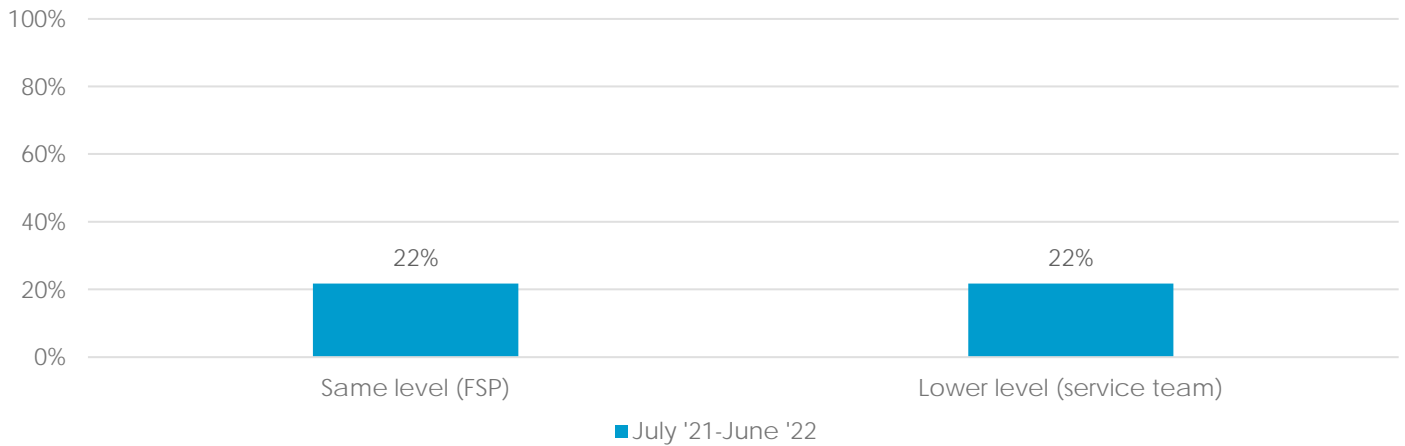


# BMH RBA Report FY 2022

### Clients Closed by Reason Closed (n=23)



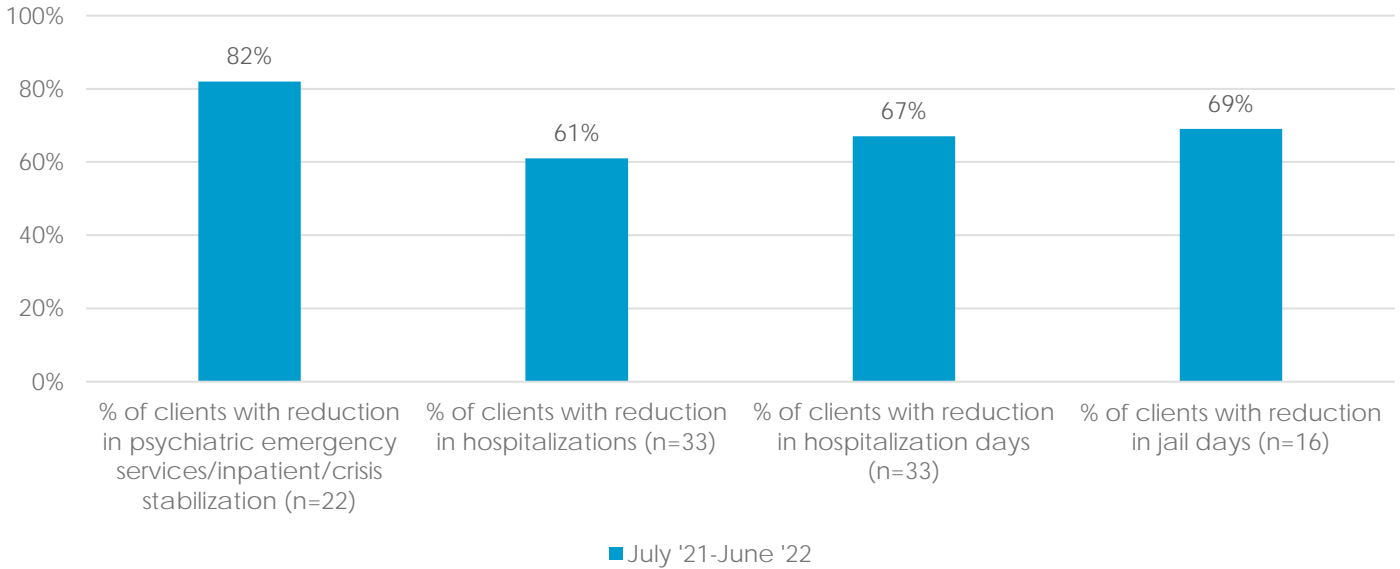
### Clients Transferred to Another Program, by Level of Care (n=23)



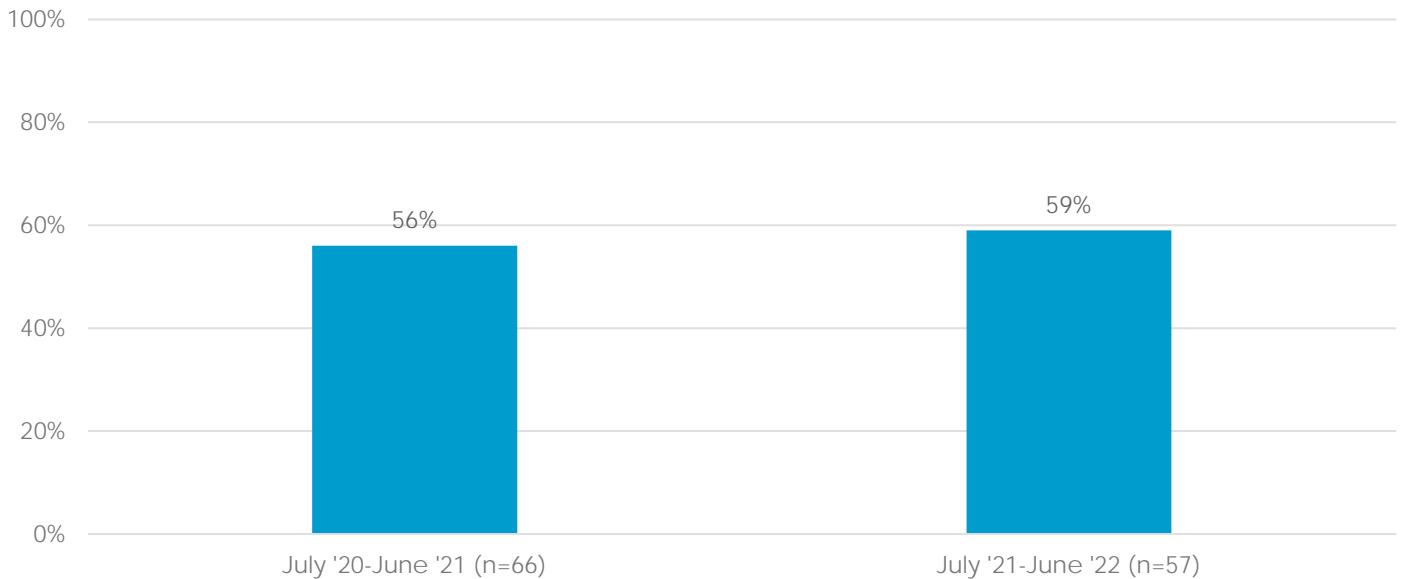
# BMH RBA Report FY 2022

## Impact Outcomes ("Is anyone better off?")

### Client Outcome Improvements



### % of Clients with a Primary Care Visit in the Last 12 Months



# BMH RBA Report FY 2022

| Measure                                                                                                                        | Definition                                                                                                                                                                                                               | Data Source    |
|--------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|
| # clients served                                                                                                               | Total clients served                                                                                                                                                                                                     | Yellowfin      |
| # of new clients                                                                                                               | Clients who were not served by the program in the previous fiscal year                                                                                                                                                   | Yellowfin      |
| Average # of days in FSP per client                                                                                            | Average length of stay for primary program episodes which have closed since the beginning of the reporting period                                                                                                        | Yellowfin      |
| Average # of service hours per client per month                                                                                | Average of hours of service in a month divided by clients served in a month. Includes all services recorded for clients. Does not include MAA                                                                            | Yellowfin      |
| Average # of services per client per month                                                                                     | Average services in a month divided by clients served in a month. Includes all services recorded for clients. Note: more than one service can be provided during a single contact. Does not include MAA                  | Yellowfin      |
| % of clients who have at least one completed CANS/ANSA for each six-month period that they are in the program                  | Of clients with a completed CANS/ANSA, what percentage of them had an assessment at least every six months?                                                                                                              | Objective Arts |
| % of clients and/or their caregivers who receive an average of four or more face-to-face outpatient visits per month           | Clients must be been open to a provider for at least 30 days in order to be included in this metric. Phone contacts are included during the pandemic. Days in subacute or jail not counted, but services are counted.    | Yellowfin      |
| % of clients with no service gap of over 30 days                                                                               | Maximum days each Level 1 client went without service during their episode(s) in the reporting period. Only considered clients open to a provider for at least a total of three months during the reporting fiscal year. | Yellowfin      |
| % of discharges from hospitalization or subacute who had a follow up visit with FSP staff within 7 and within 30 calendar days | Follow-up rates for individuals open to Level 1 providers at the time of MH hospital discharge.                                                                                                                          | Yellowfin      |

# BMH RBA Report FY 2022

|                                                                                                                 |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |           |
|-----------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------|
| #/% of clients closed, by reason closed                                                                         | Discharge reason for clients discharged during the reporting period                                                                                                                                                                                                                                                                                                                                                                                                             | Yellowfin |
| # of clients transferred to another program, by level of care                                                   | Of clients discharged in the reporting period, # who were transferred to a full service partnership program, service team, or outpatient services in Alameda County within 90 days of discharge.                                                                                                                                                                                                                                                                                | Yellowfin |
| % of clients who had a reduction in days in psychiatric emergency services/inpatient/crisis stabilization units | Of clients who completed six consecutive months during the 12-month fiscal year, percentage with a reduction in psychiatric emergency services, inpatient or crisis stabilization unit other than Amber House, when comparing unduplicated days from the 12 months prior to the fiscal year to the current 12-month fiscal year. Excludes clients if out of community (in jail and/or subacute) for six or more months during the current fiscal year or the prior fiscal year. | Yellowfin |
| % of clients with a decrease in hospitalization                                                                 | Decrease in hospital admits and hospitalization days in the years that a client was active in the program compared to the year prior to program admission. Includes clients who had at least one hospital admit in the 12 months prior to admission and remained in the program for at least 1 year                                                                                                                                                                             | Yellowfin |
| % of clients who had a reduction in jail days                                                                   | Of clients who completed six consecutive months during the 12-month fiscal year, percentage with a reduction in jail days, when comparing unduplicated days from the 12 months prior to the fiscal year to the current 12-month fiscal year. Excludes clients if out of community (in hospital and/or subacute) for six or more months during the current fiscal year or the prior fiscal year.                                                                                 | Yellowfin |
| % of clients with a primary care visit in the last 12 months                                                    | Of clients who completed 6 consecutive months during the fiscal year, percentage who had an appointment with a Anthem/Alliance/CHCN primary care provider during the fiscal year. Metric excludes individuals with six or more months out of the community (in Subacute, MH hospital, and/or jail).                                                                                                                                                                             | Yellowfin |

# Comprehensive Community Treatment (CCT)

| Process Measures<br>How much did we do?                                                                                                                                                                                                           | Quality Measures<br>How well did we do it?                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | Impact Measures<br>Is anyone better off?                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <ol style="list-style-type: none"> <li>1. # clients served</li> <li>2. # of new clients opened for ongoing services</li> <li>3. Average # of service hours per client per month</li> <li>4. Average # of services per client per month</li> </ol> | <ol style="list-style-type: none"> <li>5. % of clients who have at least one completed CANS/ANSA for each six-month period that they are in the program</li> <li>6. % of clients with no service gap of over 90 days</li> <li>7. % of discharges from hospitalization or subacute who had a follow up visit with staff within 7 and within 30 calendar days</li> <li>8. #/% of clients closed, by reason closed</li> <li>9. #/% of clients transferred to another level of care</li> <li>10. % of clients who were satisfied with services**</li> </ol> | <ol style="list-style-type: none"> <li>11. % of clients who had a reduction in psychiatric emergency services/inpatient/crisis stabilization units in the last 12 months compared to the 12 months before enrollment</li> <li>12. % of clients with a decrease in hospitalizations/hospitalization days</li> <li>13. % of clients who had a reduction in jail days in the last 12 months compared to the 12 months before enrollment</li> <li>14. % of clients with a primary care visit in the last 12 months</li> </ol> |

\*Please note: demographic data will be reported at the program level, where available

\*\*Data not available for baseline reporting period, will include in future rounds of reporting

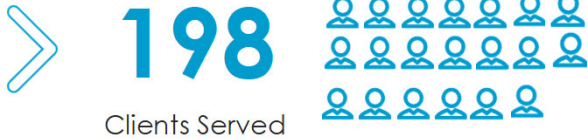
**Data Development Agenda** – measures the team is interested in reporting on but for which reliable data are not available

1. % of clients who have a billable contact with FSP staff within 7 calendar days:
  - a. Following discharge (from a hospital, crisis residential or release from jail)
  - b. After assignment to the team
2. % of clients who drop out of service within the first 6 months following enrollment
3. % of clients who had a decrease in days spent in psychiatric hospital settings comparing most recent 12 months in the program to the 12 months prior to enrollment
4. Average # of contacts per month per client
5. “Other” reason for client being closed
6. No-shows/missed contacts

# BMH RBA Report FY 2022

Comprehensive Community Treatment Team (CCT)  
Reporting Period: July 2021-June 2022 (Baseline)

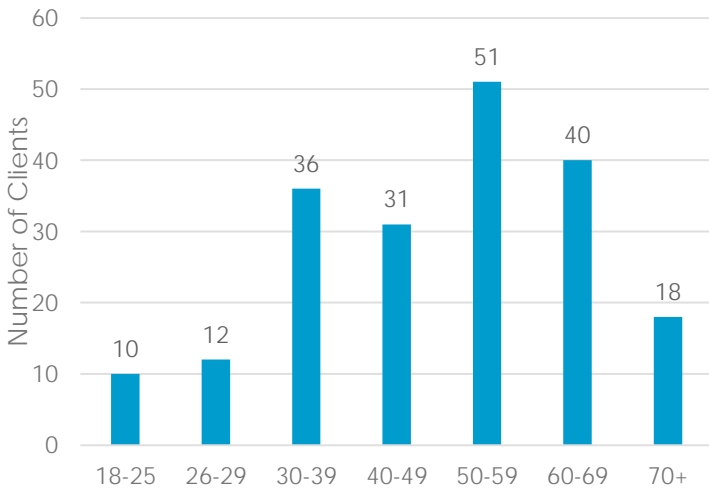
## Process Outcomes ("How much did we do?")



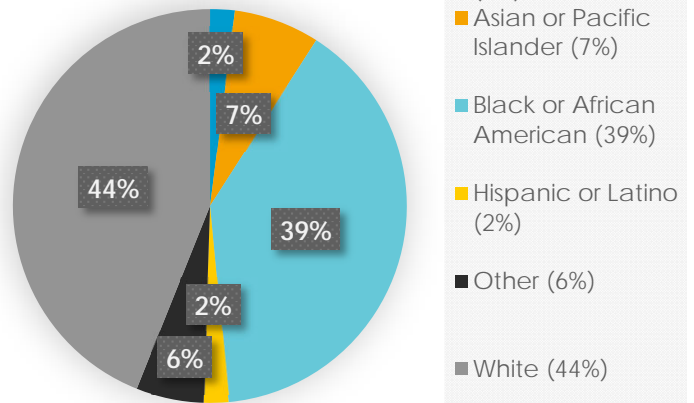
represents 10 clients

**Program Description:** The CCT team is responsible for providing services to adults with severe and persistent mental illness who require specialty mental health services. Staff provide case management, therapeutic services, and group services both in the field and in the clinic.

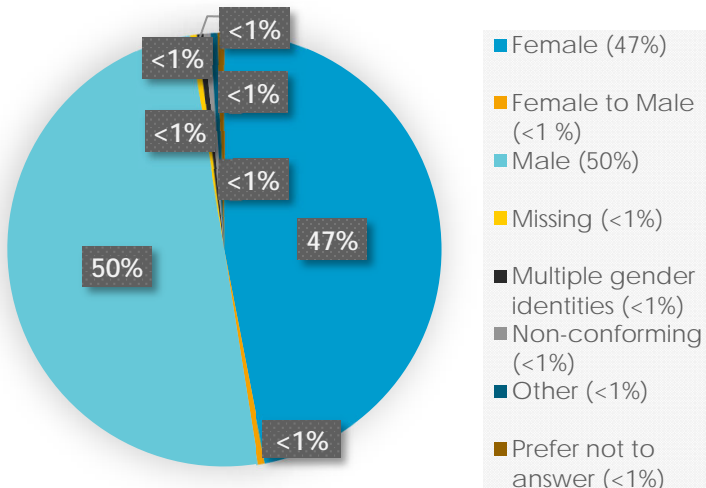
Demographics (Age)



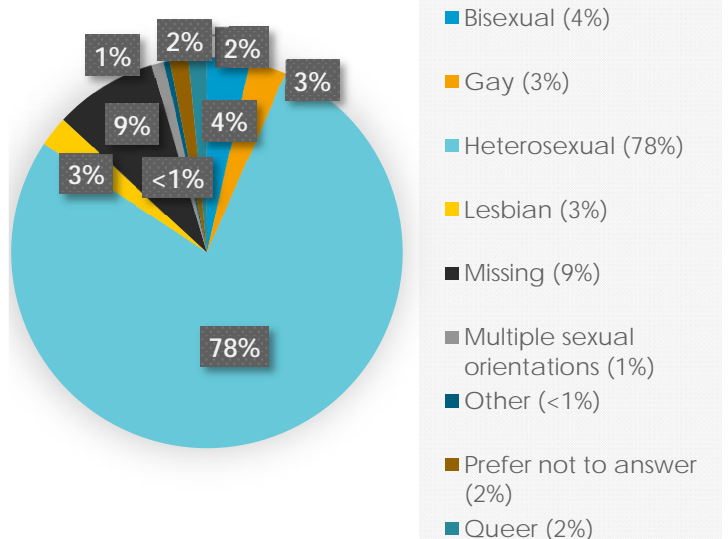
Demographics (Race)



Demographics (Gender Identity)



Demographics (Sexual Orientation)



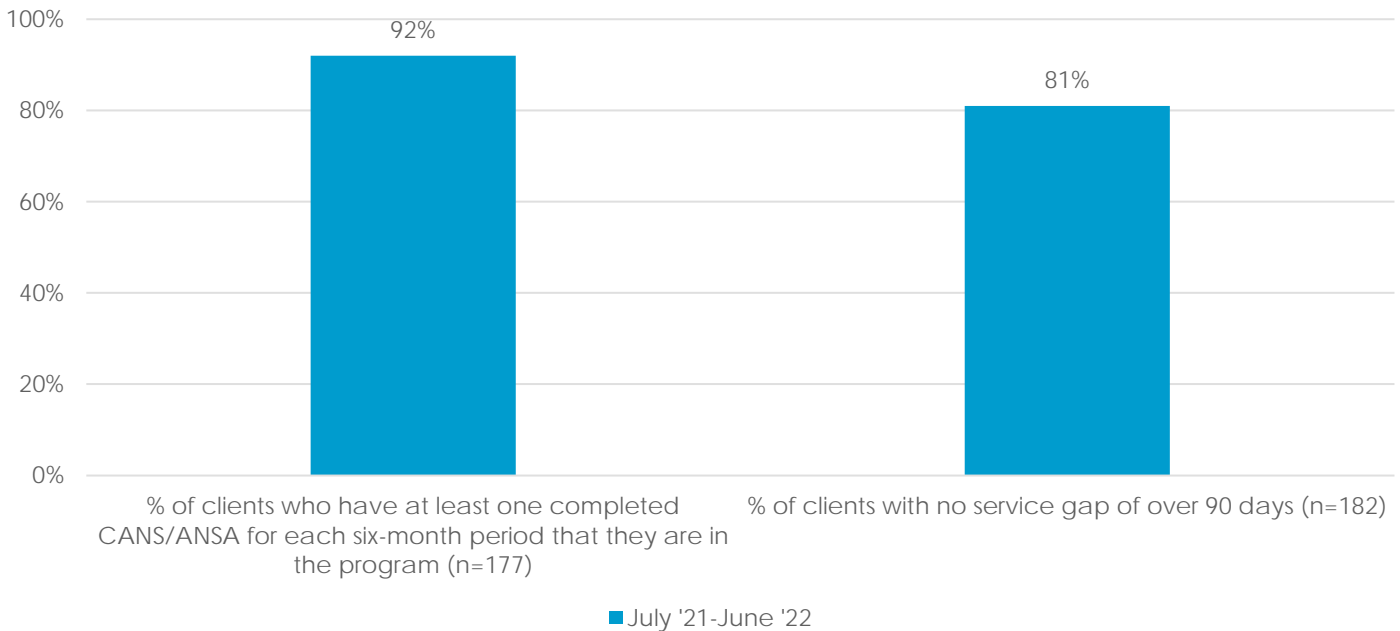
# BMH RBA Report FY 2022

The average client served in 2021-2022 received:

- received **3.3 hrs** of services per month
- received **3.3 services** per month

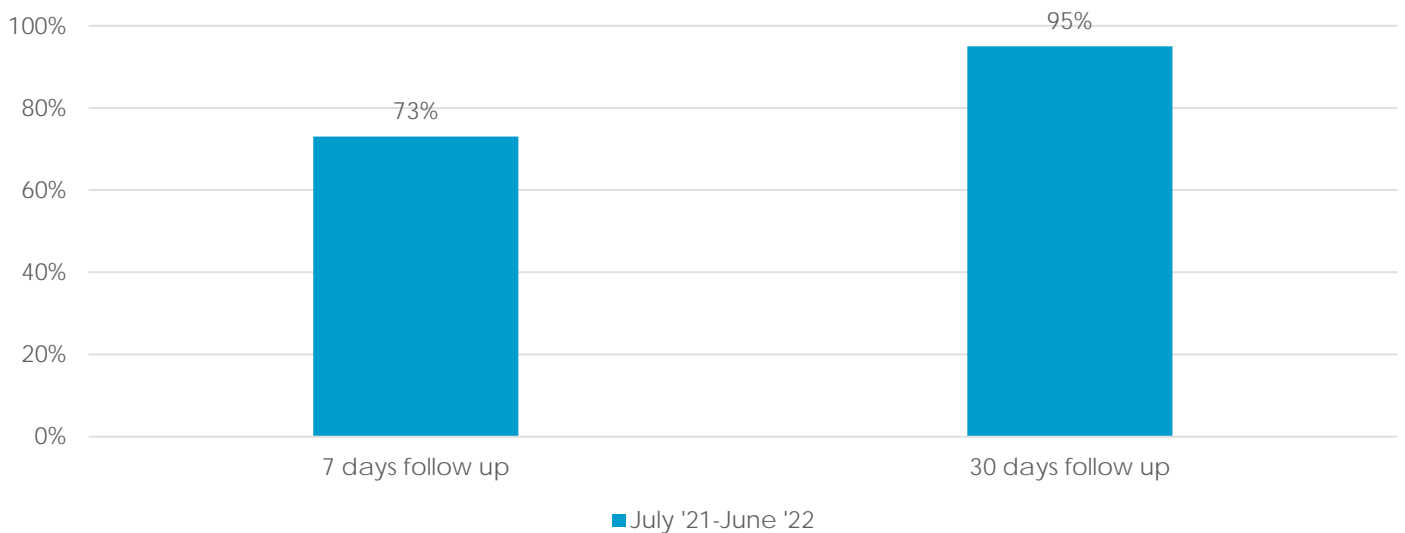
## Quality Outcomes ("How well did we do it?")

### Service Consistency



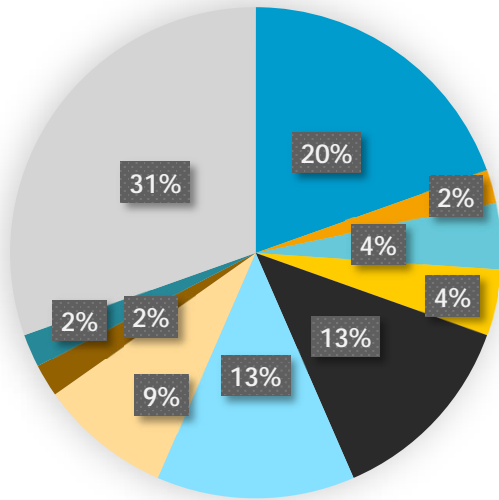
### Hospital Follow Up Consistency

% of discharges from hospitalization or subacute who received follow up within 7 and 30 days (n=22)



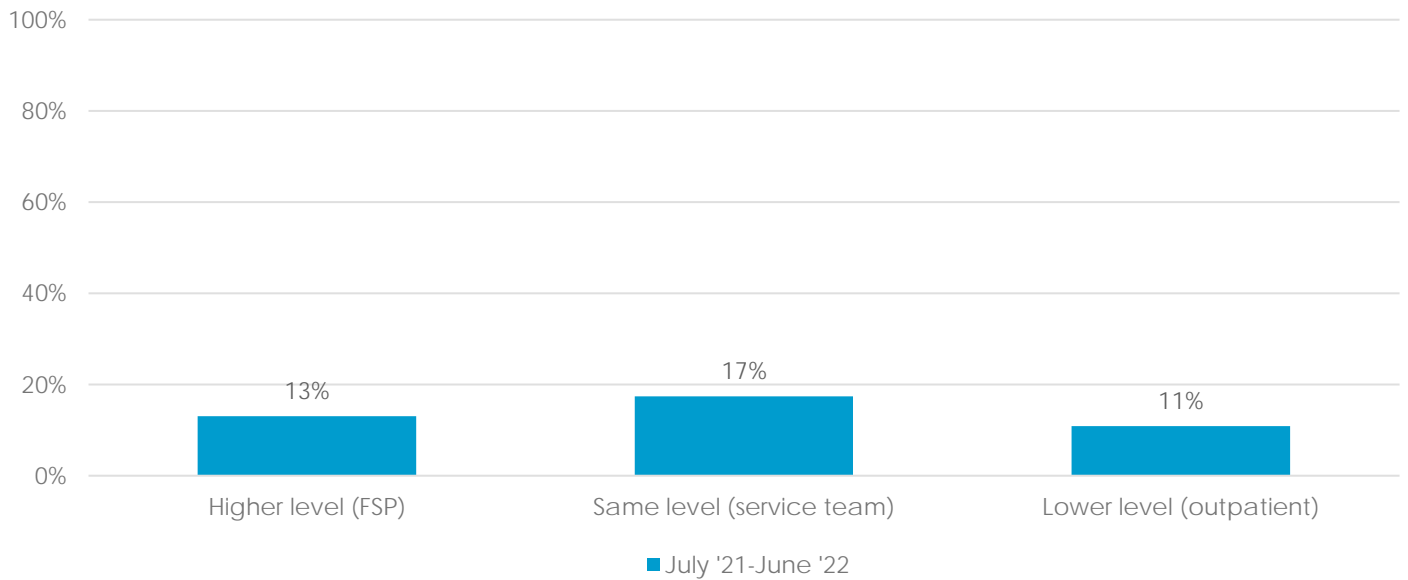
# BMH RBA Report FY 2022

Clients Closed, by Reason Closed (n=46)



- Client Died (20%)
- Client Discharged/Program Unilateral Decision (2%)
- Client Dissatisfied (4%)
- Client Incarcerated (4%)
- Client Moved Out of Service Area (13%)
- Client Withdrew: AWOL, AMA, No Improvement (13%)
- Client Withdrew: AWOL, AMA, Treatment Partially Completed (9%)
- Discharge/Administrative Reasons (2%)
- Mutual Agreement/Treatment Goals Reached (2%)
- Other (31%)

# of Clients Transferred to Another Program, by Level of Care (n=46)

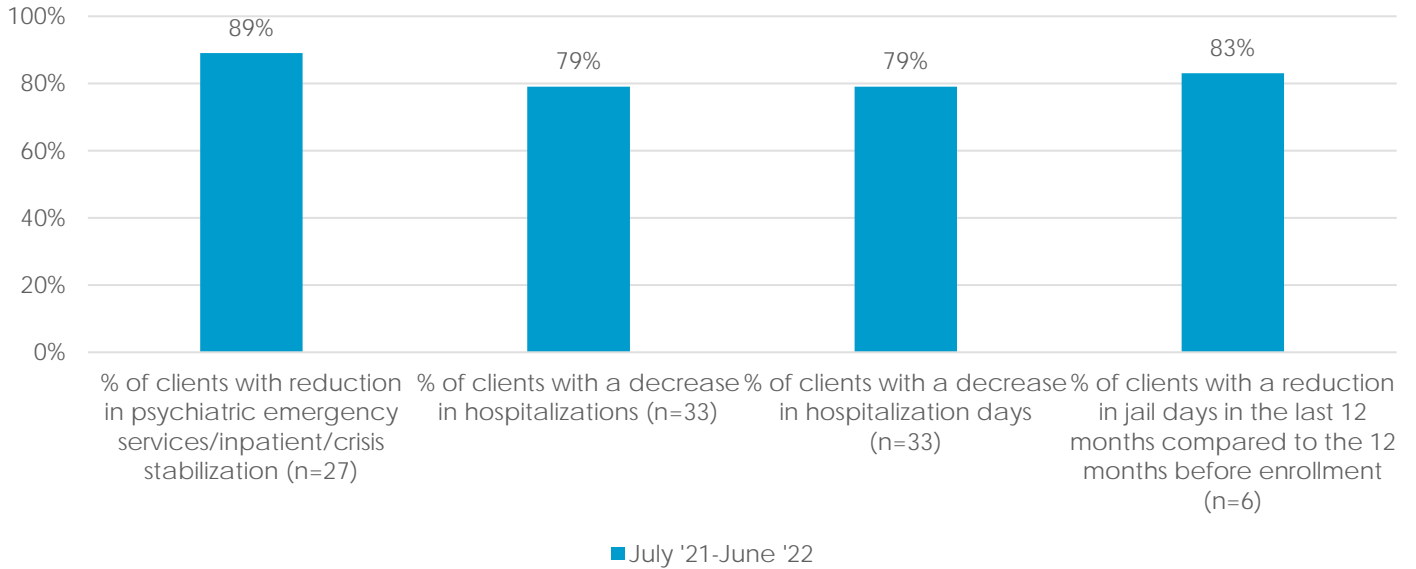




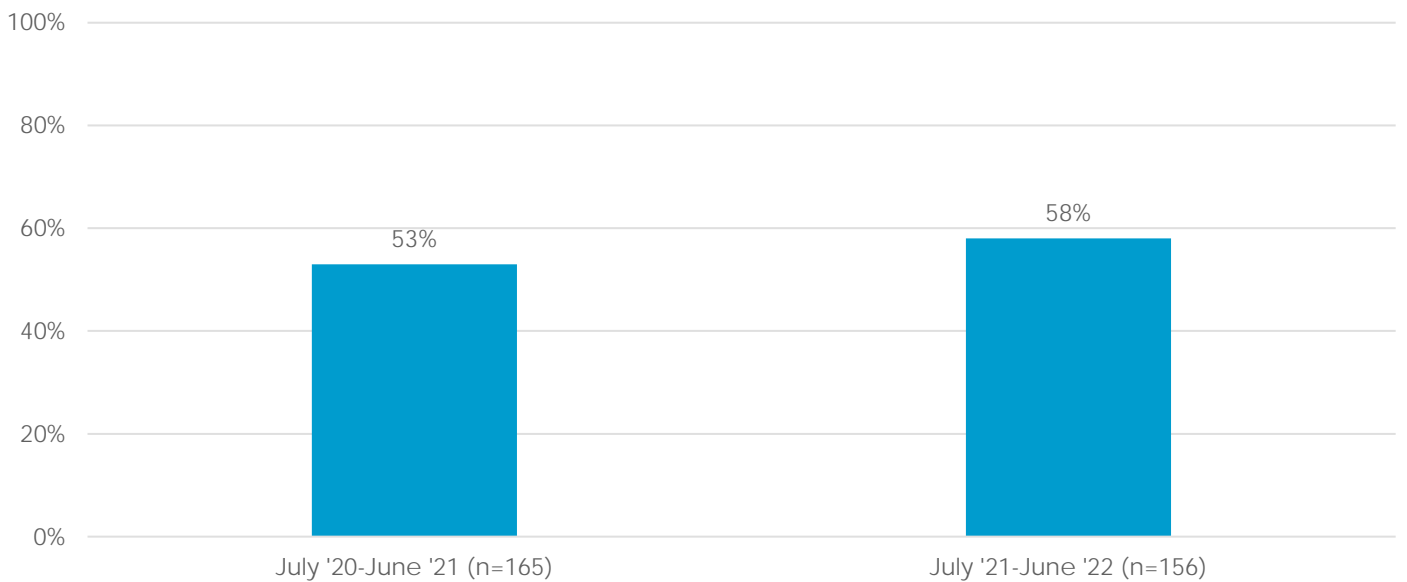
# BMH RBA Report FY 2022

## Impact Outcomes ("Is anyone better off?")

### Client Outcome Improvements



### % of Clients with a Primary Care Visit in the Last 12 Months



# BMH RBA Report FY 2022

| Measure                                                                                                                           | Definition                                                                                                                                                                                                              | Data Source    |
|-----------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|
| # clients served                                                                                                                  | Total clients served                                                                                                                                                                                                    | Yellowfin      |
| # of new clients opened for ongoing services                                                                                      | Clients who were not served by the program in the previous fiscal year                                                                                                                                                  | Yellowfin      |
| Average # of service hours per client per month                                                                                   | Average of hours of service in a month divided by clients served in a month. Includes all services recorded for clients. Does not include MAA                                                                           | Yellowfin      |
| Average # of services per client per month                                                                                        | Average services in a month divided by clients served in a month. Includes all services recorded for clients. Note: more than one service can be provided during a single contact. Does not include MAA                 | Yellowfin      |
| % of clients who have at least one completed CANS/ANSA for each six-month period that they are in the program (n=177)             | Of clients with a completed CANS/ANSA, what percentage of them had an assessment at least every six months?                                                                                                             | Objective Arts |
| % of clients with no service gap of over 90 days (n=182)                                                                          | % of clients with less than 90 days maximum without service during their episode(s) in the fiscal year. Only includes clients open to a provider for at least a total of three months during the reporting fiscal year. | Yellowfin      |
| % of discharges from hospitalization or subacute who had a follow up visit with staff within 7 and within 30 calendar days (n=22) | Follow-up rates for individuals open to Level 1 providers at the time of MH hospital discharge.                                                                                                                         | Yellowfin      |
| #/% of clients closed, by reason closed                                                                                           | Discharge reason for clients discharged during the reporting period                                                                                                                                                     | Yellowfin      |
| # of clients transferred to another program, by level of care                                                                     | Of clients discharged in the reporting period, # who were transferred to a full service partnership program, service team, or outpatient services in Alameda County within 90 days of discharge                         | Yellowfin      |

# BMH RBA Report FY 2022

|                                                                                                                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                  |
|--------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------|
| <p>% of clients who had a reduction in days in psychiatric emergency services/inpatient/crisis stabilization units</p>         | <p>Of clients who completed six consecutive months during the 12-month fiscal year, percentage with a reduction in psychiatric emergency services, inpatient or crisis stabilization unit other than Amber House, when comparing unduplicated days from the 12 months prior to the fiscal year to the current 12-month fiscal year. Excludes clients if out of community (in jail and/or subacute) for six or more months during the current fiscal year or the prior fiscal year.</p> | <p>Yellowfin</p> |
| <p>% of clients with a decrease in hospitalization</p>                                                                         | <p>Decrease in hospital days/admissions in the years that a client was active in the program compared to the year prior to program admission. Includes clients who had at least one hospital day in the 12 months prior to admission and remained in the program for at least 1 year</p>                                                                                                                                                                                               | <p>Yellowfin</p> |
| <p>% of clients with a reduction in jail days in the last 12 months compared to the 12 months before enrollment (n=6)</p>      | <p>Of clients who completed six consecutive months during the 12-month fiscal year, percentage with a reduction in jail days, when comparing unduplicated days from the 12 months prior to the fiscal year to the current 12-month fiscal year. Excludes clients if out of community (in hospital and/or subacute) for six or more months during the current fiscal year or the prior fiscal year.</p>                                                                                 | <p>Yellowfin</p> |
| <p>% increase in number of clients with connection to primary care compared to the last 12 months (FY22 n=156, FY21 n=165)</p> | <p>Of clients who completed 6 consecutive months during the fiscal year, percentage who had an appointment with a Anthem/Alliance/CHCN primary care provider during the fiscal year. Metric excludes individuals with six or more months out of the community (in Subacute, MH hospital, and/or jail).</p>                                                                                                                                                                             | <p>Yellowfin</p> |

## Focus on Independence Team (FIT)

| <b>Process Measures</b><br>How much did we do?                                                                                                                                                                                                    | <b>Quality Measures</b><br>How well did we do it?                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | <b>Impact Measures</b><br>Is anyone better off?                                                                                                                                                                                                                                                                                                                                              |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <ol style="list-style-type: none"> <li>1. # clients served</li> <li>2. # of new clients opened for ongoing services</li> <li>3. Average # of service hours per client per month</li> <li>4. Average # of services per client per month</li> </ol> | <ol style="list-style-type: none"> <li>5. % of clients who have at least one completed CANS/ANSA for each six-month period that they are in the program</li> <li>6. % of clients with no service gap of over 90 days</li> <li>7. % of discharges from hospitalization or subacute who had a follow up visit with staff within 7 and within 30 calendar days</li> <li>8. #/% of clients closed, by reason closed</li> <li>9. #/% of clients transferred to another level of care</li> <li>10. % of clients who were satisfied with services**</li> </ol> | <ol style="list-style-type: none"> <li>11. % of clients who had a reduction in psychiatric emergency services/inpatient/crisis stabilization units in the last 12 months compared to the 12 months before enrollment</li> <li>12. % of clients with a decrease in hospitalizations/hospitalization days</li> <li>13. % of clients with a primary care visit in the last 12 months</li> </ol> |

\*Please note: demographic data will be reported at the program level, where available

\*\*Data not available for baseline reporting period, will include in future rounds of reporting

**Data Development Agenda** – measures the team is interested in reporting on but for which reliable data are not available

1. % of appointments kept by clients
2. % of clients who engage in leisure activities
3. Average # of contacts per month per client
4. “Other” reason for client being closed
5. No-shows/missed contacts

# BMH RBA Report FY 2022

Focus on Independence Team (FIT)  
Reporting Period: July 2021-June 2022 (Baseline)

## Process Outcomes ("How much did we do?")

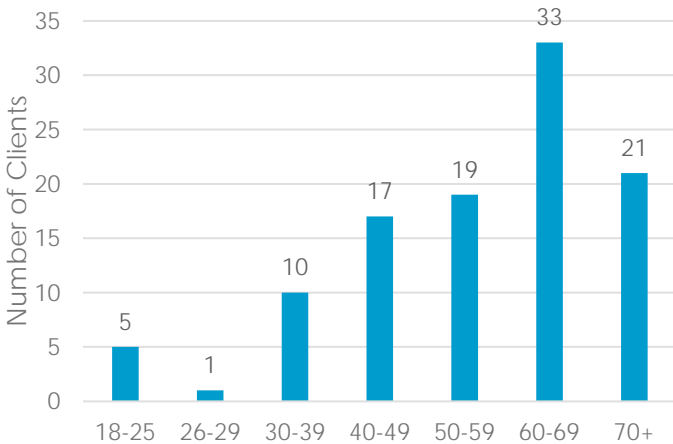


**Program Description:** The Focus on Independence Team is responsible for providing services to clients who have graduated from higher levels of care within the clinic. Services are provided both in the field and in the clinic depending on client needs.

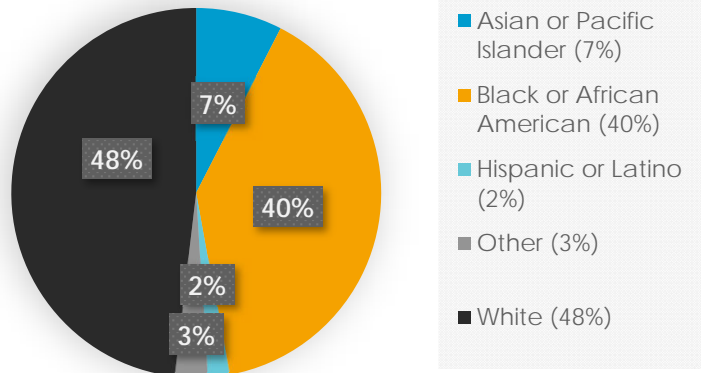


represents 10 clients

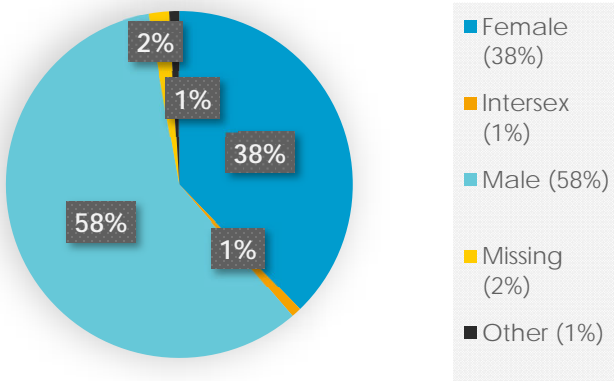
### Demographics (Age)



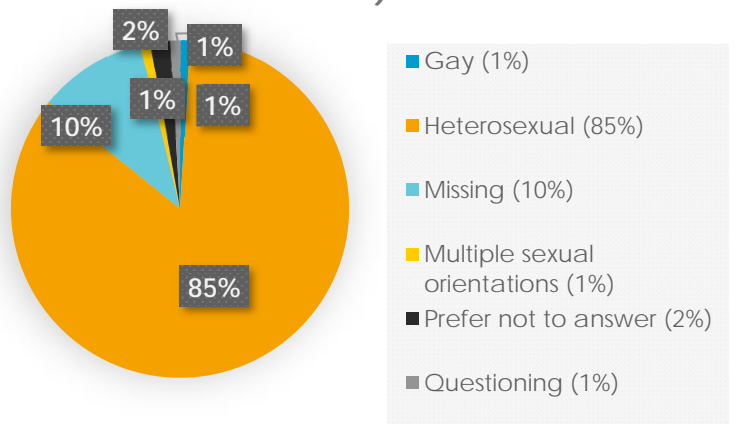
### Demographics (Race)



### Demographics (Gender Identity)



### Demographics (Sexual Orientation)



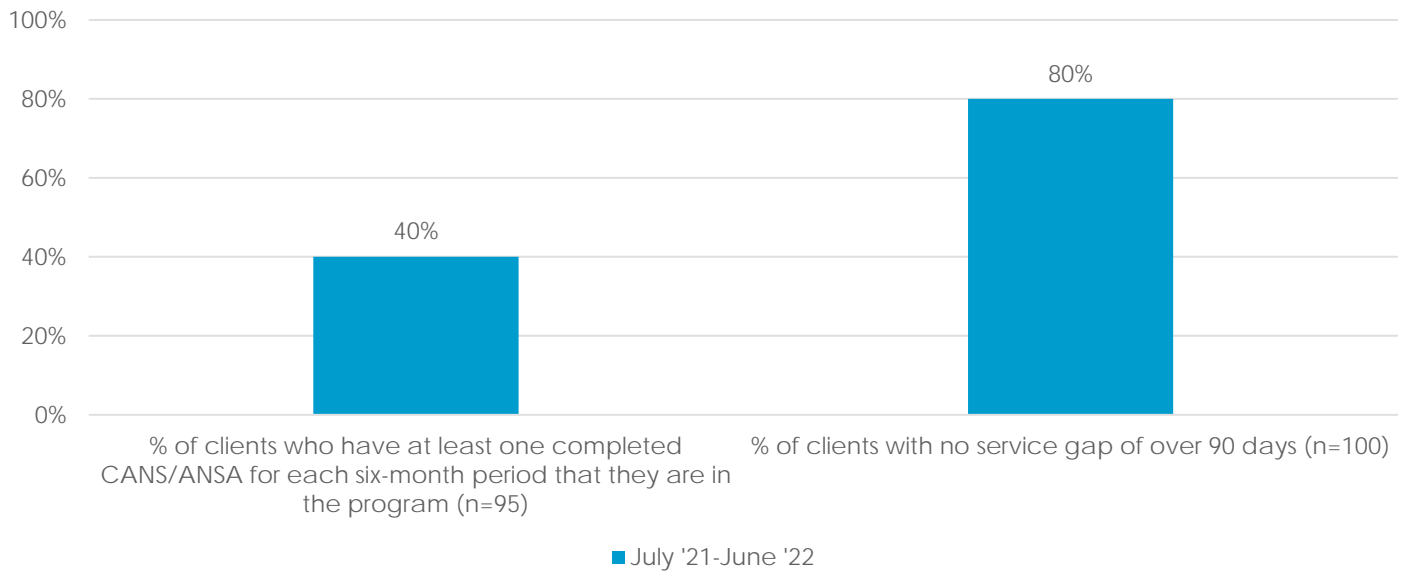
# BMH RBA Report FY 2022

The average client served in 2021-2022 received:

- received **1.76 hrs** of services per month
- received **2.28 services** per month

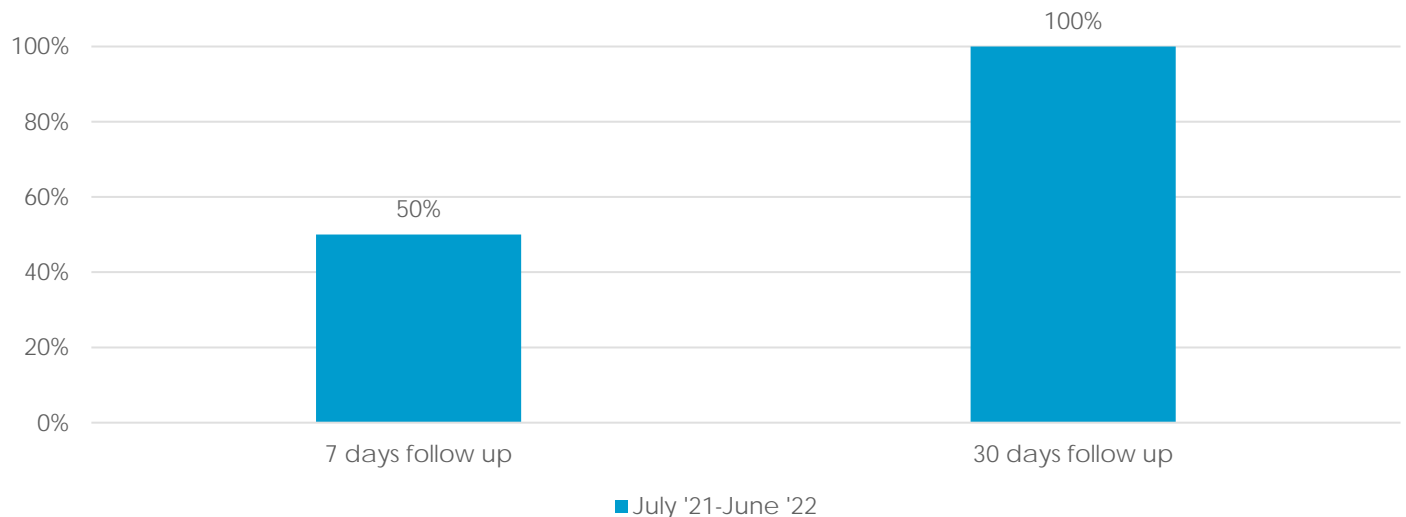
## Quality Outcomes ("How well did we do it?")

### Service Consistency



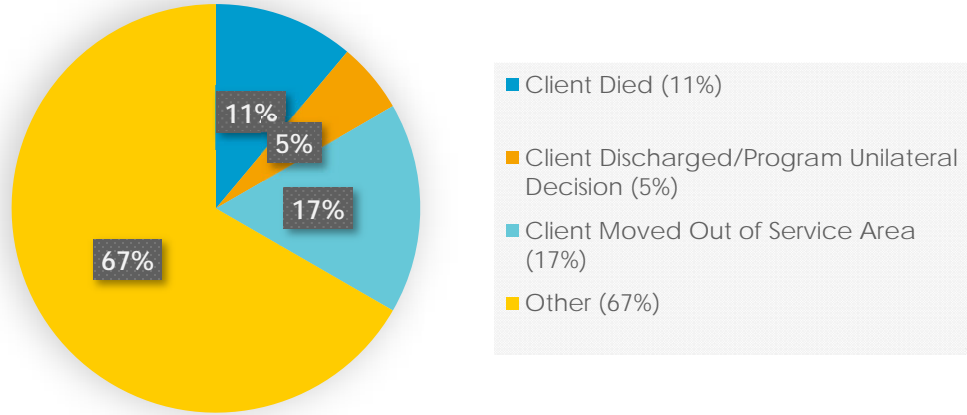
### Hospital Follow Up Consistency

% of discharges from hospitalization or subacute who received follow up within 7 and 30 days (n=2)

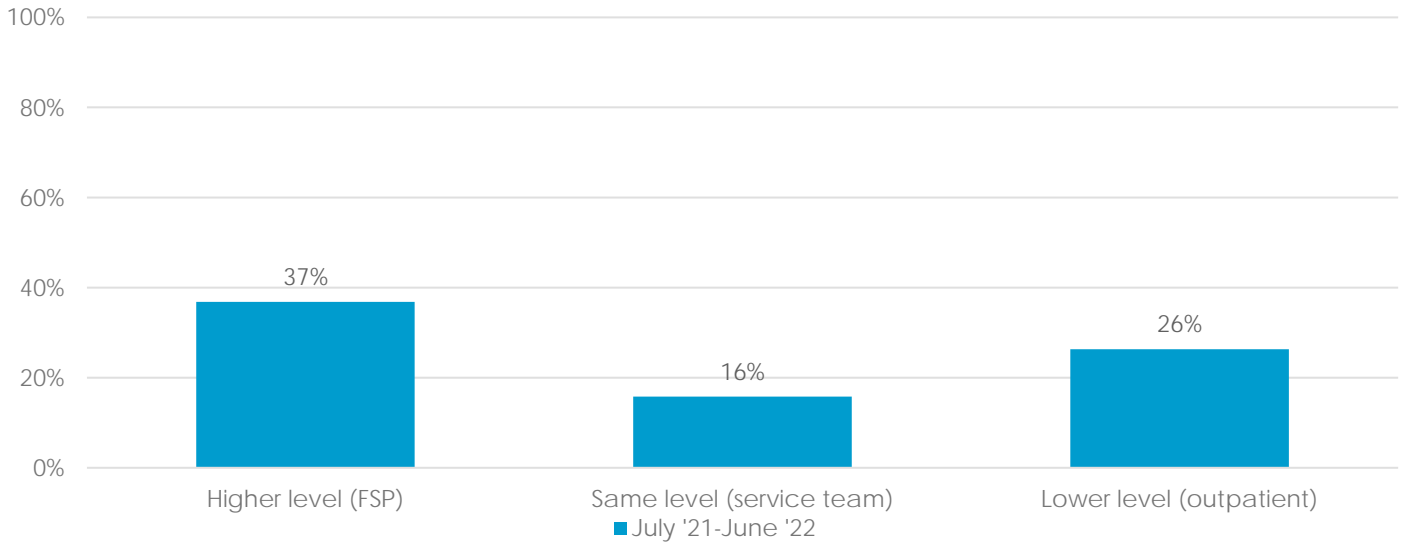


# BMH RBA Report FY 2022

### Clients Closed, by Reason Closed (n=18)



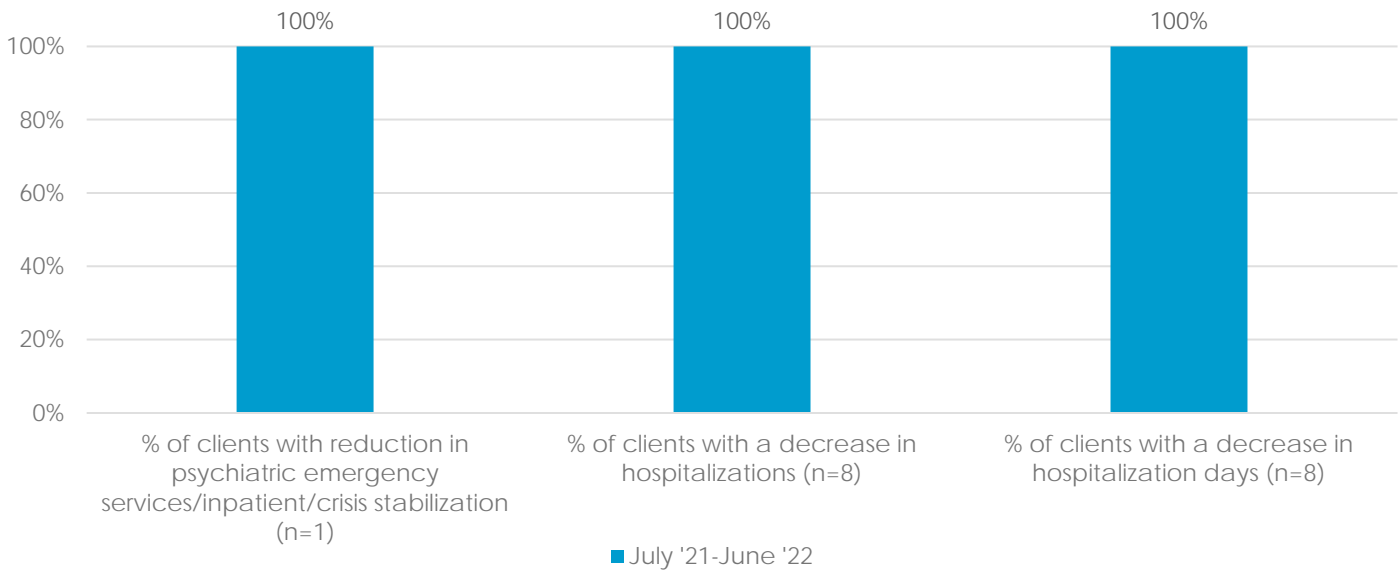
### # of Clients Transferred to Another Program, by Level of Care (n=19)



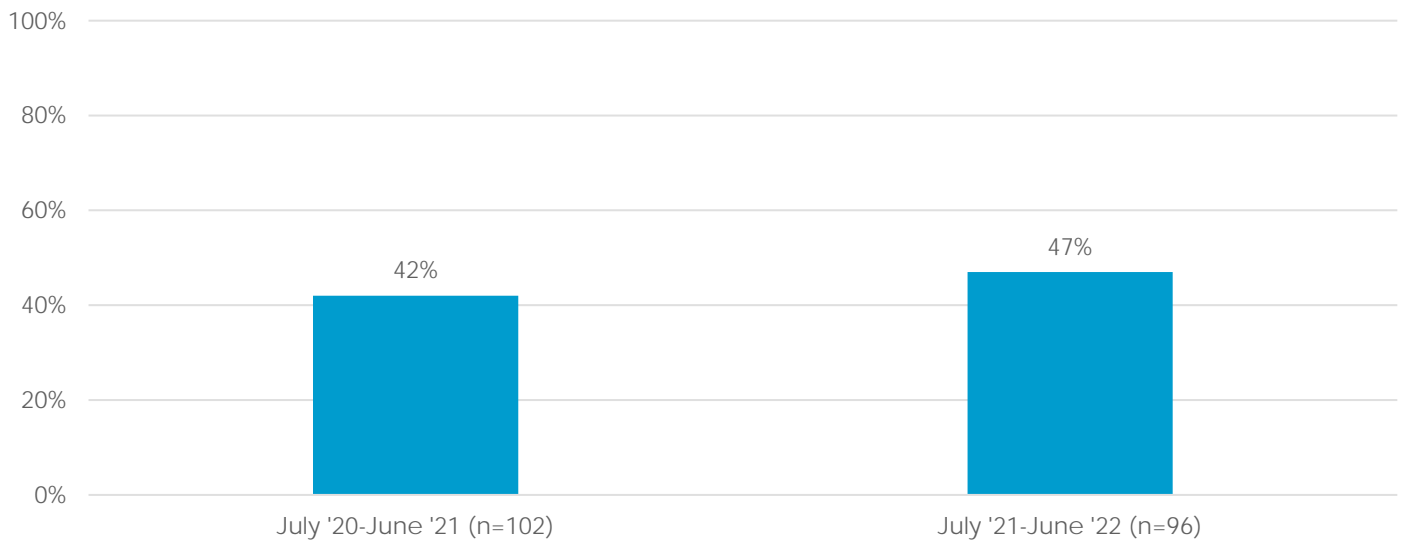
# BMH RBA Report FY 2022

## Impact Outcomes ("Is anyone better off?")

### Client Outcome Improvements



### % of Clients with a Primary Care Visit in the Last 12 Months





# BMH RBA Report FY 2022

| Measure                                                                                                                    | Definition                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | Data Source    |
|----------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|
| # clients served                                                                                                           | Total clients served                                                                                                                                                                                                                                                                                                                                                                                                                                                            | Yellowfin      |
| # of new clients opened for ongoing services                                                                               | Clients who were not served by the program in the previous fiscal year                                                                                                                                                                                                                                                                                                                                                                                                          | Yellowfin      |
| Average # of service hours per client per month                                                                            | Average of hours of service in a month divided by clients served in a month. Includes all services recorded for clients. Does not include MAA                                                                                                                                                                                                                                                                                                                                   | Yellowfin      |
| Average # of services per client per month                                                                                 | Average services in a month divided by clients served in a month. Includes all services recorded for clients. Note: more than one service can be provided during a single contact. Does not include MAA                                                                                                                                                                                                                                                                         | Yellowfin      |
| % of clients who have at least one completed CANS/ANSA for each six-month period that they are in the program (n=95)       | Of clients with a completed CANS/ANSA, what percentage of them had an assessment at least every six months?                                                                                                                                                                                                                                                                                                                                                                     | Objective Arts |
| % of clients with no service gap of over 90 days (n=100)                                                                   | % of clients with less than 90 days maximum without service during their episode(s) in the fiscal year. Only includes clients open to a provider for at least a total of three months during the reporting fiscal year.                                                                                                                                                                                                                                                         | Yellowfin      |
| % of discharges from hospitalization or subacute who had a follow up visit with staff within 7 and within 30 calendar days | Follow-up rates for individuals open to Level 1 providers at the time of MH hospital discharge.                                                                                                                                                                                                                                                                                                                                                                                 | Yellowfin      |
| #/% of clients closed, by reason closed                                                                                    | Discharge reason for clients discharged during the reporting period                                                                                                                                                                                                                                                                                                                                                                                                             | Yellowfin      |
| # of clients transferred to another program, by level of care                                                              | Of clients discharged in the reporting period, # who were transferred to a full service partnership program, service team, or outpatient services in Alameda County within 90 days of discharge                                                                                                                                                                                                                                                                                 | Yellowfin      |
| % of clients who had a reduction in days in psychiatric emergency services/inpatient/crisis stabilization units            | Of clients who completed six consecutive months during the 12-month fiscal year, percentage with a reduction in psychiatric emergency services, inpatient or crisis stabilization unit other than Amber House, when comparing unduplicated days from the 12 months prior to the fiscal year to the current 12-month fiscal year. Excludes clients if out of community (in jail and/or subacute) for six or more months during the current fiscal year or the prior fiscal year. | Yellowfin      |

# BMH RBA Report FY 2022

|                                                                            |                                                                                                                                                                                                                                                                                                            |                  |
|----------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------|
| <p>% of clients with a decrease in hospitalization</p>                     | <p>Decrease in hospital days/admissions in the years that a client was active in the program compared to the year prior to program admission. Includes clients who had at least one hospital day in the 12 months prior to admission and remained in the program for at least 1 year</p>                   | <p>Yellowfin</p> |
| <p>% of clients with a primary care visit in the last 12 months (n=96)</p> | <p>Of clients who completed 6 consecutive months during the fiscal year, percentage who had an appointment with a Anthem/Alliance/CHCN primary care provider during the fiscal year. Metric excludes individuals with six or more months out of the community (in Subacute, MH hospital, and/or jail).</p> | <p>Yellowfin</p> |

# High School Health Center (HSHC)

| <b>Process Measures</b><br>How much did we do?                                                                      | <b>Quality Measures</b><br>How well did we do it?                                                                                                                                                                                                                                                                                                                                                                                                                                                          | <b>Impact Measures</b><br>Is anyone better off?                                                                                                                                                                                                                      |
|---------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1. # clients served<br>2. # of new clients opened for ongoing services<br>3. # of services provided by service type | 4. % clients screened for depression, trauma, and substance use<br>5. % clients contacted within a week following a referral to the HSHC<br>6. % of school population served<br>7. % of clients satisfied with services, as measured by % of clients who agree with the following: HSHC staff... <ul style="list-style-type: none"> <li>a. Treat me with respect</li> <li>b. Listen carefully to what I have to say</li> <li>c. Make me feel like there's an adult at school who cares about me</li> </ul> | 8. % of clients able to receive needed care, as measured by % of clients who agree with the following: The HSHC... <ul style="list-style-type: none"> <li>a. Is easy to get help from when I need it</li> <li>b. Helps me to meet many of my health needs</li> </ul> |

\*Please note: demographic data will be reported at the program level, where available

**Data Development Agenda** – measures the team is interested in reporting on but for which reliable data are not available

1. Responsiveness of service (e.g. x days following qualifying event)
2. % of clients who have at least one completed CANS/ANSA for each six-month period that they are in the program

# BMH RBA Report FY 2022

High School Health Center (HSHC)

Reporting Period: July 2021-June 2022 (Baseline)

## Process Outcomes ("How much did we do?")



233

Clients Served

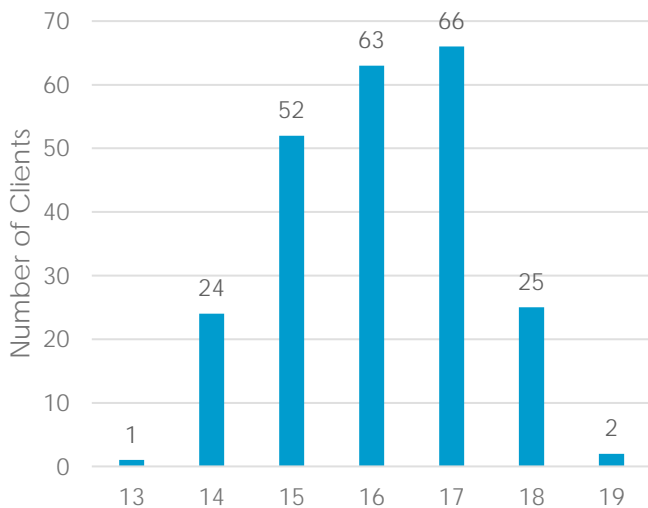


1 icon represents 20 clients

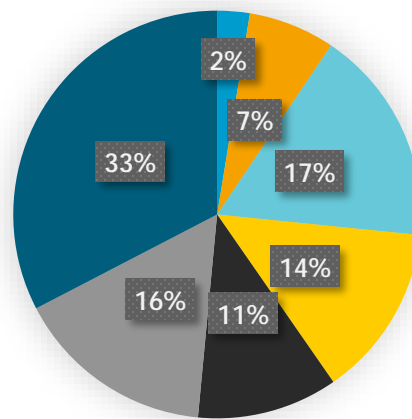
### Program Description

The HSHC team provides mental health services on site at Berkeley High School; these services include individual and group therapy, crisis assessments, and drop in support. The program also hosts graduate students for training.

### Demographics (Age)

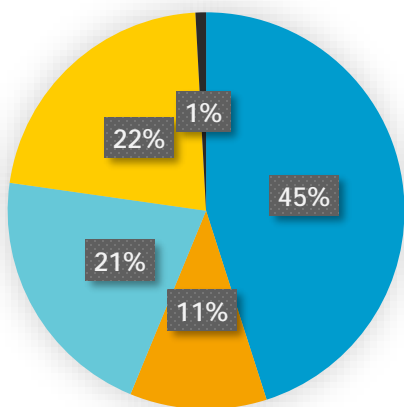


### Demographics (Race)



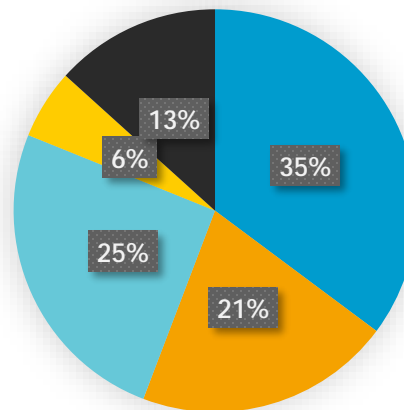
- Alaska Native or American Indian (2%)
- Asian or Pacific Islander (7%)
- Black or African American (17%)
- More than one race (14%)
- Other (11%)
- Prefer not to answer (16%)
- White (33%)

### Demographics (Gender Identity)



- Female (45%)
- Gender nonconforming, transgender, genderqueer (11%)
- Male (21%)
- Missing (22%)
- Prefer not to answer (1%)

### Demographics (Sexual Orientation)

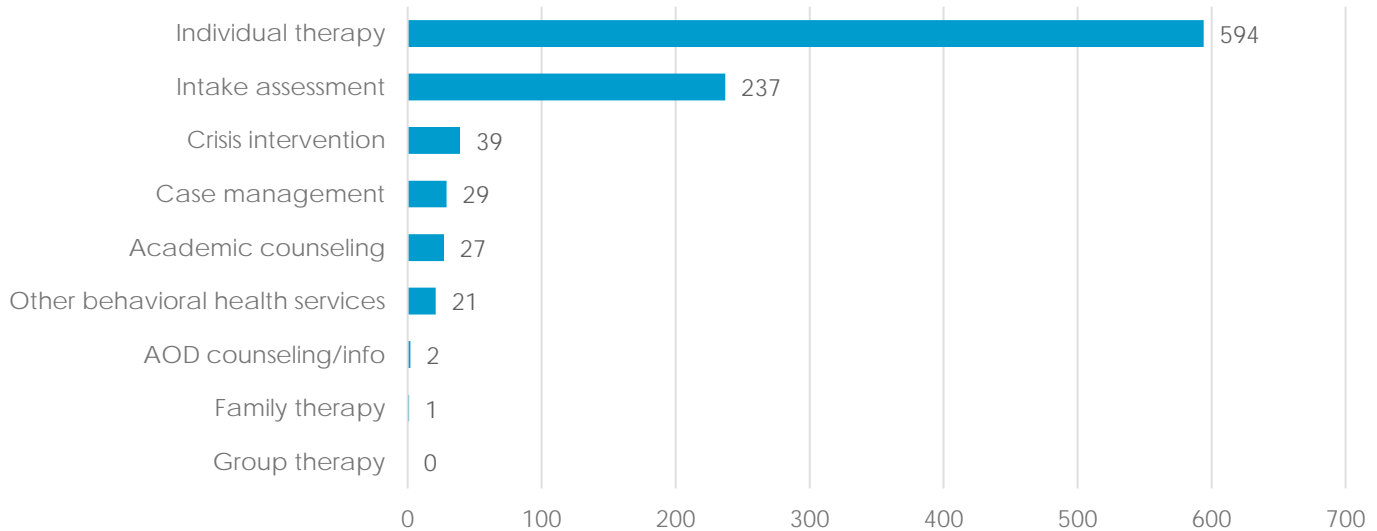


- Heterosexual (35%)
- LGBTQ\* (21%)
- Missing (25%)
- Prefer not to answer (6%)
- Unknown/unsure (13%)

\*includes students who self-identified as aromantic, asexual, bisexual, gay, homosexual, lesbian, pansexual, queer, and questioning

# BMH RBA Report FY 2022

## Services Provided by Service Type

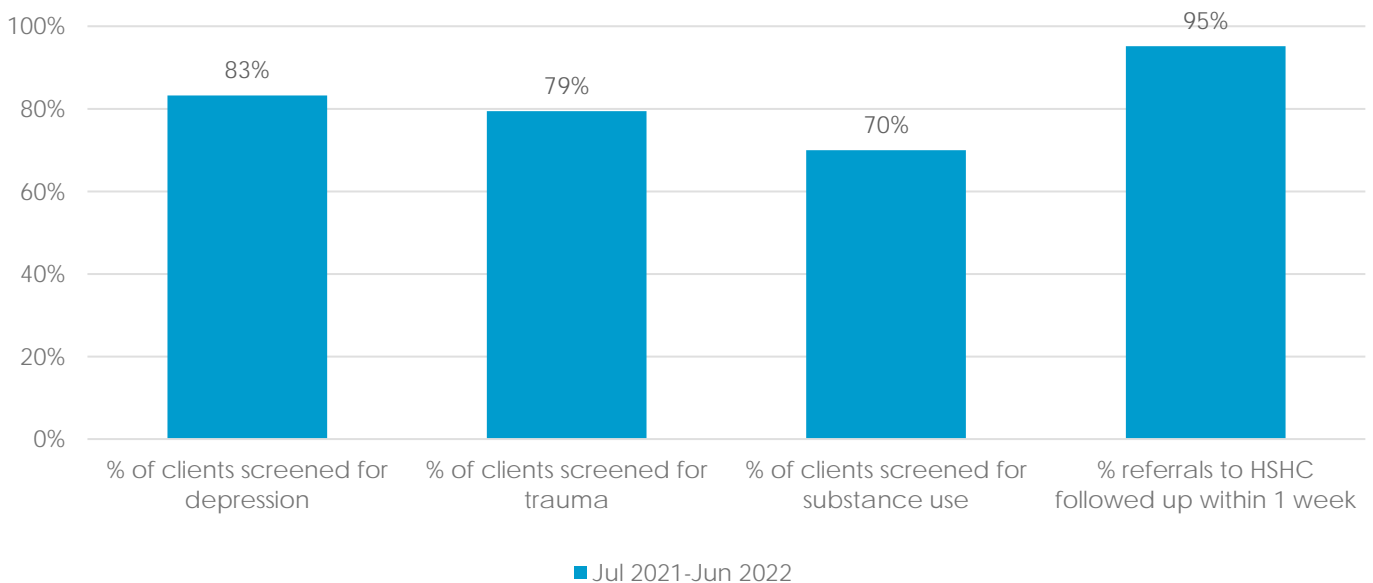


Note that multiple services could be provided in one visit (e.g. crisis assessment and referral) so total services by type (n=950) is greater than total encounters (n=846)

## Quality Outcomes ("How well did we do it?")

In 2021-2022, the HSHC program served **7%** of the school population.

### Service Consistency

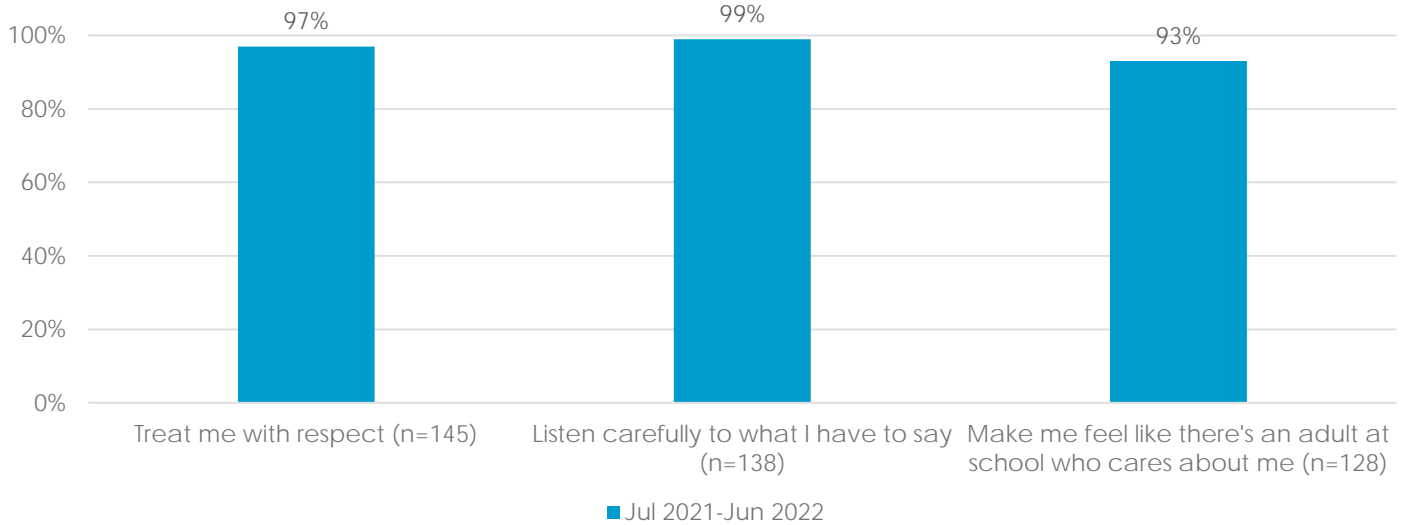


# BMH RBA Report FY 2022

## Impact Outcomes ("Is anyone better off?")

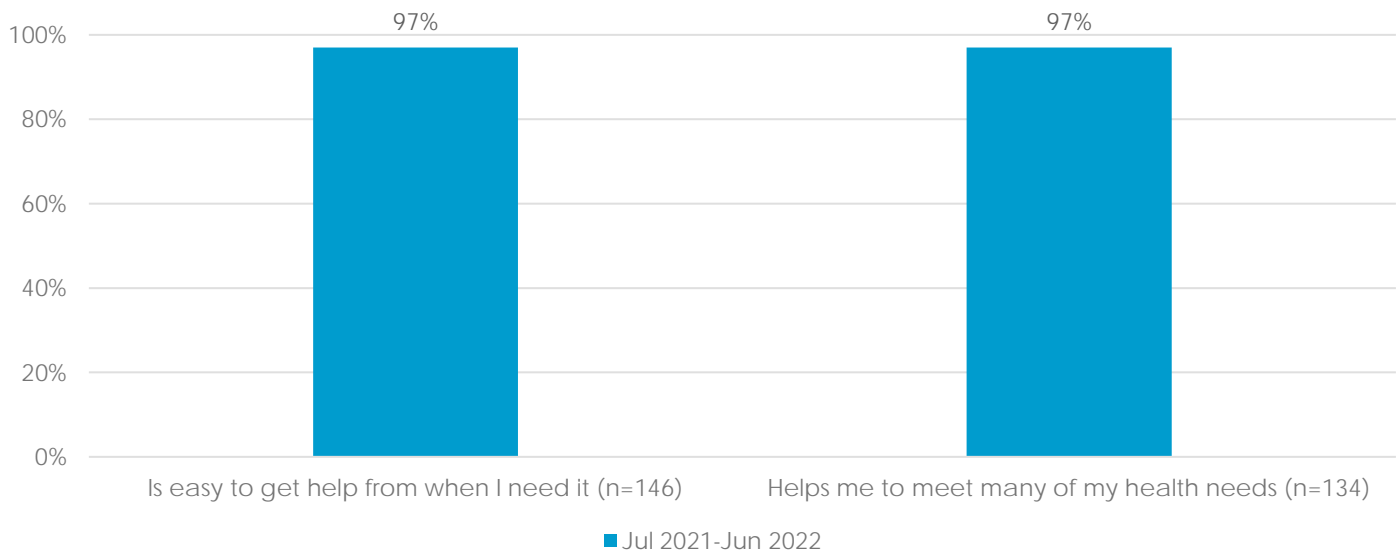
### Client Satisfaction

(% of clients who agree that "HSHC staff...")



### Client Satisfaction

(% of clients who agree that "The HSHC...")



# BMH RBA Report FY 2022

| Measure                                                                                                 | Definition                                                                                                                                                                                                                                 | Data Source                 |
|---------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------|
| # clients served                                                                                        | Total clients served                                                                                                                                                                                                                       | ETO/RedCap                  |
| # services provided by service type                                                                     | # of services coded as behavioral_service with codes BHSV1-8. Key code accompanies Redcap data. Each incident could include more than one service provided.                                                                                | ETO/RedCap                  |
| % clients screened for depression, trauma, and substance use                                            | Percent of total clients that were recorded as having been screened for depression, trauma, and/or substance abuse at least one time during reporting period.                                                                              | ETO/RedCap                  |
| % referrals to HSHC followed up within one week                                                         | Percentage of referrals that had 7 days or less between referral date and response date. Calculation reflects % of total referrals, not % of total clients.                                                                                | Referral Log                |
| % of school population served                                                                           | Unique clients served by HSHC divided by total student population                                                                                                                                                                          | ETO/RedCap; BHS data        |
| % of clients satisfied with services, as measured by % of clients who agree with various statements     | % of responses marked as "agree" or "strongly agree" for various survey questions. Note: these responses are from all students who accessed the health center and answered the survey, not just those who received mental health services. | Berkeley SBHC Client Survey |
| % of clients able to receive needed care, as measured by % of clients who agree with various statements | % of responses marked as "agree" or "strongly agree" for various survey questions. Note: these responses are from all students who accessed the health center and answered the survey, not just those who received mental health services. | Berkeley SBHC Client Survey |

## Educationally Related Mental Health Services (ERMHS)

| <b>Process Measures</b><br>How much did we do?                                                                                                             | <b>Quality Measures</b><br>How well did we do it?                                                                                                                                                                                                                              | <b>Impact Measures</b><br>Is anyone better off?                                     |
|------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------|
| 1. # clients served<br>2. # of new clients opened for ongoing services<br>3. # of individual therapy hours provided<br>4. # of collateral hours per client | 5. % of clients who have at least one completed CANS/ANSA for each six-month period that they are in the program<br>6. % of clients with at least one session per month**<br>7. % of clients who had collateral sessions<br>8. % of clients who were satisfied with services** | 9. Of clients who were discharged from the program, #/% who met mental health goals |

\*Please note: demographic data will be reported at the program level, where available

\*\*Data not available for baseline reporting period, will include in future rounds of reporting

### Data Development Agenda – measures the team is interested in reporting on but for which reliable data are not available

1. #/% of IEP meetings clinicians attended per client - Unavailable currently, as there is no code exclusively for IEP meetings.
2. Disaggregate data by BUSD school
3. Responsiveness of service (e.g. x days following qualifying event)
4. % of clients with no gap in therapy sessions over 21 days



# BMH RBA Report FY 2022

Educationally Related Mental Health Services (ERMHS)  
Reporting Period: July 2021-June 2022 (Baseline)

## Process Outcomes ("How much did we do?")



27



Clients Served



8



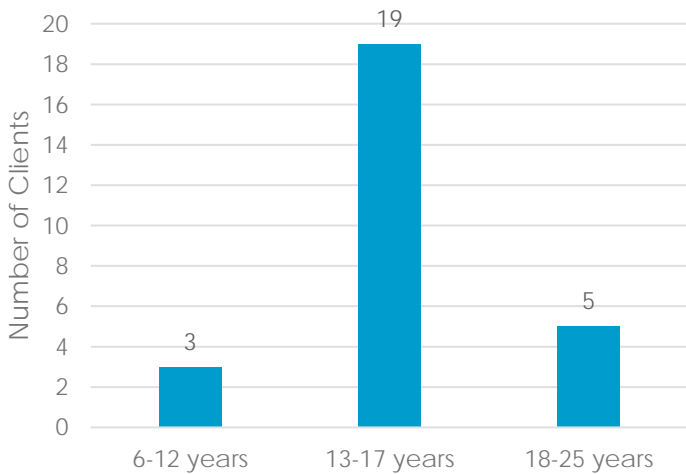
New Clients



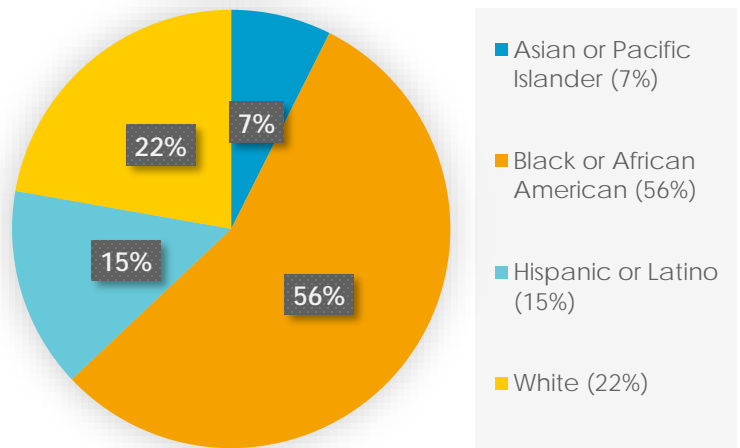
represents 10 clients

**Program Description:** The ERMHS program provides mental health services to the special education population in Berkeley Unified School District. Services include assessment, plan development, individual therapy, and collateral.

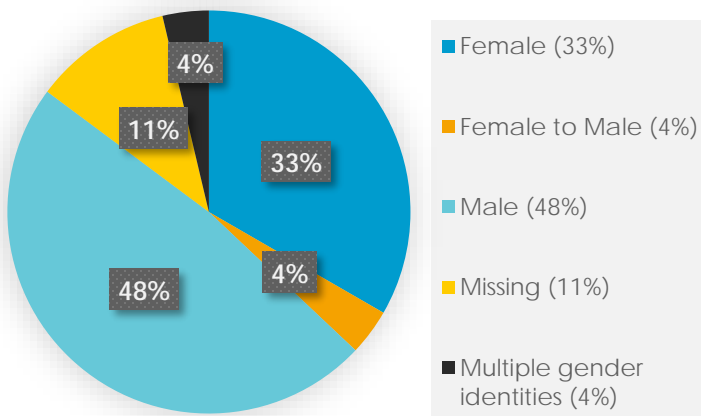
Demographics (Age)



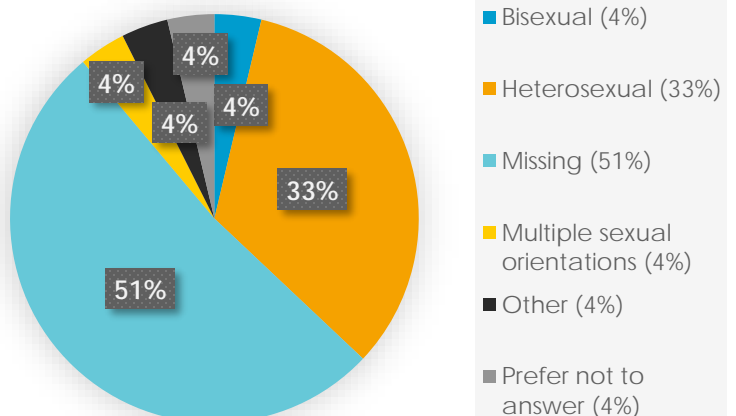
Demographics (Race)



Demographics (Gender Identity)



Demographics (Sexual Orientation)



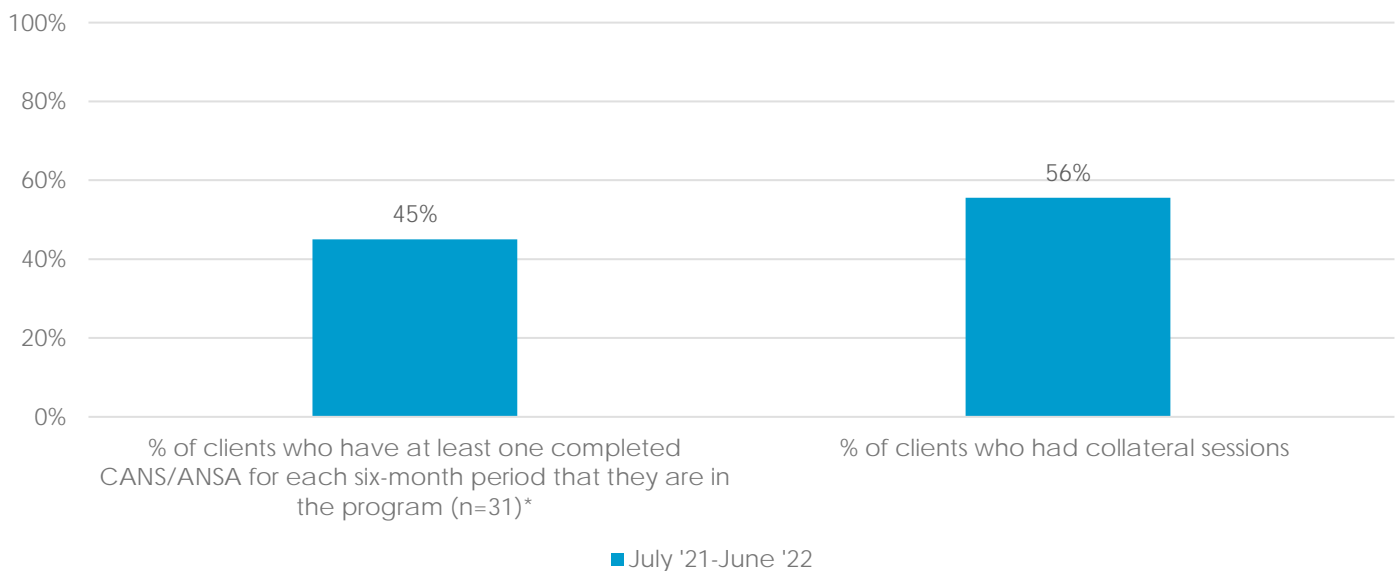
# BMH RBA Report FY 2022

In 2021-2022, the ERMHS program provided:

- **379 hours** of individual therapy
- **1 hour** of collateral per client

## Quality Outcomes ("How well did we do it?")

### Service Consistency



\*Note: number of clients with CANS assessments is higher than total number of clients in Yellowfin

## Impact Outcomes ("Is anyone better off?")

In 2021-2022, **30%** of discharged ERMHS clients (n=20) met their mental health goals:

- **15%** of clients fully met their mental health goals
- **15%** of clients partially reached their mental health goals

# BMH RBA Report FY 2022

| Measure                                                                                                       | Definition                                                                                                                                                            | Data Source    |
|---------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|
| # clients served                                                                                              | Total clients served                                                                                                                                                  | Yellowfin      |
| # of new clients opened for ongoing services                                                                  | Clients who were not served by the program in the previous fiscal year                                                                                                | Yellowfin      |
| # of individual therapy hours provided                                                                        | Total individual therapy hours recorded for clients. Includes all procedures in the "ind therapy" service category.                                                   | Yellowfin      |
| # of collateral hours per client                                                                              | Total collateral hours recorded for clients divided by all clients. Includes all procedures in the "Collateral" category.                                             | Yellowfin      |
| % of clients who have at least one completed CANS/ANSA for each six-month period that they are in the program | Of clients with a completed CANS/ANSA, what percentage of them had an assessment at least every six months?                                                           | Objective Arts |
| % of clients who had collateral sessions                                                                      | Total clients who received collateral sessions divided by all clients. Includes all clients with recorded procedures in the "Collateral" category.                    | Yellowfin      |
| Of clients who were discharged from the program, #/% who met mental health goals                              | Percent of discharged clients who had a discharge reason of either "Mutual Agreement/Treatment Goals Reached" or "Mutual Agreement/Treatment Goals Partially Reached" | Yellowfin      |

## Early and Periodic Screening Diagnosis and Treatment (EPSDT)

| Process Measures<br>How much did we do?                                                                                                                                                                            | Quality Measures<br>How well did we do it?                                                                                                                                                                                                                                                                                                               | Impact Measures<br>Is anyone better off?                                                                                           |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------|
| <ol style="list-style-type: none"> <li># clients served</li> <li># of new clients opened for ongoing services</li> <li># of individual therapy hours provided</li> <li># of collateral hours per client</li> </ol> | <ol style="list-style-type: none"> <li>% of clients who have at least one completed CANS/ANSA for each six-month period that they are in the program</li> <li>% of clients with at least three sessions per month**</li> <li>% of clients who had collateral sessions</li> <li>% of clients or family members who participate in the survey**</li> </ol> | <ol style="list-style-type: none"> <li>Of clients who were discharged from the program, #/% who met mental health goals</li> </ol> |

\*Please note: demographic data will be reported at the program level, where available

\*\*Data not available for baseline reporting period, will include in future rounds of reporting

**Data Development Agenda** – measures the team is interested in reporting on but for which reliable data are not available

- % of clients who receive two or more visits within 30 days of their episode opening date
- % of clients who receive four or more visits within 60 days of their episode opening date
- Responsiveness of service (e.g. x days following qualifying event)
- % of clients with no gap in therapy sessions over 21 days

# BMH RBA Report FY 2022

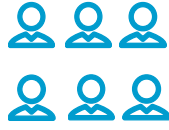
Early and Periodic Screening, Diagnostic and Treatment (EPSDT)  
Reporting Period: July 2021-June 2022 (Baseline)

## Process Outcomes ("How much did we do?")



57

Clients Served



26

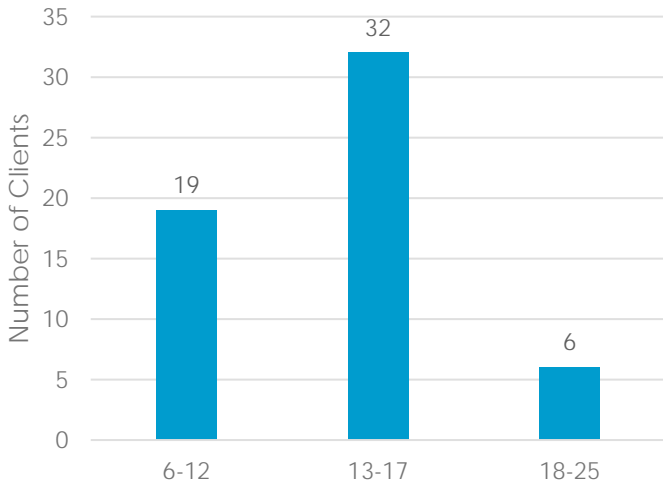
New Clients



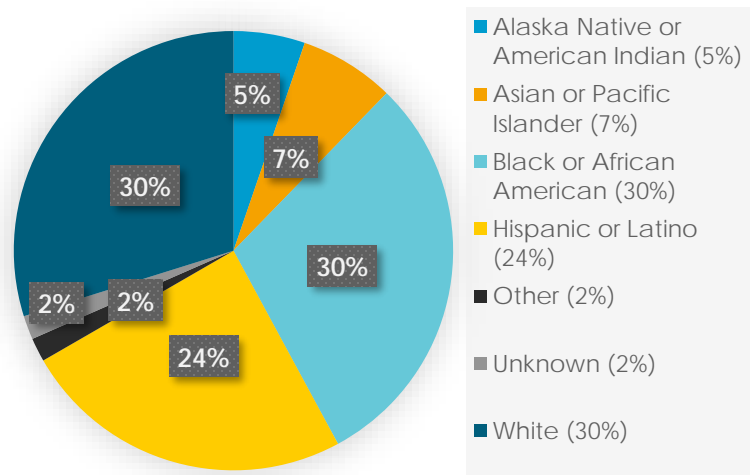
represents 10 clients

**Program Description:** EPSDT team provides comprehensive and preventive child health services which include assessment, plan development, individual/family/group therapy, rehabilitation, collateral, case management, and medication referrals.

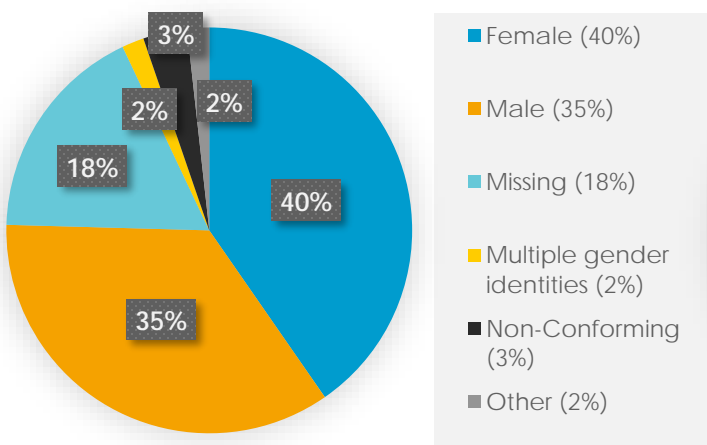
Demographics (Age)



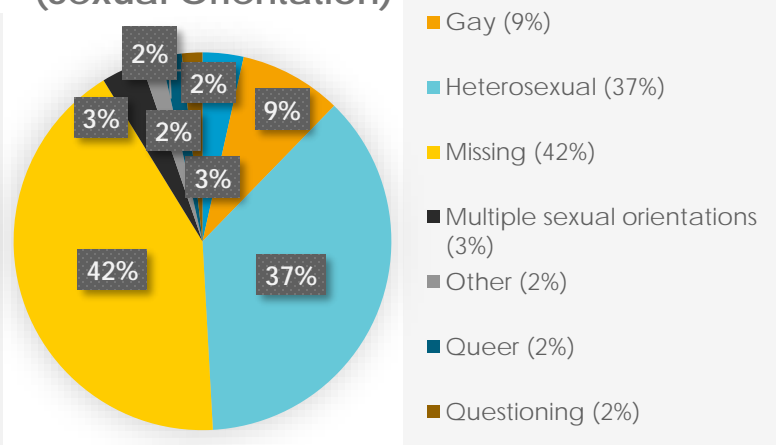
Demographics (Race)



Demographics (Gender Identity)



Demographics (Sexual Orientation)



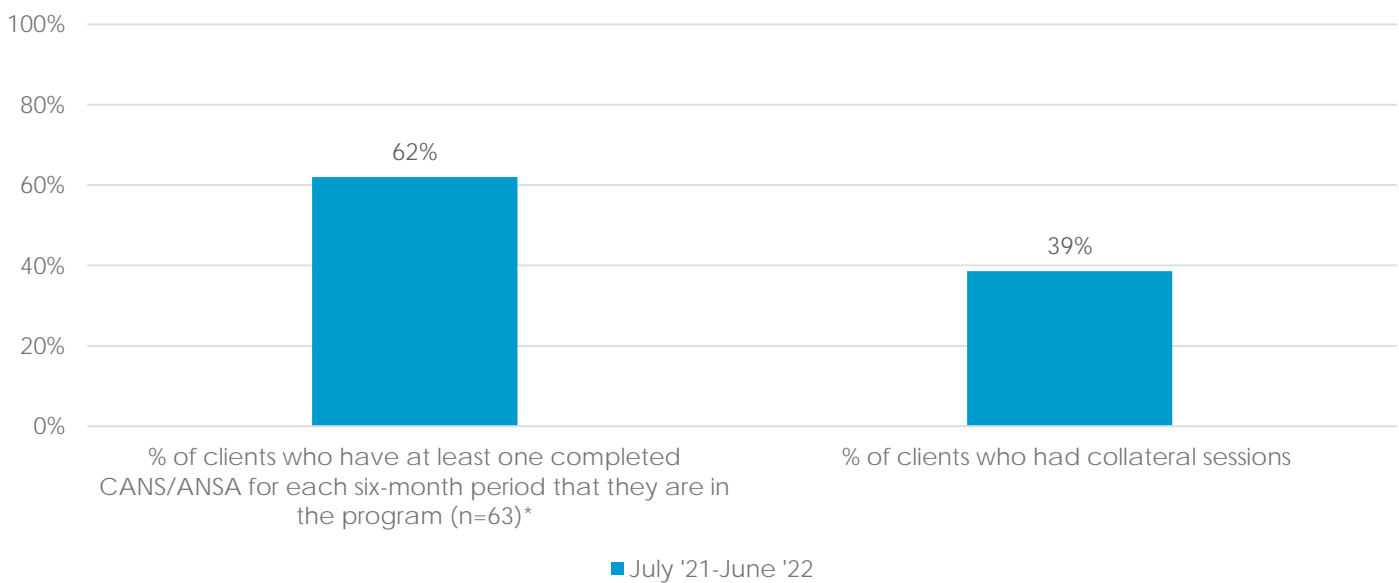
# BMH RBA Report FY 2022

In 2021-2022, the EPSDT program provided:

- **1,016 hours** of individual therapy
- **1.25 hours** of collateral per client

## Quality Outcomes ("How well did we do it?")

### Service Consistency



\*Note: number of clients with CANS assessments is higher than total number of clients in Yellowfin

## Impact Outcomes ("Is anyone better off?")

In 2021-2022, **32%** of discharged EPSDT clients (n=31) met their mental health goals:

- **29%** of clients fully met their mental health goals
- **3%** of clients partially reached their mental health goals

# BMH RBA Report FY 2022

| Measure                                                                                                       | Definition                                                                                                                                                            | Data Source    |
|---------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|
| # clients served                                                                                              | Total clients served                                                                                                                                                  | Yellowfin      |
| # of new clients opened for ongoing services                                                                  | Clients who were not served by the program in the previous fiscal year                                                                                                | Yellowfin      |
| # of individual therapy hours provided                                                                        | Total individual therapy hours recorded for clients. Includes all procedures in the "ind therapy" service category.                                                   | Yellowfin      |
| # of collateral hours per client                                                                              | Total collateral hours recorded for clients divided by all clients. Includes all procedures in the "Collateral" category.                                             | Yellowfin      |
| % of clients who have at least one completed CANS/ANSA for each six-month period that they are in the program | Of clients with a completed CANS/ANSA, what percentage of them had an assessment at least every six months?                                                           | Objective Arts |
| % of clients who had collateral sessions                                                                      | Total clients who received collateral sessions divided by all clients. Includes all clients with recorded procedures in the "Collateral" category.                    | Yellowfin      |
| Of clients who were discharged from the program, #/% who met mental health goals                              | Percent of discharged clients who had a discharge reason of either "Mutual Agreement/Treatment Goals Reached" or "Mutual Agreement/Treatment Goals Partially Reached" | Yellowfin      |

## Children’s Full Service Partnership (CFSP)

| Process Measures<br>How much did we do?                                                                                                                                                                                                                                                           | Quality Measures<br>How well did we do it?                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | Impact Measures<br>Is anyone better off?                                                                                                                                                                                                                                                                                                                                                       |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <ol style="list-style-type: none"> <li>1. # clients served</li> <li>2. # of new clients opened for ongoing services</li> <li>3. Average # of days in FSP per client</li> <li>4. Average # of service hours per client per month</li> <li>5. Average # of services per client per month</li> </ol> | <ol style="list-style-type: none"> <li>6. % of clients who have at least one completed CANS/ANSA for each six-month period that they are in the program</li> <li>7. % of clients and/or their caregivers who receive an average of four or more face-to-face outpatient visits per month</li> <li>8. % of discharges from hospitalization or subacute who had a follow up visit with CFSP staff within 7 business days</li> <li>9. % of clients with no service gap of over 30 days</li> <li>10. #/% of clients closed, by reason closed</li> <li>11. % of clients or family members who participate in the survey**</li> </ol> | <ol style="list-style-type: none"> <li>12. % of clients with a primary care visit in the last 12 months</li> <li>13. % of clients who had a reduction in psychiatric emergency services/inpatient/crisis stabilization units in the last 12 months compared to the 12 months before enrollment**</li> <li>14. % of clients with a decrease in hospitalizations/hospitalization days</li> </ol> |

\*Please note: demographic data will be reported at the program level, where available

\*\*Data not available for baseline reporting period, will include in future rounds of reporting

### **Data Development Agenda** – measures the team is interested in reporting on but for which reliable data are not available

1. Spending: # of Flex Funds spent on a family per year, based on tenure in program
2. Service provision: % of clients who received unscheduled service contacts due to low engagement or necessity/acuity of family needs
3. Staff training:
  - a. % of staff trained in WRAP
  - b. % of staff who are skilled to implement trauma-informed interventions
4. Staff satisfaction: % of staff who report that they have the tools/resources necessary to do their jobs



5. Client satisfaction, specifically in regards to measuring racially responsive care
  - a. #/% of clients/families who report high quality, racially responsive care on the annual Consumer Perception Survey
6. Client/family outcomes:
  - a. # of clients/families who can navigate systems better to address their needs
  - b. # of clients with improved school attendance and increased engagement in class/school
  - c. % of clients with improved family relations (communication and stability, problem solving, support)
7. Client-to-staff ratio
8. % staff retention year-to-year
9. % of clients who schedule a meeting with FSP team within 14 calendar days of referral
10. % of clients who are referred to other primary services (therapy, TBS, etc.) within 5 calendar days of agreement in a family team or a provider meeting
11. % of new clients who receive a face-to-face visit within 7 calendar days of the episode opening date
12. % of clients/families discharged from services within 9-12 months because of improved life circumstances

# BMH RBA Report FY 2022

Child Full Service Partnership (FSP)  
Reporting Period: July 2021-June 2022 (Baseline)

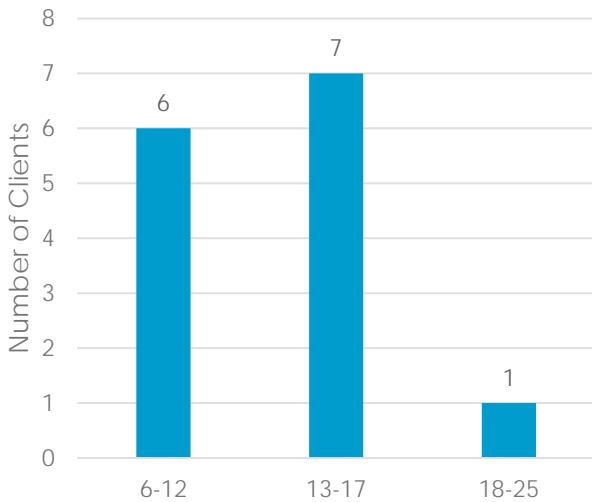
## Process Outcomes ("How much did we do?")



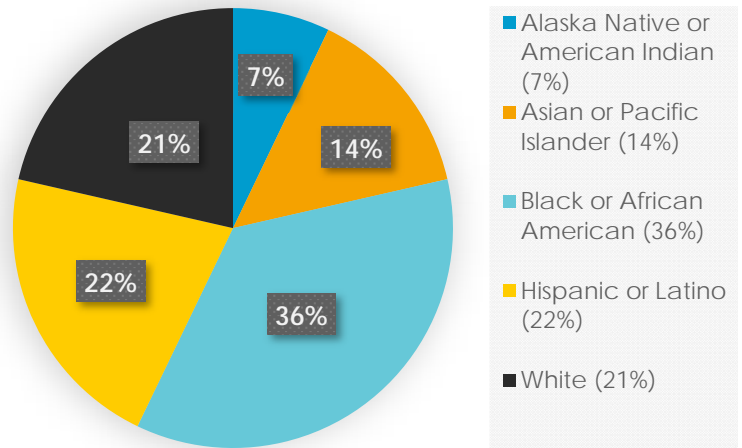
represents 5 clients

**Program Description:** This team provides wrap around services to children and families with acute needs, who meet the following criteria: child is at risk of/has been removed from their parent/guardian; child is involved with the Juvenile Justice System or at risk of that; has been recently had a psychiatric hospitalization or is at risk of a hospitalization.

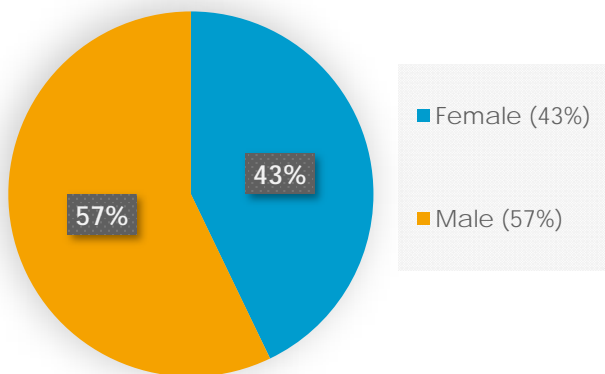
Client Demographics (Age)



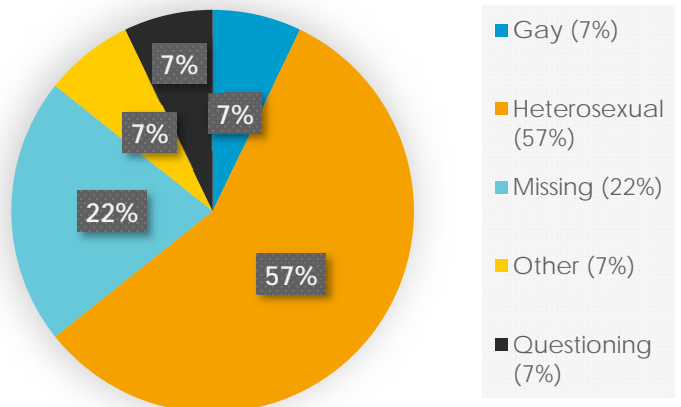
Client Demographics (Race)



Client Demographics (Gender Identity)



Client Demographics (Sexual Orientation)



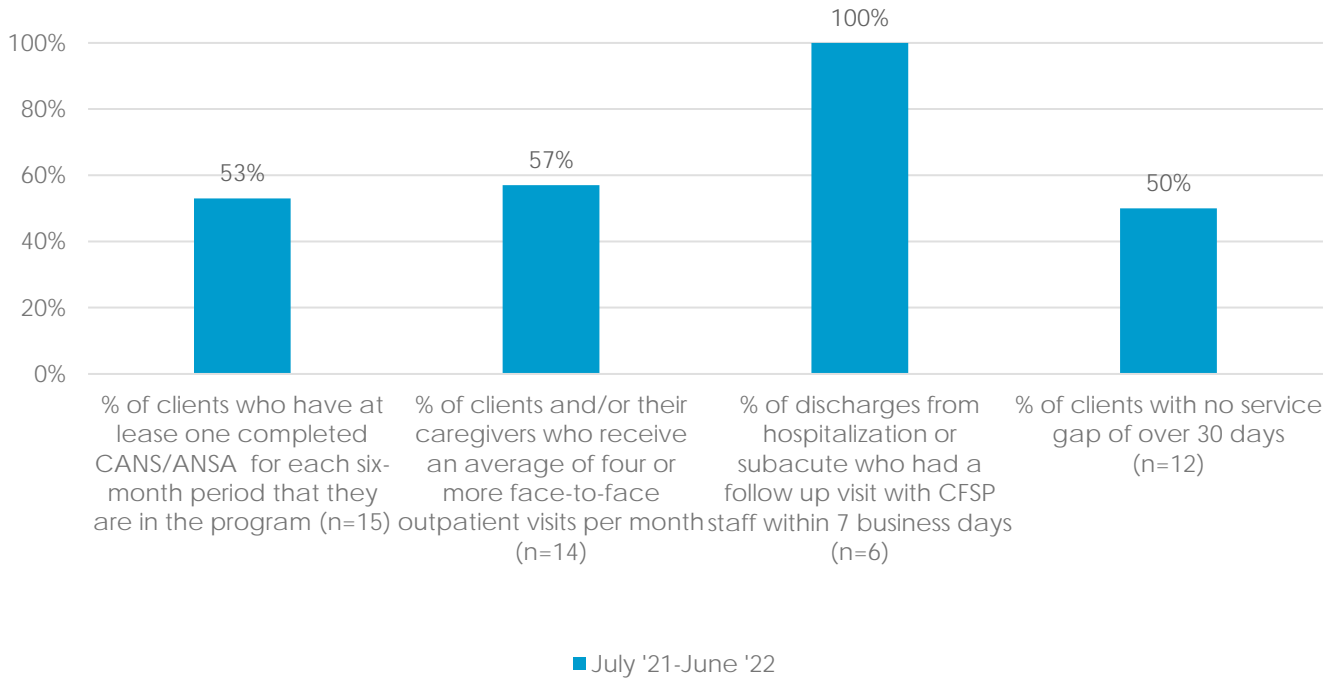
# BMH RBA Report FY 2022

## Quality Outcomes ("How well did we do it?")

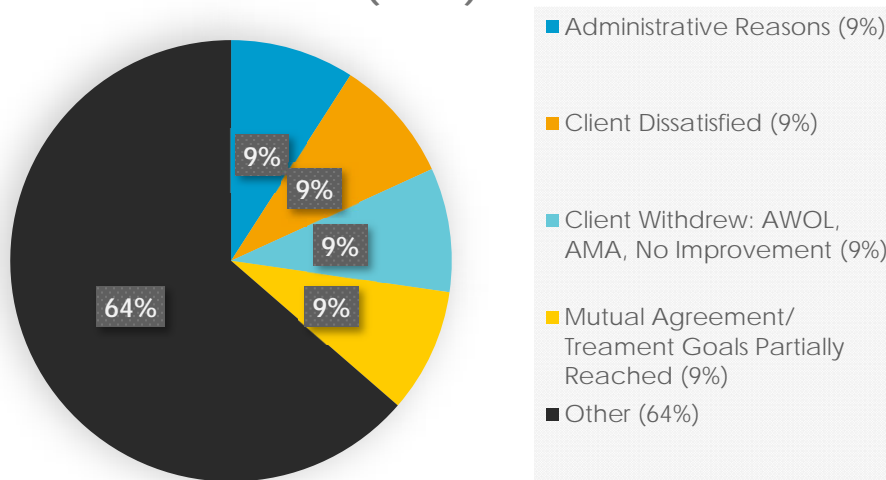
The average client served in 2021-2022:

- remained in the FSP program for **336 days**
- received **10.22 hrs** of services per month
- received **6.88 services** per month

### Service Consistency



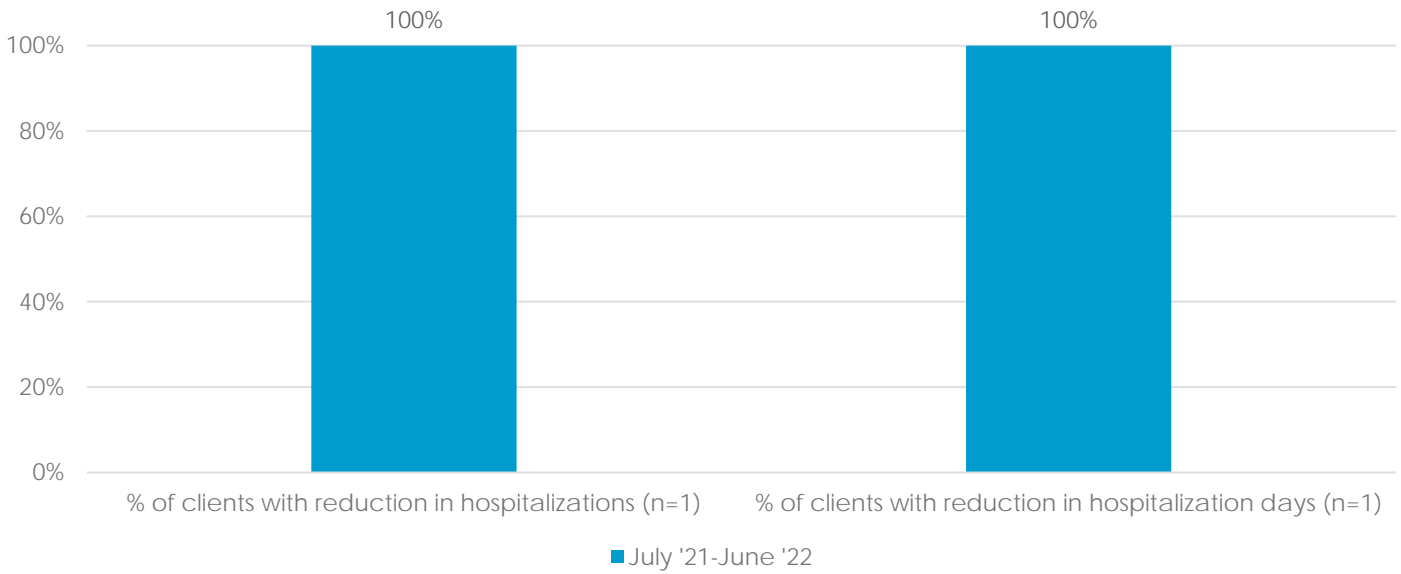
### Clients Closed, by Reason Closed (n=11)



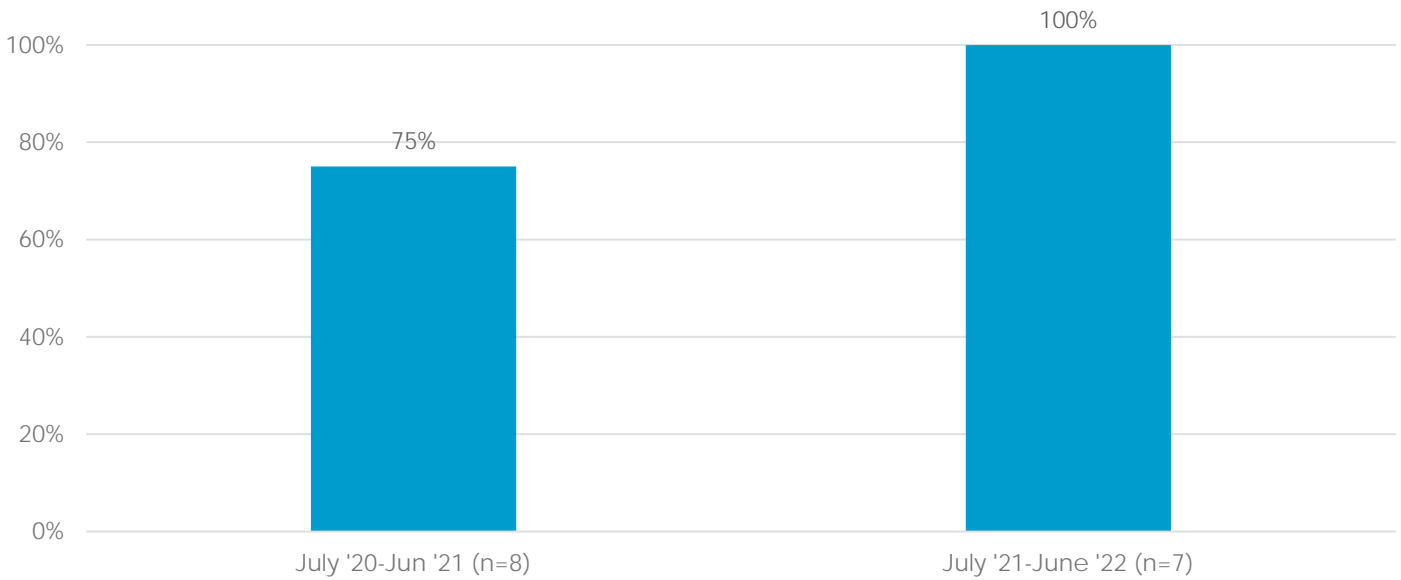
# BMH RBA Report FY 2022

## Impact Outcomes ("Is anyone better off?")

### Client Outcome Improvements



### % of clients with a primary care visit in the last 12 months



# BMH RBA Report FY 2022

| Measure                                                                                                              | Definition                                                                                                                                                                                                               | Data Source    |
|----------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|
| # clients served                                                                                                     | Total clients served                                                                                                                                                                                                     | Yellowfin      |
| # of new clients                                                                                                     | Clients who were not served by the program in the previous fiscal year                                                                                                                                                   | Yellowfin      |
| Average # of days in FSP per client                                                                                  | Average length of stay for primary program episodes which have closed since the beginning of the reporting period                                                                                                        | Yellowfin      |
| Average # of service hours per client per month                                                                      | Average of hours of service in a month divided by clients served in a month. Includes all services recorded for clients. Does not include MAA                                                                            | Yellowfin      |
| Average # of services per client per month                                                                           | Average services in a month divided by clients served in a month. Includes all services recorded for clients. Note: more than one service can be provided during a single contact. Does not include MAA                  | Yellowfin      |
| % of clients who have at least one completed CANS/ANSA for each six-month period that they are in the program        | Of clients with a completed CANS/ANSA, what percentage of them had an assessment at least every six months?                                                                                                              | Objective Arts |
| % of clients and/or their caregivers who receive an average of four or more face-to-face outpatient visits per month | Clients must be been open to a provider for at least 30 days in order to be included in this metric. Phone contacts are included during the pandemic. Days in subacute or jail not counted, but services are counted.    | Yellowfin      |
| % of clients with no service gap of over 30 days                                                                     | Maximum days each Level 1 client went without service during their episode(s) in the reporting period. Only considered clients open to a provider for at least a total of three months during the reporting fiscal year. | Yellowfin      |
| % of discharges from hospitalization or subacute who had a follow up visit with FSP staff within 7 business days     | Follow-up rates for individuals open to Level 1 providers at the time of MH hospital discharge.                                                                                                                          | Yellowfin      |
| #/% of clients closed, by reason closed                                                                              | Discharge reason for clients discharged during the reporting period                                                                                                                                                      | Yellowfin      |

# BMH RBA Report FY 2022

|                                                                     |                                                                                                                                                                                                                                                                                                            |                  |
|---------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------|
| <p>% of clients with a decrease in hospitalization</p>              | <p>Decrease in hospital admits and hospitalization days in the years that a client was active in the program compared to the year prior to program admission. Includes clients who had at least one hospital admit in the 12 months prior to admission and remained in the program for at least 1 year</p> | <p>Yellowfin</p> |
| <p>% of clients with a primary care visit in the last 12 months</p> | <p>Of clients who completed 6 consecutive months during the fiscal year, percentage who had an appointment with a Anthem/Alliance/CHCN primary care provider during the fiscal year. Metric excludes individuals with six or more months out of the community (in Subacute, MH hospital, and/or jail).</p> | <p>Yellowfin</p> |

## Mobile Crisis Team (MCT)

| Process Measures<br>How much did we do?                                                                                                                                                                                                                                                                                                                                                        | Quality Measures<br>How well did we do it?                                                                                                                                                                                  | Impact Measures<br>Is anyone better off?                                         |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------|
| <ol style="list-style-type: none"> <li>1. # clients served</li> <li>2. # of client contacts made, by               <ol style="list-style-type: none"> <li>a. Field contacts</li> <li>b. Phone contacts</li> </ol> </li> <li>3. # of crisis services referrals made to the MCT, by referring party (i.e. BPD, BFD, BMH, community, etc.)</li> <li>4. # of 5150 evaluations conducted</li> </ol> | <ol style="list-style-type: none"> <li>5. % of 5150 evaluations that did not result in transportation to a receiving facility for further evaluation</li> <li>6. % of clients who were satisfied with services**</li> </ol> | <ol style="list-style-type: none"> <li>7. #/% of repeat interventions</li> </ol> |

\*Please note: demographic data will be reported at the program level, where available

\*\*Data not available for baseline reporting period, will include in future rounds of reporting

### Data Development Agenda – measures the team is interested in reporting on but for which reliable data are not available

1. Response times: average response time, by call type
2. Receiving facilities data:
  - a. #/% evaluations upheld at receiving facility

# BMH RBA Report FY 2022

Mobile Crisis Team (MCT)

Reporting Period: July 2021-June 2022 (Baseline)

## Process Outcomes ("How much did we do?")



**932** 

Clients Served

 = 100 clients

### Program Description

The Mobile Crisis Team (MCT) provides mobile crisis services to residents of Berkeley, from 11:30a-10p each day of the week, when fully staffed. It provides crisis interventions, including but not limited to 5150 evaluations, consultations, and referrals/linkages.

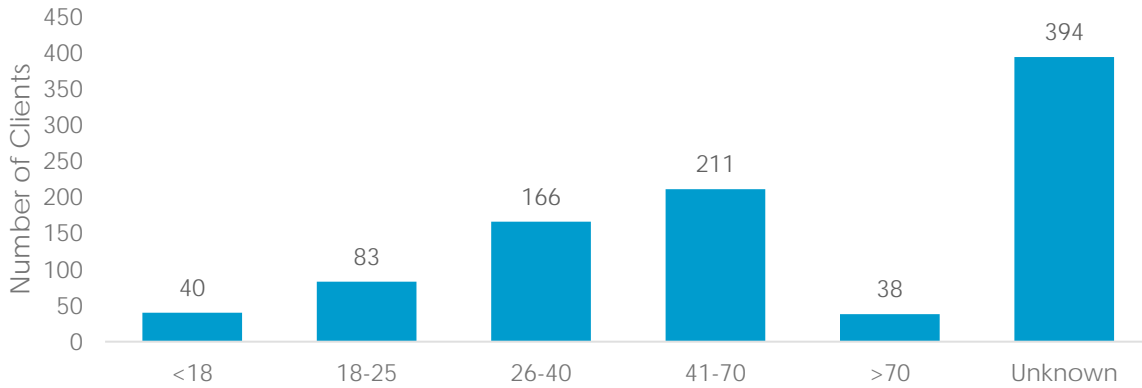


**1486** 

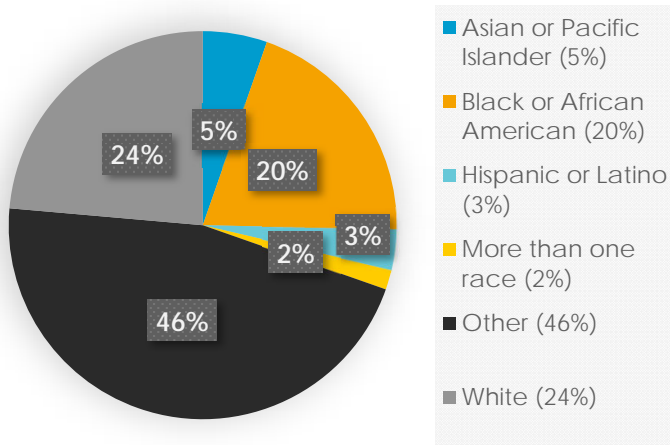
Incidents Responded To

 = 100 incidents

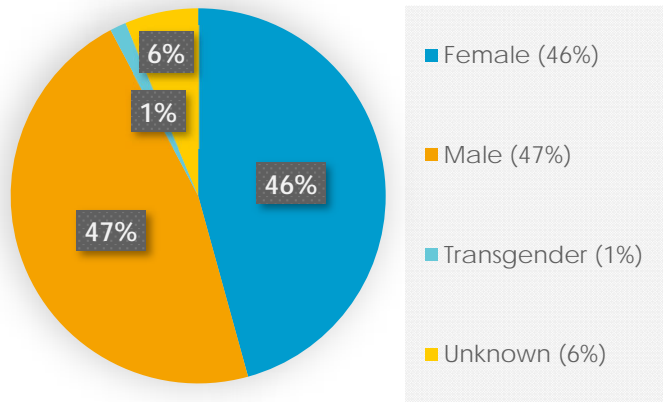
### Demographics (Age)



### Demographics (Race)



### Demographics (Gender Identity)



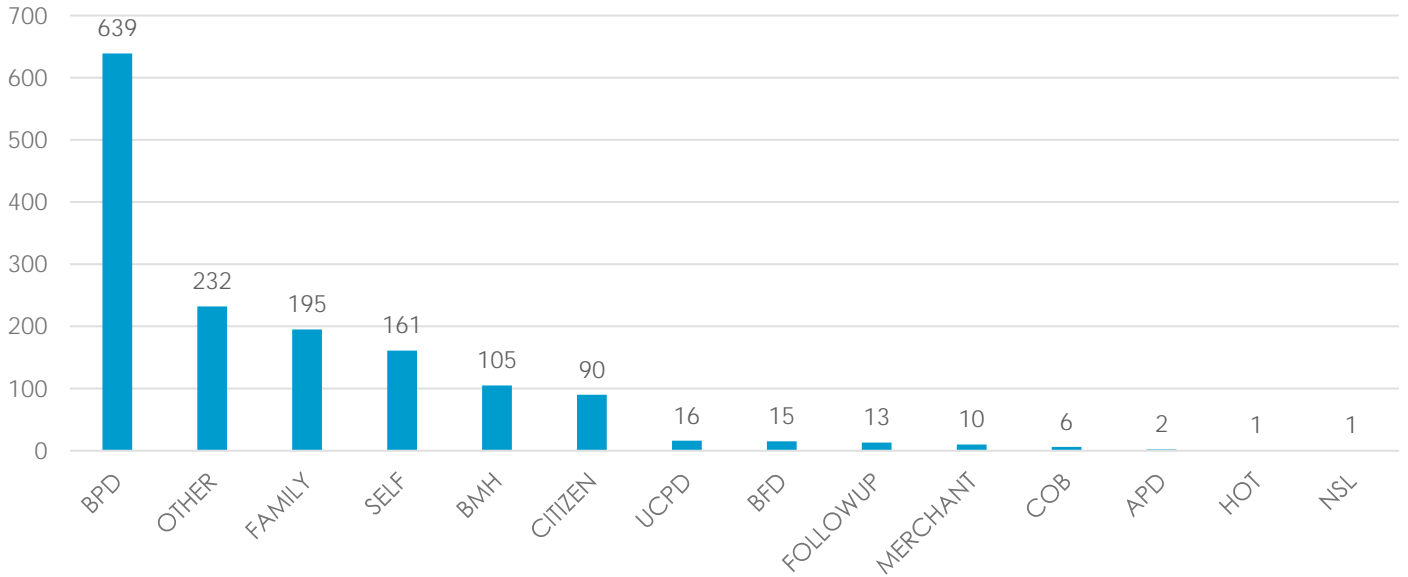
\*Sexual Orientation data not available



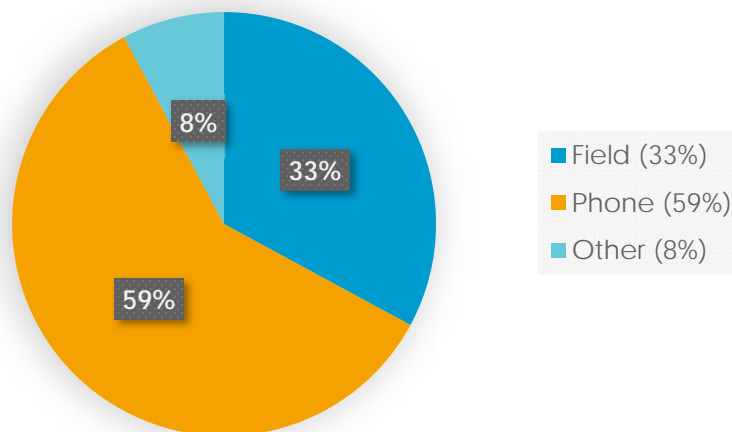
# BMH RBA Report FY 2022

In 2021-2022, the MCT program performed **395** 5150 Evaluations

### Total Referrals, by Referring Party (n=1486)



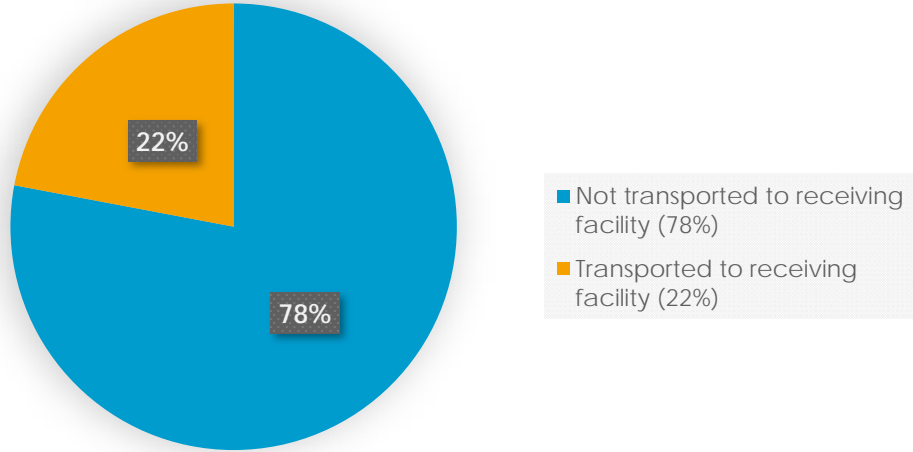
### Client Contact Types (n=1486)



# BMH RBA Report FY 2022

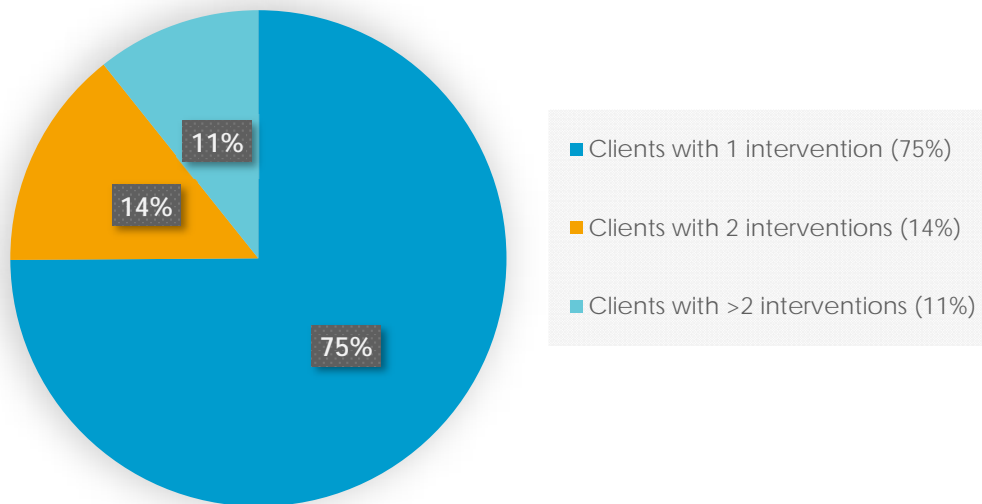
## Quality Outcomes ("How well did we do it?")

Results of 5150 Evaluations (n=395)



## Impact Outcomes ("Is anyone better off?")

Number of Interventions per Client (n=932)



# BMH RBA Report FY 2022

| Measure                             | Definition                                                                                                        | Data Source     |
|-------------------------------------|-------------------------------------------------------------------------------------------------------------------|-----------------|
| # clients served                    | Total unique clients served                                                                                       | MCT Contact Log |
| Client contact types                | # of client contacts made, by<br>a. Field contacts<br>b. Phone contacts<br>c. Other                               | MCT Contact Log |
| Total referrals, by referring party | # of crisis services referrals made to the MCT, by referring party (i.e. BPD, BFD, BMH, community, etc.)          | MCT Contact Log |
| # of 5150 evaluations conducted     | Total number of incidents with 5150 Evaluations of any sort                                                       | MCT Contact Log |
| Results of 5150 Evaluations         | % of 5150 evaluations that did or did not result in transportation to a receiving facility for further evaluation | MCT Contact Log |
| Number of interventions per client  | % of clients who had one, two, or more than two interventions                                                     | MCT Contact Log |

## Crisis Assessment and Triage/Transitional Outreach Team (CAT/TOT)

| Process Measures<br>How much did we do?                                                                    | Quality Measures<br>How well did we do it?                                                                                                                                                                                                                                                                      | Impact Measures<br>Is anyone better off? |
|------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------|
| <ol style="list-style-type: none"> <li>1. # clients served</li> <li>2. # of documented contacts</li> </ol> | <ol style="list-style-type: none"> <li>3. % of clients who receive a visit (phone contact with client or hospital service provider) in the 24 hours after hospitalization</li> <li>4. % of MCT contacts who had a CAT attempt to contact</li> <li>5. % of clients who were satisfied with services**</li> </ol> | None available at this time**            |

\*Please note: demographic data will be reported at the program level, where available

\*\*Data not available for baseline reporting period, will include in future rounds of reporting

### Data Development Agenda – measures the team is interested in reporting on but for which reliable data are not available

1. #/% of calls to CAT line that receive crisis intervention support that does not involve the police: crisis referral to non-MCT, crisis support, de-escalation support
2. % of clients who receive a follow-up call for a no-show screening, intake or appointment
3. #/% of no-show clients for whom there is inter-system coordination to engage
4. #/% of clients and families who receive connection to grief counseling and other services
5. % of clients connected to a service team within 7 calendar days
6. % of clients assessed or referred on the same day as inquiry

# BMH RBA Report FY 2022

Crisis, Assessment, Triage (CAT) and Transitional Outreach Team (TOT)

Reporting Period: July 2021-June 2022 (Baseline)

## Process Outcomes ("How much did we do?")



721



Clients Served

=100 clients

### Program Description

CAT/TOT is BMH's intake and follow-up team for Adult Mental Health Services. This team provides screening/assessment for ongoing mental health services, linkage to community-based resources, crisis support, and coordination with other agencies. Services include, but are not limited to: psychiatric services, transportation, food access, medical care, health insurance, benefits, legal assistance, affordable housing listings, utilities and energy assistance resources. Services are provided in person at our clinic, as well as via the team phone line.



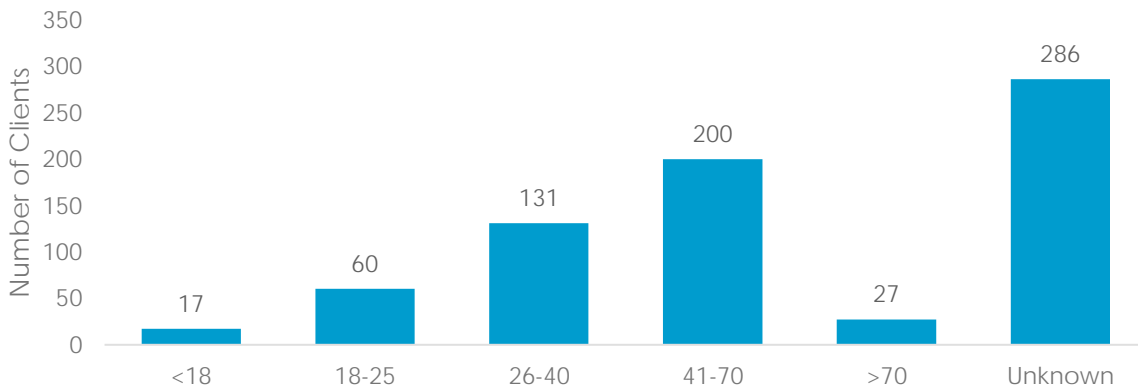
1448



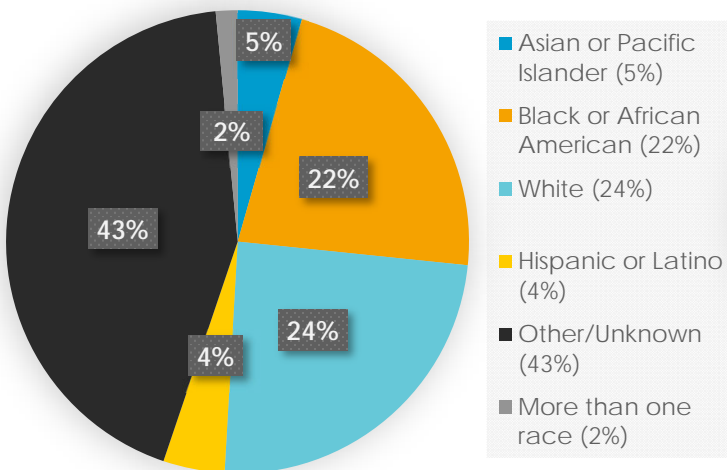
Contacts

=100 contacts

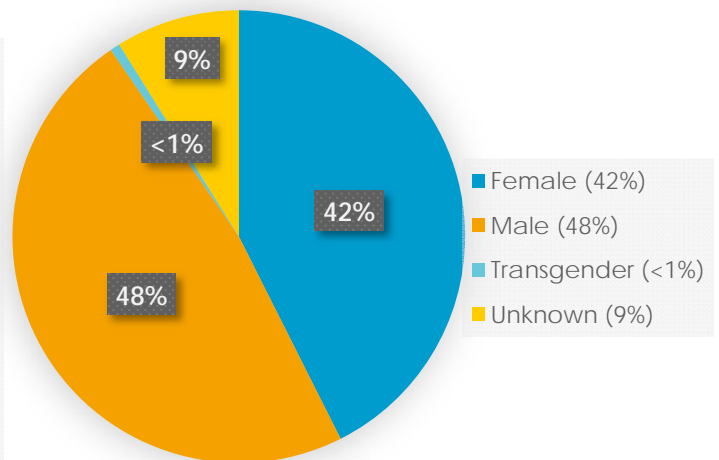
### Demographics (Age)



### Demographics (Race)



### Demographics (Gender Identity)

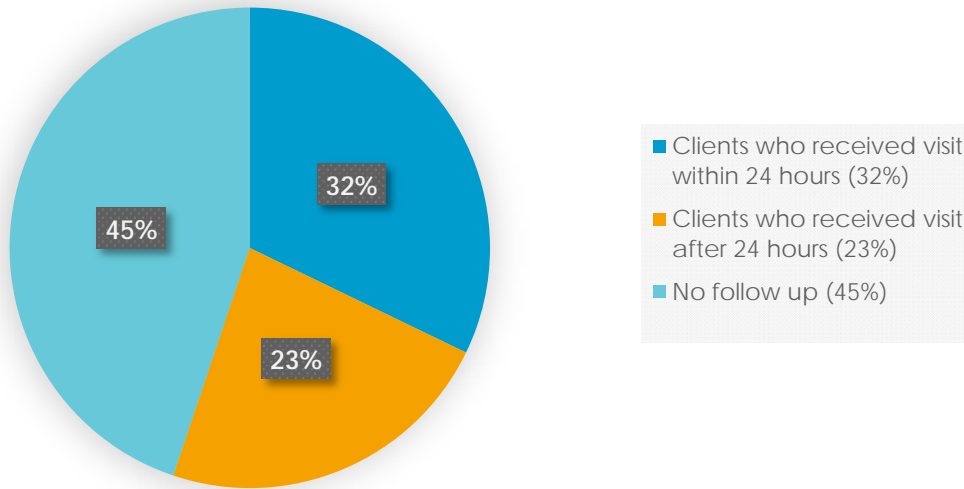


\*Sexual Orientation data not available

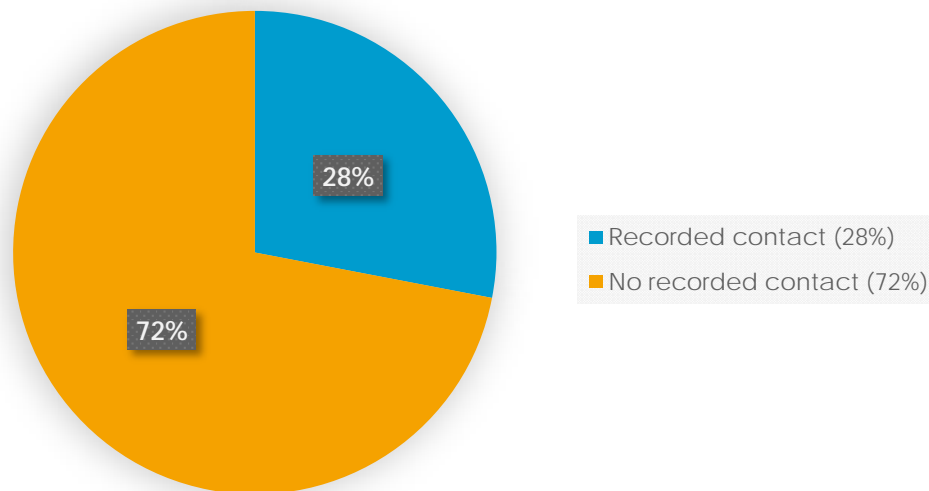
# BMH RBA Report FY 2022

## Quality Outcomes ("How well did we do it?")

Follow-up after hospitalization (n=87)



MCT contacts with CAT attempt to contact (n=932)



# BMH RBA Report FY 2022

| Measure                                            | Definition                                                                                                                      | Data Source           |
|----------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------|-----------------------|
| # clients served                                   | Total clients served                                                                                                            | MCT & CAT Contact Log |
| # of documented contacts                           | Total number of documented incidents                                                                                            | MCT & CAT Contact Log |
| Follow-up after hospitalization                    | % of clients who receive a visit (phone contact with client or hospital service provider) in the 24 hours after hospitalization | MCT & CAT Contact Log |
| % of MCT contacts who had a CAT attempt to contact | Of Client IDs in MCT contact log, % which also have record in CAT contact log                                                   | MCT & CAT Contact Log |

## Homeless FSP (HFSP)

| Process Measures<br>How much did we do?                                                                                                                                                                                                                                                           | Quality Measures<br>How well did we do it?                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | Impact Measures<br>Is anyone better off?                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <ol style="list-style-type: none"> <li>1. # clients served</li> <li>2. # of new clients opened for ongoing services</li> <li>3. Average # of days in FSP per client</li> <li>4. Average # of service hours per client per month</li> <li>5. Average # of services per client per month</li> </ol> | <ol style="list-style-type: none"> <li>6. % of clients who have at least one completed CANS/ANSA for each six-month period that they are in the program</li> <li>7. % of clients and/or their caregivers who receive an average of four or more face-to-face outpatient visits per month</li> <li>8. % of discharges from hospitalization who had a follow up visit with HFSP staff within 7 and within 30 calendar days</li> <li>9. % of clients with no service gap of over 30 days</li> <li>10. #/% of clients closed, by reason closed</li> <li>11. % of clients who were satisfied with services**</li> </ol> | <ol style="list-style-type: none"> <li>12. #/% of clients housed**</li> <li>13. #/% of clients who gained or maintained housing since enrollment**</li> <li>14. % of clients who had a reduction in jail days in the last 12 months compared to the 12 months before enrollment</li> <li>15. % of clients with a primary care visit in the last 12 months</li> <li>16. % of clients who had a reduction in psychiatric emergency services/inpatient/crisis stabilization units in the last 12 months compared to the 12 months before enrollment</li> <li>17. % of clients with a decrease in hospitalizations/hospitalization days</li> <li>18. % of clients with an increase in the number of days in community living compared to 12-month period before enrollment**</li> </ol> |

\*Please note: demographic data will be reported at the program level, where available

\*\*Data not available for baseline reporting period, will include in future rounds of reporting

**Data Development Agenda** – measures the team is interested in reporting on but for which reliable data are not available

1. Client satisfaction with services
2. Client engagement in interpersonal activities



3. Client income (incl. entitlements)
4. Change in violence (e.g. # of violent interactions reported) experienced by the client
5. Change in educational or workforce training status of client
6. Client-to-staff ratio
7. % staff retention year-to-year
8. % of clients and/or their caregivers who have consented to participate in services and have received one or more face-to-face visits within 7 calendar days of their HFSP referral
9. #/% of clients who maintained housing at 6 months from housing placement date

# BMH RBA Report FY 2022

Homeless Full Service Partnership (FSP)  
Reporting Period: July 2021-June 2022 (Baseline)

## Process Outcomes ("How much did we do?")



36 Clients Served

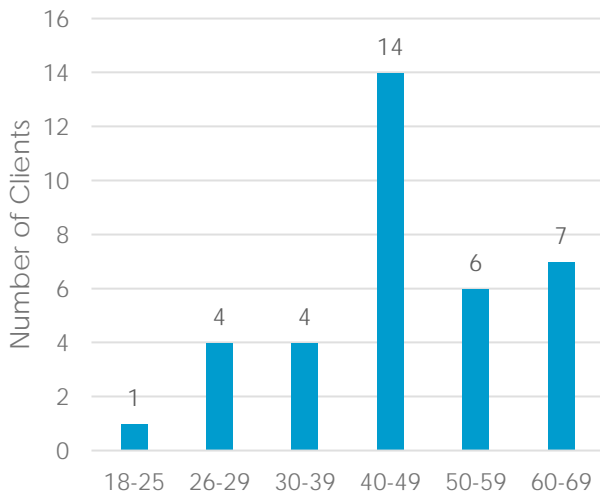


34 New Clients

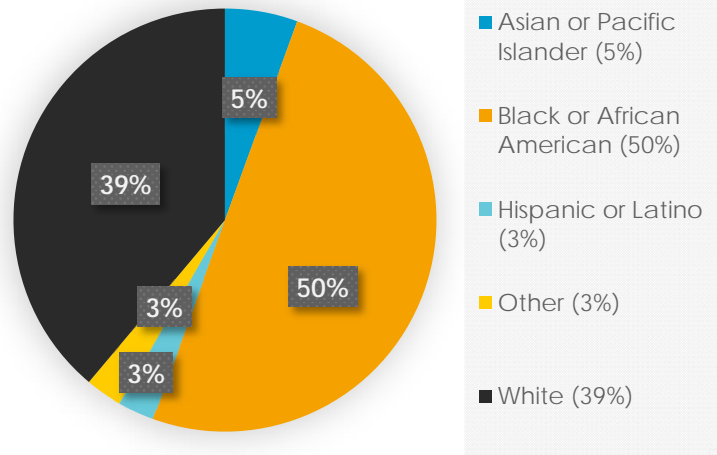
**Program Description:** HFSP serves unhoused residents of Berkeley in an Assertive Community Treatment (ACT) model at high staff to client ratios, providing intensive case management and mental health services in a multi-disciplinary team approach. This team serves those with the highest level of need, supporting a population that is primarily unhoused and has multiple severe functional impairments.

represents 10 clients

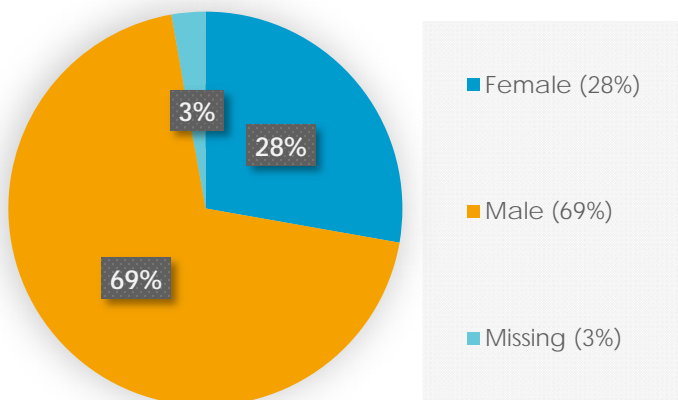
Client Demographics (Age)



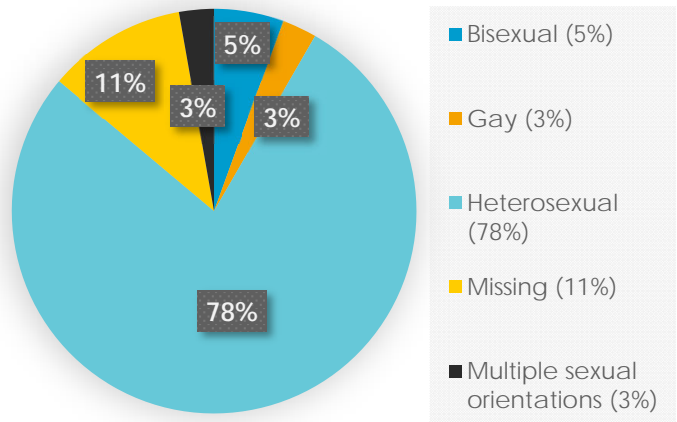
Client Demographics (Race)



Client Demographics (Gender Identity)



Client Demographics (Sexual Orientation)



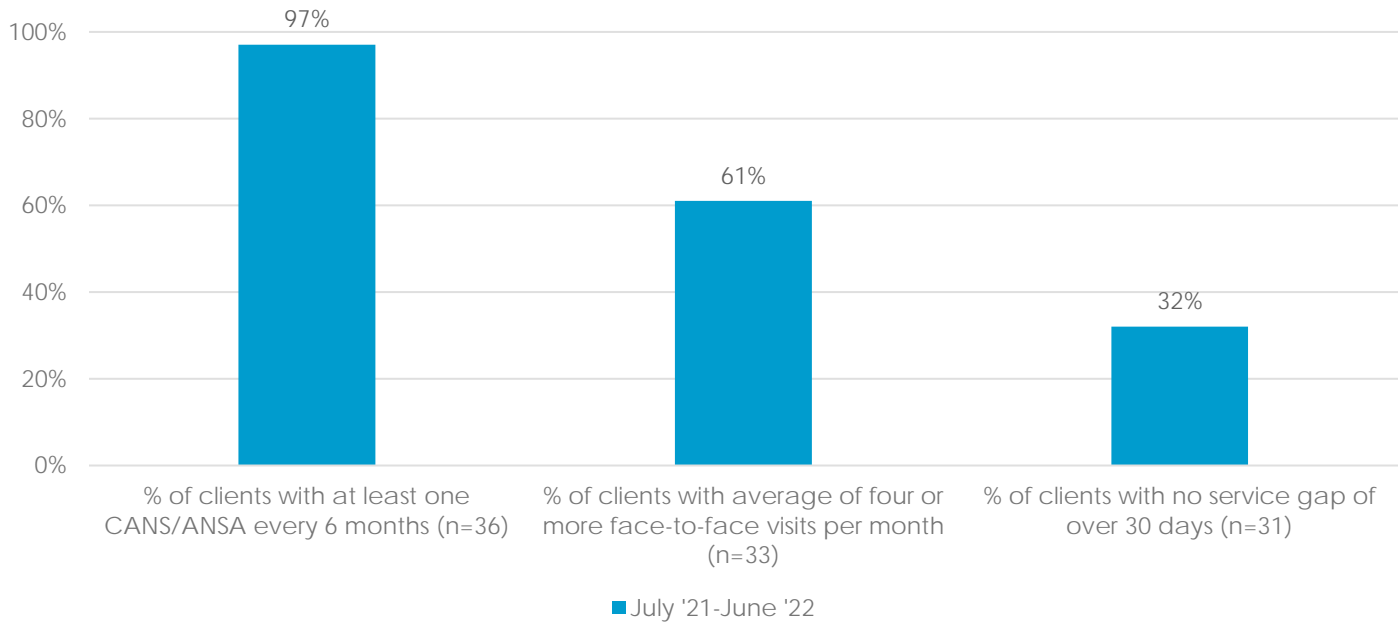
# BMH RBA Report FY 2022

## Quality Outcomes ("How well did we do it?")

The average client served in 2021-2022:

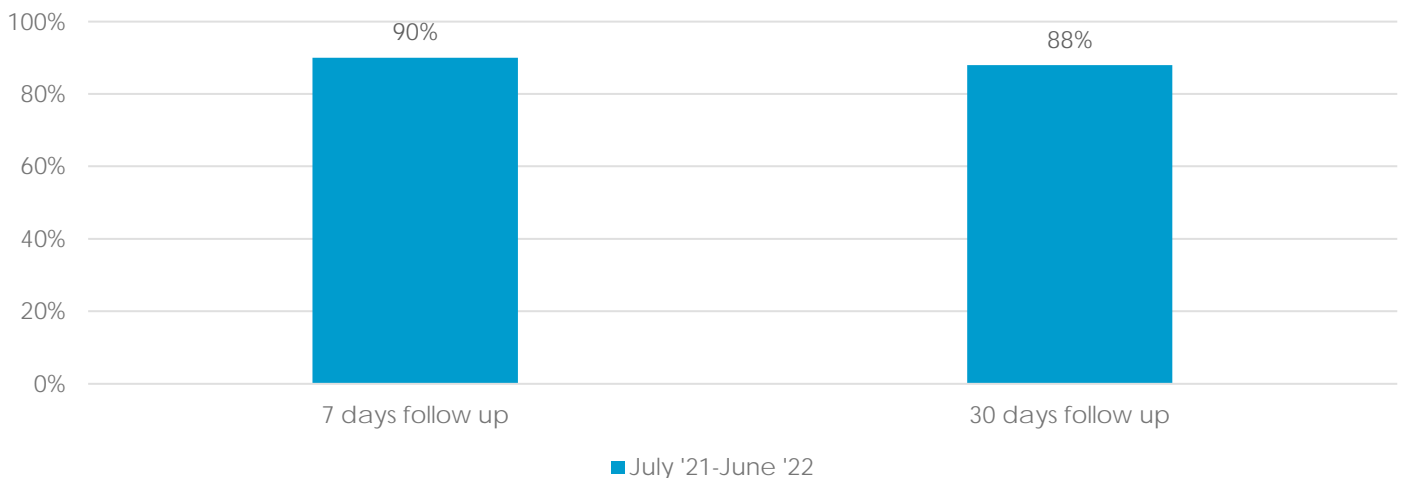
- remained in the FSP program for **263 days**
- received **8.82 hrs** of services per month
- received **6 services** per month

### Service Consistency



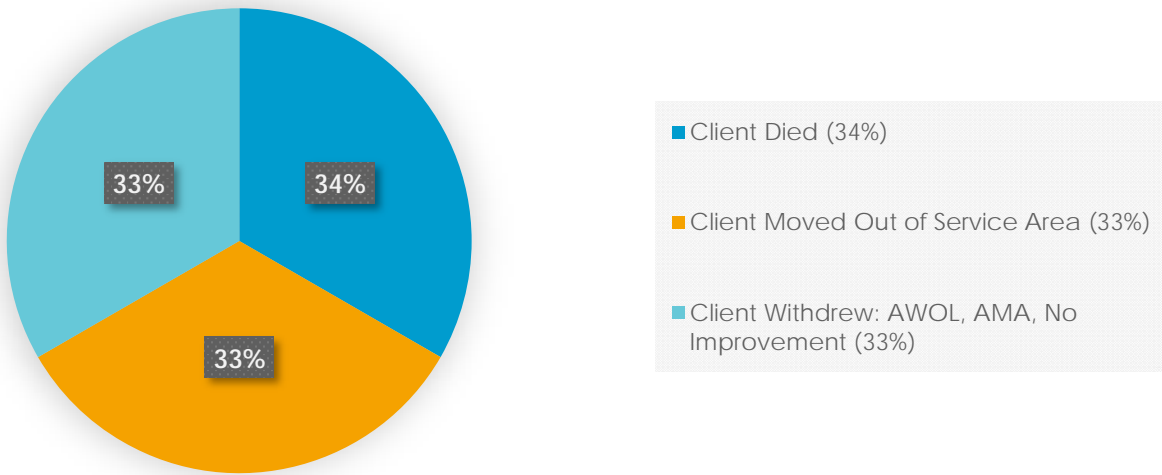
### Hospital Follow Up Consistency

% of discharges from hospitalization or subacute who received FSP follow up within 7 and 30 days (n=10)



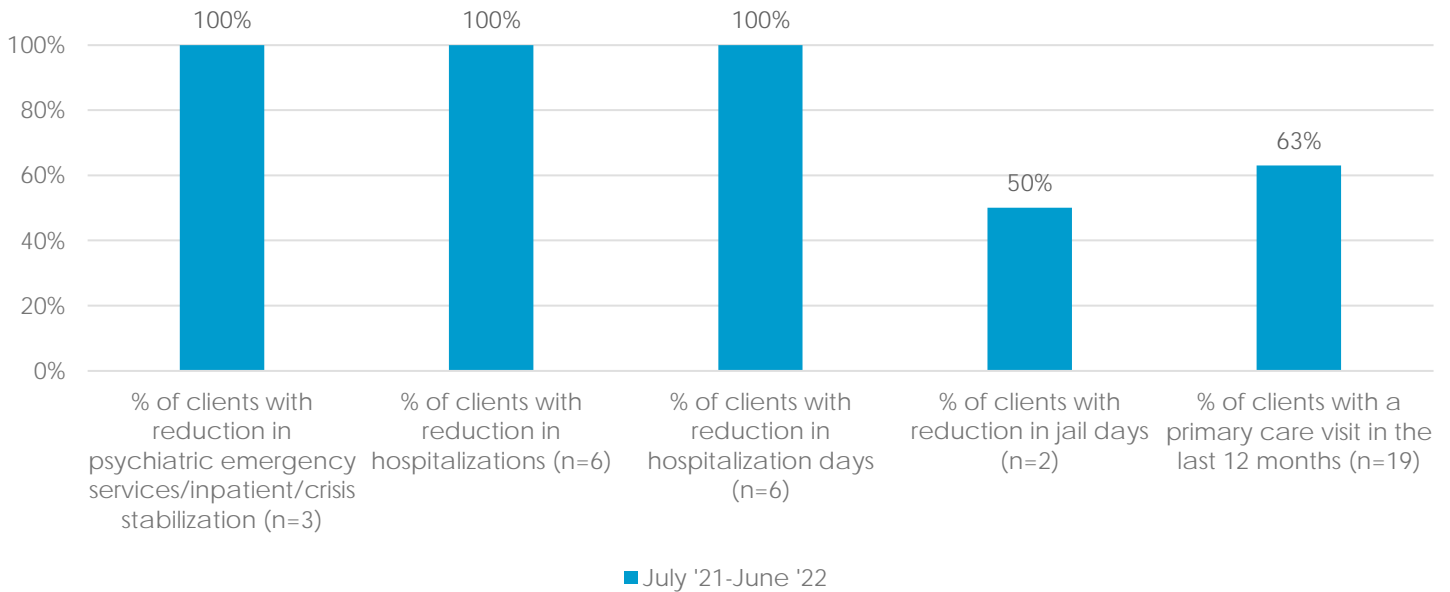
# BMH RBA Report FY 2022

Clients Closed by Reason Closed  
(n=3)



## Impact Outcomes ("Is anyone better off?")

Client Outcome Improvements



# BMH RBA Report FY 2022

| Measure                                                                                                                        | Definition                                                                                                                                                                                                               | Data Source    |
|--------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|
| # clients served                                                                                                               | Total clients served                                                                                                                                                                                                     | Yellowfin      |
| # of new clients                                                                                                               | Clients who were not served by the program in the previous fiscal year                                                                                                                                                   | Yellowfin      |
| Average # of days in FSP per client                                                                                            | Average length of stay for primary program episodes which have closed since the beginning of the reporting period                                                                                                        | Yellowfin      |
| Average # of service hours per client per month                                                                                | Average of hours of service in a month divided by clients served in a month. Includes all services recorded for clients. Does not include MAA                                                                            | Yellowfin      |
| Average # of services per client per month                                                                                     | Average services in a month divided by clients served in a month. Includes all services recorded for clients. Note: more than one service can be provided during a single contact. Does not include MAA                  | Yellowfin      |
| % of clients who have at least one completed CANS/ANSA for each six-month period that they are in the program                  | Of clients with a completed CANS/ANSA, what percentage of them had an assessment at least every six months?                                                                                                              | Objective Arts |
| % of clients and/or their caregivers who receive an average of four or more face-to-face outpatient visits per month           | Clients must be been open to a provider for at least 30 days in order to be included in this metric. Phone contacts are included during the pandemic. Days in subacute or jail not counted, but services are counted.    | Yellowfin      |
| % of clients with no service gap of over 30 days                                                                               | Maximum days each Level 1 client went without service during their episode(s) in the reporting period. Only considered clients open to a provider for at least a total of three months during the reporting fiscal year. | Yellowfin      |
| % of discharges from hospitalization or subacute who had a follow up visit with FSP staff within 7 and within 30 calendar days | Follow-up rates for individuals open to Level 1 providers at the time of MH hospital discharge.                                                                                                                          | Yellowfin      |
| #/% of clients closed, by reason closed                                                                                        | Discharge reason for clients discharged during the reporting period                                                                                                                                                      | Yellowfin      |

# BMH RBA Report FY 2022

|                                                                                                                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                  |
|------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------|
| <p>% of clients who had a reduction in days in psychiatric emergency services/inpatient/crisis stabilization units</p> | <p>Of clients who completed six consecutive months during the 12-month fiscal year, percentage with a reduction in psychiatric emergency services, inpatient or crisis stabilization unit other than Amber House, when comparing unduplicated days from the 12 months prior to the fiscal year to the current 12-month fiscal year. Excludes clients if out of community (in jail and/or subacute) for six or more months during the current fiscal year or the prior fiscal year.</p> | <p>Yellowfin</p> |
| <p>% of clients with a decrease in hospitalization</p>                                                                 | <p>Decrease in hospital admits and hospitalization days in the years that a client was active in the program compared to the year prior to program admission. Includes clients who had at least one hospital admit in the 12 months prior to admission and remained in the program for at least 1 year</p>                                                                                                                                                                             | <p>Yellowfin</p> |
| <p>% of clients who had a reduction in jail days</p>                                                                   | <p>Of clients who completed six consecutive months during the 12-month fiscal year, percentage with a reduction in jail days, when comparing unduplicated days from the 12 months prior to the fiscal year to the current 12-month fiscal year. Excludes clients if out of community (in hospital and/or subacute) for six or more months during the current fiscal year or the prior fiscal year.</p>                                                                                 | <p>Yellowfin</p> |
| <p>% of clients with a primary care visit in the last 12 months</p>                                                    | <p>Of clients who completed 6 consecutive months during the fiscal year, percentage who had an appointment with a Anthem/Alliance/CHCN primary care provider during the fiscal year. Metric excludes individuals with six or more months out of the community (in Subacute, MH hospital, and/or jail).</p>                                                                                                                                                                             | <p>Yellowfin</p> |

# Medical Services

| Process Measures<br>How much did we do? | Quality Measures<br>How well did we do it? | Impact Measures<br>Is anyone better off?          |
|-----------------------------------------|--------------------------------------------|---------------------------------------------------|
| 1. # clients served                     | 2. % of appointments kept per year         | 3. % clients connected to a primary care provider |

\*Please note: demographic data will be reported at the program level, where available

## Data Development Agenda – measures the team is interested in reporting on but for which reliable data are not available

1. Average service hours per patient per year, with a demographic breakdown and adjusted for client panel
2. #/% of patients who report improvement in their quality of life
3. Reduction in number of hospitalization days per patient
4. Consistency of service (e.g. % clients who had met targeted frequency of services)
5. Responsiveness of service (e.g. x days following qualifying event)
6. % clients who had a primary care visit in the last year
7. # of new clients opened for ongoing services
8. % of clients who had a meeting with a psychiatrist every x months
9. % decrease of days incarcerated per client
10. % decrease of incarceration events per client
11. #/% of clients re-hospitalized within 1 month of inpatient discharge

# BMH RBA Report FY 2022

## Medical Services

Reporting Period: July 2021-June 2022 (Baseline)

### Process Outcomes ("How much did we do?")

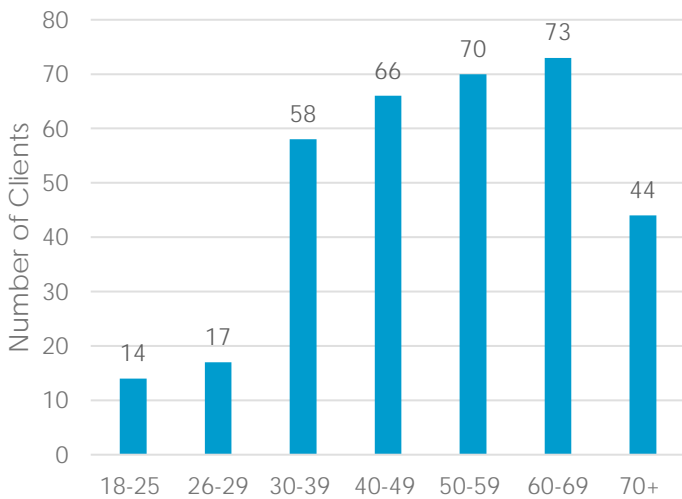


represents 25 clients

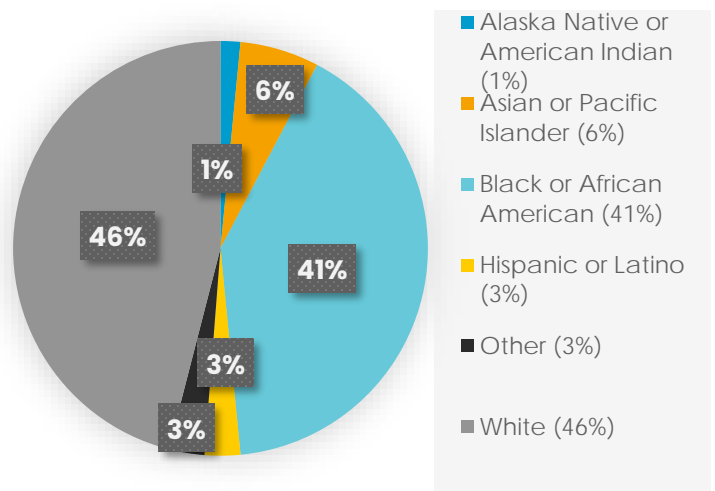
#### Program Description

The Medical Services Team provides psychiatric and nursing services to patients on Adult Services (FIT, CCT, & FSP), Crisis Services, and Family, Youth, and Children's Services.

#### Client Demographics (Age)



#### Client Demographics (Race)



### Quality Outcomes ("How well did we do it?")

# 73%

of appointments were kept

### Impact Outcomes ("Is anyone better off?")

# 48%

of clients were connected to a primary care provider



# BMH RBA Report FY 2022

| Measure                                           | Definition                                                                           | Data Source                   |
|---------------------------------------------------|--------------------------------------------------------------------------------------|-------------------------------|
| # clients served                                  | Total clients served                                                                 | Yellowfin                     |
| % of appointments kept                            | Of scheduled appointments, % which were kept for the time period                     | MD Attendance Tracker         |
| % of clients connected to a primary care provider | Of total clients, % who had Primary Care Practitioner listed in Primary Care Tracker | Primary Care Provider Tracker |

## Wellness Services

| Process Measures<br>How much did we do?                                                                                                                                                                                                                                            | Quality Measures<br>How well did we do it?                                                           | Impact Measures<br>Is anyone better off?                                                                                                                                                                                            |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <ol style="list-style-type: none"> <li>1. # participants served</li> <li>2. # of different groups convened per year</li> <li>3. # of group events held per year</li> <li>4. # of participants who meet the requirements for “Telling Your Story” (MHSa PEI requirement)</li> </ol> | <ol style="list-style-type: none"> <li>5. #/% of participants who return for group events</li> </ol> | <ol style="list-style-type: none"> <li>6. #/% of participants who reported feeling less shame about their experiences and challenges</li> <li>7. #/% of participants who reported recognizing progress in their recovery</li> </ol> |

**Data Development Agenda** – measures the team is interested in reporting on but for which reliable data are not available

1. Advance directives data:
  - a. #/% of participants with an advance directive completed
  - b. #/% participants able to advocate for themselves with service providers
2. Equity of services (e.g. client demographics compared to Medical population)
3. % of clients who were satisfied with services

# BMH RBA Report FY 2022

Wellness & Recovery Services

Reporting Period: July 2021-June 2022 (Baseline)

## Process Outcomes ("How much did we do?")

**Program Description** The Wellness and Recovery Program is designed to provide outreach, support, education, activities, and advocacy to consumer members living with mental illness and living in Berkeley. Wellness group activities include: Berkeley Pool of Consumer Champions (POCC), Card Groups, Mood Groups, Walking Groups, and field trips.



Participants served



Different groups convened



Group events



Participants who meet the requirements for "Telling Your Story"

represents 10 clients/events/groups

### Quality Outcomes ("How well did we do it?")

# 71%

of participants returned for group events

### Impact Outcomes ("Is anyone better off?")

# 4 out of 5

participants reported feeling less shame about their experiences and challenges (n=5).

# 3 out of 5

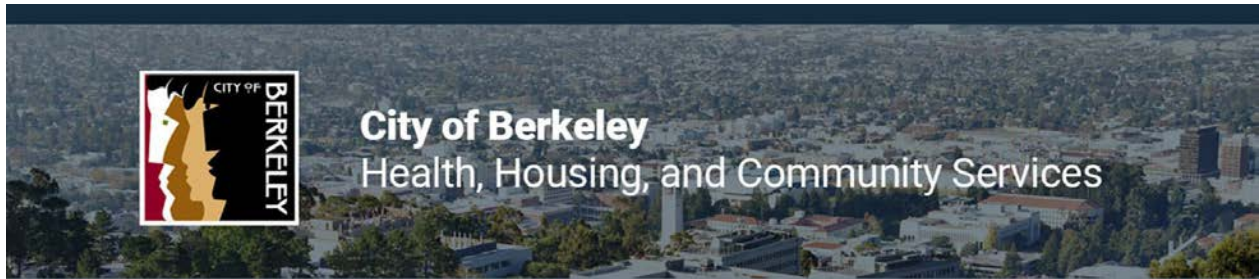
participants reported recognizing progress in their recovery (n=5).

# BMH RBA Report FY 2022

| Measure                                                                                  | Definition                                                                                              | Data Source                                |
|------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------|--------------------------------------------|
| # participants served                                                                    | Total # of participants served                                                                          | Wellness Recovery Group Attendance Tracker |
| # of different groups convened                                                           | Number of different types of groups (i.e. walking group, mood group, Telling Your Story group) convened | Wellness Recovery Group Attendance Tracker |
| Group events                                                                             | Total number of meetings held                                                                           | Wellness Recovery Group Attendance Tracker |
| # of participants who meet the requirements for "Telling Your Story"                     | Total number of participants in all "Telling Your Story" meetings                                       | Wellness Recovery Group Attendance Tracker |
| # of participants who return for group events                                            | Of total number of participants, % who returned for more than one event or meeting                      | Wellness Recovery Group Attendance Tracker |
| % of participants who reported feeling less shame about their experiences and challenges | Of participants who took the survey, percent who responded "agree" or "strongly agree" to the question. | Telling Your Story Survey                  |
| % of participants who reported recognizing progress in their recovery                    | Of participants who took the survey, percent who responded "agree" or "strongly agree" to the question. | Telling Your Story Survey                  |

## **APPENDIX D**

# PREVENTION AND EARLY INTERVENTION FY22 ANNUAL EVALUATION REPORT



# **City of Berkeley Mental Health Mental Health Services Act (MHSA)**

## **Prevention and Early Intervention (PEI)**

**FY21/22**

## **Annual Evaluation Report**

## **INTRODUCTION**

Mental Health Services Act (MHSA) Prevention and Early Intervention (PEI) funds are used to prevent mental illnesses from becoming severe and disabling. Programs funded under the MHSA PEI component are focused on individuals across the life span and should emphasize improving timely access to services for underserved populations. Programs shall also include the following:

- Outreach to increase knowledge and recognition of the early signs of mental health challenges or potentially severe and disabling mental illnesses.
- Reduction in stigma associated with either having or being diagnosed with a mental illness or seeking mental health services.
- Reduction in discrimination against people with mental health challenges or mental illness.
- Access and linkages to necessary medical care for those in need of additional services.
- Emphasis on strategies to reduce the following negative outcomes that may result from untreated mental health challenges and mental illness: Suicide; Incarcerations; School failure or dropout; Unemployment; Prolonged suffering; Homelessness; Removal of children from their homes.

Per MHSA State requirements, mental health jurisdictions are required to submit a PEI Evaluation Report to the Mental Health Services Oversight and Accountability Commission (MHSOAC) on an annual basis. Additionally, a Three-Year PEI Evaluation Report is due to the MHSOAC every three years. Regulations also require mental health jurisdictions to submit PEI Evaluation Reports to the State Department of Healthcare Services (DHCS). The PEI Evaluation Report is to be included with the MHSA Annual Update or Three-Year Program and Expenditure Plan and undergo a 30-Day Public Comment period and approval from the local governing board. In the MHSA FY24-26 Three Year Plan, the Prevention and Early Intervention (PEI) Fiscal Years 2021/2022 (FY22) Annual Evaluation Report is due.

This PEI FY22 Annual Evaluation Report provides descriptions of currently funded MHSA services, and reports on program and demographic data during the reporting timeframe, to the extent possible. The main obstacles in collecting data for this PEI Annual Evaluation Report continue to be with limited staffing and resources both within the City and at Contractor sites to implement and oversee all the necessary data collection requirements. While, it may be a multi-year process before the City of Berkeley will be able to present a complete data set for each PEI Program on an Annual basis, ongoing efforts will continue towards accomplishing this goal.

### **Impact Berkeley Initiative**

In FY18, the City of Berkeley introduced a new initiative in the Health Housing and Community Services (HHCS) Department called “Impact Berkeley”. Central to this effort is using a highly regarded framework called Results Based Accountability (RBA) to account for the work of the Department. RBA provides a new way of understanding the quality and impact of services provided by collecting data that answer three basic questions:

1. How much did you do?
2. How well did you do it?
3. Is anyone better off?

RBA has been incorporated into selected programs within the Department. This has included community agency programs funded through the MHSA Prevention & Early Intervention Community Education &

Supports program. Through this initiative the Department worked with each contractor to envision, clarify and develop measures on the outcomes and results each program is seeking to achieve, and used a rigorous framework to begin measuring and enhancing progress towards these results.

### **Results Based Accountability Evaluation for all BMH Programs**

Through the approved MHSA FY19 Annual Update the Division executed a Request for Proposal (RFP) process to hire a consultant to conduct a Results Based Accountability Evaluation for all programs across the Division, and Resource Development Associates (RDA) was the chosen vendor. In FY21 and FY22 RDA worked with the Division to implement the RBA research methodology and to identify data measures. RBA outcomes in FY22 are outlined in this report for the following MHSA PEI funded BMH programs: Social Inclusion Project, and the High School Prevention Project.

Results of both the Impact Berkeley and the BMH RBA Evaluations are captured in this report and will continue to be reported in future PEI Evaluation Reports.

### **BACKGROUND**

In 2007, the California Department of Mental Health (DMH) issued State Requirements (through DMH Information Notice 07-17) outlining how Mental Health Services Act (MHSA) Prevention and Early Intervention (PEI) funds were to be used for local programs. Through these requirements, PEI Programs were to be utilized on the following Key Community Mental Health Needs and Priority Populations:

Key Community Mental Health Needs:

- Disparities in Access to Mental Health Services – Reduce disparities in access to early mental health interventions due to stigma, lack of knowledge about mental health services or lack of suitability (i.e., cultural competency) of traditional mainstream services.
- Psycho-Social Impact of Trauma – Reduce the negative psycho-social impact of trauma on all ages.
- At-Risk Children, Youth and Young Adult Populations – Increase prevention efforts and response to early signs of emotional and behavioral health problems among specific at-risk populations.
- Stigma and Discrimination – Reduce stigma and discrimination affecting individuals with mental illness and mental health problems.
- Suicide Risk – Increase public knowledge of the signs of suicide risk and appropriate actions to prevent suicide.

PEI Priority Populations:

- Underserved Cultural Populations – Projects that address individuals who are unlikely to seek help from any traditional mental health services whether because of stigma, lack of knowledge, or other barriers (such as members of ethnically/racially diverse communities, members of gay, lesbian, bisexual, transgender communities, etc.) and would benefit from PEI programs and interventions.
- Individuals Experiencing Onset of Serious Psychiatric Illness – Individuals identified by providers, including but not limited to primary health care, as presenting signs of mental illness first break, including individuals who are unlikely to seek help from any traditional mental health service.
- Children and Youth in Stressed Families – Children and youth placed out-of-home or individuals in families where there is substance abuse or violence, depression or other mental illnesses or lack of caregiving adults (e.g., as a result of a serious health condition or incarceration), rendering the children and youth at high risk of behavioral and emotional problems.



- Trauma-Exposed – Individuals who are exposed to traumatic events or prolonged traumatic conditions including grief, loss and isolation, including individuals who are unlikely to seek help from any traditional mental health service.
- Children and Youth at Risk for School Failure – Due to unaddressed emotional and behavioral problems.
- Children and Youth at Risk of or Experiencing Juvenile Justice Involvement – Individuals with signs of behavioral/emotional problems who are at risk of or have had any contact with any part of the juvenile justice system, and who cannot be appropriately served through MHSA Community Services and Supports funded services.

In April 2009, following a nine-month long Community Planning Process, the original City of Berkeley PEI plan was approved. Since the approval of the original plan, Three Year Plans or Annual Updates outlining proposed PEI funding and programming have been developed and approved on an annual basis. Based on the DMH Regulations, through the original PEI Plan (or subsequent updates) programs were created to address Key Community Mental Health Needs and PEI Priority Populations as follows:

| PEI Programs                                                                                                                                                                            | Key Community Mental Health Needs                                                                                                                                                                            | PEI Priority Populations                                                                                                                                                                                                   |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Behavioral-Emotional Assessment, Screening, Treatment and Referral – (BE A STAR) Program<br><br>Supportive Schools Program<br><br>Community Based Child & Youth Risk Prevention Program | ➤ At-Risk Children, Youth and Young Adult Populations                                                                                                                                                        | <ul style="list-style-type: none"> <li>• Children and Youth in Stressed Families</li> <li>• Children and Youth at Risk for School Failure</li> <li>• Underserved Cultural Populations</li> </ul>                           |
| High School Youth Prevention Project<br><br>Mental Health Peer Mentor Program<br><br>Dynamic Mindfulness Program<br><br>African American Success Project                                | <ul style="list-style-type: none"> <li>➤ At-Risk Children, Youth and Young Adult Populations</li> <li>➤ Disparities in Access to Mental Health services</li> <li>➤ Psycho-social Impact of Trauma</li> </ul> | <ul style="list-style-type: none"> <li>• Trauma Exposed</li> <li>• Children and Youth in Stressed Families</li> <li>• Children and Youth at Risk for School Failure</li> <li>• Underserved Cultural Populations</li> </ul> |
| Community Education & Supports                                                                                                                                                          | <ul style="list-style-type: none"> <li>➤ Psycho-social Impact of Trauma</li> <li>➤ At-Risk Children, Youth and Young Adult Populations</li> </ul>                                                            | <ul style="list-style-type: none"> <li>• Trauma Exposed</li> <li>• Underserved Cultural Populations</li> <li>• Children/Youth in Stressed Families</li> <li>• Children and Youth at Risk for School Failure</li> </ul>     |

| PEI Programs                                                            | Key Community Mental Health Needs                                                                                                                                                                 | PEI Priority Populations                                                                                       |
|-------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------|
| Homeless Outreach & Treatment Team (HOTT)*<br><br>Specialized Care Unit | <ul style="list-style-type: none"> <li>➤ Psycho-social Impact of Trauma</li> <li>➤ Disparities in Access to Mental Health services At-Risk Children, Youth and Young Adult Populations</li> </ul> | <ul style="list-style-type: none"> <li>• Underserved Cultural Populations</li> <li>• Trauma Exposed</li> </ul> |
| Social Inclusion                                                        | <ul style="list-style-type: none"> <li>➤ Stigma and Discrimination</li> <li>➤ Psycho-social Impact of Trauma</li> </ul>                                                                           | <ul style="list-style-type: none"> <li>• Trauma Exposed</li> <li>• Underserved Cultural Populations</li> </ul> |

\*This program was not in operation in FY22

On October 6, 2015, updated PEI regulations designed by the Mental Health Services Oversight and Accountability Commission (MHSOAC) became effective. The updated regulations changed the PEI requirements. Per new PEI State Regulations, Mental Health jurisdictions are to utilize PEI funds to implement the following programs: Prevention, Early Intervention, Access and Linkage to Treatment, Stigma and Discrimination Reduction, and Outreach for Increasing Recognition of Early Signs of Mental Illness. Programs or strategies within programs can also be combined. Jurisdictions may also opt to utilize some PEI funds to implement a Suicide Prevention program. The definitions of each program are outlined below:

### PREVENTION

Activities to reduce risk factors for developing a potentially serious mental illness and to build protective factors.

### EARLY INTERVENTION

Treatment and other services and interventions, to address and promote recovery and related functional outcomes for a mental illness early in its emergence, including the applicable negative outcomes that may result from untreated mental illness.

### ACCESS and LINKAGE to TREATMENT

Connecting children who are seriously emotionally disturbed, and adults and seniors with severe mental illness as early in the onset of these conditions as practicable, to medically necessary care and treatment, including but not limited to care provided by county mental health programs.

### STIGMA and DISCRIMINATION REDUCTION

Activities to reduce negative feelings, attitudes, beliefs, perceptions, stereotypes and/or discrimination related to being diagnosed with a mental illness, having a mental illness, or to seeking mental health services and to increase acceptance, dignity, inclusion, and equity for individuals with mental illness, and members of their families.

### OUTREACH FOR INCREASING RECOGNITION OF EARLY SIGNS OF MENTAL ILLNESS

Engaging, encouraging, educating, and/or training, and learning from potential responders about ways to recognize and respond effectively to early signs of potentially severe and disabling mental illness.

### OPTIONAL - SUICIDE PREVENTION

Activities to prevent suicide as a consequence of mental illness.

Within each PEI program the following strategies should also be implemented: Access and Linkage, Improve Timely Access, and Reduce and Circumvent Stigma. The definitions of each strategy are outlined below:

### Access and Linkage

- Activities that engage and connect youth, adults, and seniors with severe mental illness, as early in the onset of the condition as practicable, to medically necessary care and treatment.

### Improve Timely Access

- Improve timely access to mental health services for underserved populations through accessibility, cultural and language appropriateness, transportation, family focus, hours available, and cost of services

### Reduce and Circumvent Stigma

- Reduce and circumvent stigma, including self-stigma, and discrimination related to being diagnosed with a mental illness, or seeking mental health services. Make services accessible, welcoming, and positive.

PEI Regulations, also include program and demographic data requirements that are to be reported to the MHSOAC through Annual and Triennial PEI Evaluation Reports.

The following pages outline the PEI Program and Demographic reporting requirements.

### PEI PROGRAM REQUIREMENTS

| PROGRAM TYPE                        | PROGRAM DEFINITION                                                                                                                                                                                                                                                                               | PROGRAM AND DATA COLLECTION REQUIREMENTS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
|-------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Prevention                          | A set of related activities to reduce risk factors for developing a potentially serious mental illness and to build protective factors.                                                                                                                                                          | <ul style="list-style-type: none"> <li>➤ Describe the target population- type of risk(s) and the criteria used for establishing/identifying those at risk</li> <li>➤ Measure the impact of one or more of the negative outcomes listed in the MHSA (suicide, incarcerations, school failure or dropout, unemployment, homelessness, and removal of children from their homes)</li> <li>➤ Demonstrate the use of an evidence-based or promising practice or a community or practice-based evidence standard*</li> <li>➤ Collect all PEI demographic variables</li> </ul>                                                                                                                                     |
| Early Intervention                  | Treatment and other services and interventions, including relapse prevention, to address and promote recovery and related functional outcomes for a mental illness early in its emergence, including the applicable negative outcomes that may result from untreated mental illness.             | <ul style="list-style-type: none"> <li>➤ Provide services that do not exceed 18 months</li> <li>➤ Program may include services to parents, caregivers, and other family members of the person with early onset of a mental illness.</li> <li>➤ Program may be combined with a Prevention program</li> <li>➤ Measure the impact of one or more of the negative outcomes listed in the MHSA (suicide, incarcerations, school failure or dropout, unemployment, homelessness, removal of children from their homes).</li> <li>➤ Demonstrate the use of an evidence-based or promising practice or a community or practice-based evidence standard*</li> <li>➤ Collect all PEI demographic variables</li> </ul> |
| Access and Linkage to Treatment     | Connecting children who are seriously emotionally disturbed, and adults and seniors with severe mental illness as early in the onset of these conditions as practicable, to medically necessary care and treatment, including but not limited to care provided by county mental health programs. | <ul style="list-style-type: none"> <li>➤ Collect # of unduplicated individuals served</li> <li>➤ Collect # of unduplicated referrals made to a Treatment program (and type of program)</li> <li>➤ Collect # of individuals who followed through (participated at least once in Treatment)</li> <li>➤ Measure average time between referral and engagement in services per each individual</li> <li>➤ Measure duration of untreated mental illness (interval between onset of symptoms and start of treatment) per each individual</li> <li>➤ Collect all PEI demographic variables</li> </ul>                                                                                                               |
| Stigma and Discrimination Reduction | Direct activities to reduce negative feelings, attitudes, beliefs, perceptions, stereotypes and/or discrimination related to being diagnosed with a mental illness,                                                                                                                              | <ul style="list-style-type: none"> <li>➤ Collect the number of individuals reached by activity (e.g., # who participated in each service or activity)</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |

| PROGRAM TYPE                                                         | PROGRAM DEFINITION                                                                                                                                                                                                        | PROGRAM AND DATA COLLECTION REQUIREMENTS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
|----------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                                      | having a mental illness, or to seeking mental health services and to increase acceptance, dignity, inclusion, and equity for individuals with mental illness, and members of their families.                              | <ul style="list-style-type: none"> <li>➤ Measure changes in attitude, knowledge, and/or behavioral related to seeking mental health services or related to mental illness</li> <li>➤ Collect all PEI demographic variables</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| Outreach for Increasing Recognition of Early Signs of Mental Illness | A process of engaging, encouraging, educating, and/or training, and learning from potential responders about ways to recognize and respond effectively to early signs of potentially severe and disabling mental illness. | <ul style="list-style-type: none"> <li>➤ May include reaching out to individuals with signs and symptoms of a mental illness, so they can recognize and respond to their own symptoms.</li> <li>➤ May be a stand-alone program, a strategy within a Prevention program, a strategy within an Early Intervention program, a strategy within another program funded by PEI funds, or a combination thereof.</li> <li>➤ Unduplicated # of individual potential responders</li> <li>➤ The types of potential responders engaged in each setting (e.g., nurses, principals, parents, etc.)</li> <li>➤ The # and kind of settings in which the potential responders were engaged</li> <li>➤ Measure impact to 1 or more of the negative outcomes listed in the Act (suicide, incarcerations, school failure or dropout, unemployment, homelessness, and removal of children from their homes)</li> <li>➤ Collect all demographic variables for all unduplicated individual potential responders</li> </ul> |
| <u>OPTIONAL</u><br>Suicide Prevention                                | Activities to prevent suicide as a consequence of mental illness.                                                                                                                                                         | <ul style="list-style-type: none"> <li>➤ Collect available #of individuals reached</li> <li>➤ Collect # of individuals reached by activity (ex. # trained, # who accessed website)</li> <li>➤ Select and use a validated method to measure changes in attitudes, knowledge and/or behavior regarding suicide related mental illness</li> <li>➤ Collect all PEI demographic variables for all individuals reached</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |

\* Evidence-based practice standard: Activities for which there is scientific evidence consistently showing improved mental health outcomes for the intended population, including, but not limited to, scientific peer-reviewed research using randomized clinical trials.

Promising practice standard: Programs and activities for which there is research showing positive outcomes, but the research does not meet the standards used to establish evidence-based practices and does not have enough research or replication to support generalizable positive public health outcomes.

Community and/or practice-based evidence standard: A set of practices that communities have used and determined to yield positive results by community consensus over time, which may or may not have been measured empirically. Takes a number of factors into consideration, including worldview, historical, and social contexts of a given population or community, which are culturally rooted.

## **PEI Demographic Reporting Requirements**

For the information reported under the various program categories, each program will need to report disaggregate numbers served, number of potential responders engaged, and number of referrals for treatment and other services by:

**(A) The following Age groups:**

- 0-15 (children/youth)
- 16-25 (transition age youth)
- 26-59 (adult)
- ages 60+ (older adults)
- Number of respondents who declined to answer the question

**(B) Race by the following categories:**

- American Indian or Alaska Native
- Asian
- Black or African American
- Native Hawaiian or other Pacific Islander
- White
- Other
- More than one race
- Number of respondents who declined to answer the question

**(C) Ethnicity by the following categories:**

**(i) Hispanic or Latino as follows**

- Caribbean
- Central American
- Mexican/Mexican-American/Chicano
- Puerto Rican
- South American
- Other
- Number of respondents who declined to answer the question

**(ii) Non-Hispanic or Non-Latino as follows**

- African
- Asian Indian/South Asian
- Cambodian
- Chinese
- Eastern European
- European
- Filipino
- Japanese
- Korean
- Middle Eastern
- Vietnamese
- Other
- Number of respondents who declined to answer the question
- More than one ethnicity



**(D) Primary language used listed by threshold languages for the individual county**

- English
- Spanish
- Number of respondents who declined to answer the question

**(E) Sexual orientation**

- Gay or Lesbian
- Heterosexual or Straight
- Bisexual
- Questioning or unsure of sexual orientation
- Queer
- Another sexual orientation
- Number of respondents who declined to answer the question

**(F) Disability**, defined as a physical or mental impairment or medical condition lasting at least six months that substantially limits a major life activity, which is not the result of a severe mental illness

- If Yes, report the number that apply in each domain of disability(ies)
  - Communication domain separately by each of the following:
    - difficulty seeing,
    - difficulty hearing, or having speech understood)
    - other, please specify
  - Mental domain not including a mental illness (including but not limited to a learning disability, developmental disability, dementia)
  - Physical/mobility domain
  - Chronic health condition (including but not limited to chronic pain)
  - Other (specify)
- No
- Number of respondents who declined to answer the question

**(G) Veteran Status,**

- Yes
- No
- Number of respondents who declined to answer the question

**(H) Gender**

- (i) Assigned sex at birth:
  - (a) Male
  - (b) Female
  - (c) Number of respondents who declined to answer the question
- (ii) Current gender identity:
  - (a) Male
  - (b) Female
  - (c) Transgender
  - (d) Genderqueer
  - (e) Questioning or unsure of gender identity
  - (f) Another gender identity
  - (g) Number of respondents who declined to answer the question

Effective July 2018 amended PEI regulations specified the following:

- For projects/programs serving children or youth younger than 18 years of age, the demographic information collected and reported should only be done so to the extent permissible by privacy laws.
- For projects/programs serving minors younger than 12 years of age, demographic information shall be collected and reported, except for sexual orientation, current gender identity, and veteran status.
- Information that cannot be obtained directly from the minor may be obtained from the minor's parent, legal guardian, or other authorized source.

### **CITY OF BERKELEY PEI PROGRAMS**

Since the release of the 2018 PEI Regulations, the City of Berkeley has regularly reviewed PEI programs to ensure they fit within the required program definitions. As a result, local PEI funded programs have been re-classified from the previous construct. Outlined below is a listing of the PEI program type, definition and the City of Berkeley programs that were funded during the timeframe of this report:

| <b>PEI Program Type</b>                                              | <b>Program Definition</b>                                                                                                                                                                                                                                                            | <b>City of Berkeley PEI Program(s)</b>                                                                                                                                                                                                                                                                               |
|----------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Prevention                                                           | A set of related activities to reduce risk factors for developing a potentially serious mental illness and to build protective factors.                                                                                                                                              | <ul style="list-style-type: none"> <li>• Mental Health Promotion Campaign</li> <li>• High School Prevention</li> <li>• DMIND</li> <li>• MEET</li> <li>• African American Success</li> </ul>                                                                                                                          |
| Early Intervention                                                   | Treatment and other services and interventions, including relapse prevention, to address and promote recovery and related functional outcomes for a mental illness early in its emergence, including the applicable negative outcomes that may result from untreated mental illness. | <ul style="list-style-type: none"> <li>• High School Prevention</li> <li>• Be A Star</li> <li>• DMIND</li> <li>• MEET</li> <li>• African American Success</li> <li>• Supportive Schools</li> <li>• Child &amp; Youth At Risk</li> <li>• Community Education and Supports</li> <li>• Specialized Care Unit</li> </ul> |
| Outreach for Increasing Recognition of Early Signs of Mental Illness | A process of engaging, encouraging, educating, and/or training, and learning from potential responders about ways to recognize and respond effectively to early signs of potentially severe and disabling mental illness.                                                            | <ul style="list-style-type: none"> <li>• Mental Health First Aid (non-MHSA funded program)</li> </ul>                                                                                                                                                                                                                |

|                                       |                                                                                                                                                                                                                                                                                                                                                                  |                                                                                                             |
|---------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------|
| Stigma and Discrimination             | Direct activities to reduce negative feelings, attitudes, beliefs, perceptions, stereotypes and/or discrimination related to being diagnosed with a mental illness, having a mental illness, or to seeking mental health services and to increase acceptance, dignity, inclusion, and equity for individuals with mental illness, and members of their families. | <ul style="list-style-type: none"> <li>• Social Inclusion</li> </ul>                                        |
| Access and Linkage to Treatment       | Connecting children who are seriously emotionally disturbed, and adults and seniors with severe mental illness as early in the onset of these conditions as practicable, to medically necessary care and treatment, including but not limited to care provided by county mental health programs.                                                                 | <ul style="list-style-type: none"> <li>• High School Prevention</li> <li>• Specialized Care Unit</li> </ul> |
| <u>OPTIONAL</u><br>Suicide Prevention | Activities to prevent suicide as a consequence of mental illness.                                                                                                                                                                                                                                                                                                | <ul style="list-style-type: none"> <li>• CalMHSA PEI Statewide Project</li> </ul>                           |

Beginning January 1, 2020, per Senate Bill (SB) 1004, Welfare and Institutions Code (WIC) 5840.7 (a) directed the Mental Health Oversight and Accountability Commission (MHSOAC) to establish priorities for the use of MHSA PEI funds. Section 5840.7 (d)(1) states that mental health jurisdictions shall, through their MHSA Three Year Program and Expenditure Plans and Annual Updates, focus use of their PEI funds on the Commission-established priorities or other priorities as determined through their respective, local stakeholder processes. If a mental health jurisdiction chooses to focus on priorities other than or in addition to those established by the Commission, “the plan shall include a description of why those programs are included and metrics by which the effectiveness of those programs is to be measured” (WIC Section 5840.7 (d)(1)).

Current MHSOAC priorities for the use of PEI funding are as follows:

- Childhood trauma prevention and early intervention to deal with the early origins of mental health needs;
- Early psychosis and mood disorder detection and intervention, and mood disorder and suicide prevention programming that occurs across the lifespan;
- Youth outreach and engagement strategies that target secondary school and transition age youth, with a priority on partnership with college mental health programs, and transition age youth not in college;
- Culturally competent and linguistically appropriate prevention and intervention, including community defined evidence practices (CDEPs);
- Strategies targeting the mental health needs of older adults;
- Early identification programming of mental health symptoms and disorders, including but not limited to, anxiety, depression, and psychosis.

In order to meet the requirements, each mental health jurisdiction is required to show in the PEI component of the Three-Year Plan or Annual Update the following:

- Which specific PEI priorities the mental health jurisdictions plan addresses, an estimate of the share of PEI funding allocated to each priority, and an explanation of how stakeholder input contributed to those allocations;
- If the mental health jurisdiction has determined to pursue alternative or additional priorities to those listed in Section 5840.7(a), how the determinations were made through its stakeholder process;
- For any alternative or additional priority identified by the mental health jurisdiction, what metric or metrics relating to assessment of the effectiveness of programs intended to address that priority the county will measure, collect, analyze, and report to the Commission, in order to support statewide learning.

. Many PEI projects meet multiple established priorities. Per PEI regulations, outlined below is a crosswalk of the City of Berkeley PEI Programs with the MHSOAC PEI Priorities for programs during the reporting timeframe:

| CITY OF BERKELEY<br>PEI PROGRAMS                                                                                                                                                                                                                          | PEI PRIORITIES                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <ul style="list-style-type: none"> <li>• Be A Star</li> <li>• Supportive Schools</li> <li>• Child &amp; Youth At Risk</li> </ul>                                                                                                                          | Childhood trauma prevention and early intervention to deal with the early origins of mental health needs.                                                                                                                                                                                                                                                                                                                                                                                                             |
| <ul style="list-style-type: none"> <li>• High School Youth Prevention Project</li> <li>• Mental Health Peer Mentor Program</li> <li>• Dynamic Mindfulness Program</li> <li>• Specialized Care Unit</li> <li>• African American Success Project</li> </ul> | <p>Youth Engagement and Outreach Strategies that target secondary school and transition age youth with a priority on partnership with college mental health programs, and transition age youth not in college.</p> <p>Early identification programming of mental health symptoms and disorders, including but not limited to, anxiety, depression, and psychosis.</p> <p>Culturally competent and linguistically appropriate prevention and intervention, including community defined evidence practices (CDEPs).</p> |
| <ul style="list-style-type: none"> <li>• Mental Health Promotion Campaign</li> <li>• Social Inclusion</li> <li>• Community Education &amp; Supports</li> </ul>                                                                                            | <p>Culturally competent and linguistically appropriate prevention and intervention; including community defined evidence practices (CDEPs).</p> <p>Youth Engagement and Outreach Strategies that target secondary school and transition age youth, with a priority on partnership with college mental health programs, and transition age youth not in college.</p> <p>Strategies targeting the mental health needs of older adults.</p>                                                                              |

This PEI FY22 Annual Evaluation Report documents program measures and demographic elements to the extent data was available. While, it may be a multi-year process before the City of Berkeley will be able to present a complete data set for each PEI Program on an Annual basis, ongoing efforts will continue towards accomplishing this goal.

### **PEI Funded Children and Youth and TAY Services**

Per MHSR regulations 51% of PEI funds are to be used on services and supports for Children, Youth, and Transition Age Youth (TAY). Small counties, of which the City of Berkeley is considered, may elect to forego this regulation as long as a community vetted, locally approved justification is provided as to why children and youth services are funded at a lower level. Since the initial PEI Plan, the City of Berkeley has allocated more than 51% of PEI funds to services and supports for children, youth and TAY as the majority of PEI funds has been utilized to serving these populations.

Currently, seven out of ten local PEI programs provide services for children and youth, 6 of which are in the Berkeley Unified School District (BUSD). Programs are as follows: Behavioral-Emotional Assessment, Screening, Treatment and Referral (BE A STAR); Supportive Schools Project; Mental Emotional Education Team (MEET); Dynamic Mindfulness (DMIND); African American Success Project; High School Youth Prevention Project, and the TAY Trauma Support Project.

Programs and services funded with PEI funds, and FY22 data are outlined below by PEI Program type.

## **PREVENTION PROGRAM**

Prevention Program - A set of related activities to reduce risk factors for developing a potentially serious mental illness and to build protective factors.

Through the FY22 Annual Update the City of Berkeley funded the following Prevention initiative:

### **Mental Health Promotion Campaign**



As a result of the impact of the pandemic, and public input around the overwhelming need for mental health supports in the community, the Division proposed through the FY22 Annual Update to allocate PEI funds for a community Mental Health Promotion Campaign to support the wellness and self-care of Berkeley residents. The Division will partner with the community and may consider using a social marketing firm to develop and implement the campaign.

**PEI Goals:** The goal of this campaign is to increase prevention efforts and response to early signs of emotional and behavioral health problems.

**PEI Priority:** Culturally competent and linguistically appropriate prevention and intervention; including community defined evidence practices (CDEPs).

It is envisioned that this campaign will get implemented in FY24 and the Division will continue to work with the community to determine how to best promote mental health and wellness in Berkeley.

## EARLY INTERVENTION AND PREVENTION & EARLY INTERVENTION COMBINED PROGRAMS



## EARLY INTERVENTION PROGRAMS

Early Intervention Program - Provides treatment and other services and interventions, including relapse prevention, to address and promote recovery and related functional outcomes for a mental illness early in its emergence, including the applicable negative outcomes that may result from untreated mental illness.

The City of Berkeley Early Intervention programs are as follows:

### **Behavioral-Emotional Assessment, Screening, Treatment, and Referral (BE A STAR)**

The Be A Star program is a collaboration with the City of Berkeley's Public Health Department providing a coordinated system in Berkeley that identifies children birth to age five and their parents, who are at risk of childhood development challenges including developmental, social, emotional, and/or behavioral concerns. The program specifically targets low income families, including those with teen parents, who are homeless, substance abusing, or in danger of foster care. Services include triage, assessment, treatment and referrals to appropriate community-based or specialist services as needed. Children and families are accessed through targeted efforts at the following: Black Infant Health; Vera Casey Teenage Parenting programs; Child Health and Disability Prevention programs, Pediatric providers, state-subsidized Early Childhood Development Centers; and area pre-schools and schools. The goals of the program are to identify, screen and assess families early, and connect them with services and supports as needed. The program uses the "Ages and Stages Questionnaires" (ASQ) screening tool to assess children in need. The ASQ consists of a series of 20 questionnaires that correspond to age intervals from birth to 6 years designed to help parents check their child's development. Each questionnaire contains simple questions for parents to answer that reflect developmental milestones for each age group. Answers are scored and help to determine whether the child's development is on schedule or whether the child should be referred for a developmental checkup with a professional. Over 400 children are assessed each year.

**PEI Goals:** The goal of this program is to bring about mental health, including the reduction of school failure and the removal of children from their homes.

**PEI Priority:** Childhood trauma prevention and early intervention to deal with the early origins of mental health needs.

In FY22, a total of 1,654 children were screened through this program (183 at BUSD, and 1,471 at the Help Me Grow sites) however data was not collected on all individuals screened. Only Race/Ethnicity data was collected on a subset the 183 children screened at BUSD as follows:

| <b>DEMOGRAPHICS N=183</b> |      |
|---------------------------|------|
| <b>Age Groups</b>         |      |
| 0-15 (Children/Youth)     | 100% |
| <b>Race</b>               |      |
| Asian                     | 19%  |
| Black or African American | 25%  |



|                                                            |      |
|------------------------------------------------------------|------|
| White                                                      | 20%  |
| More than one Race                                         | 8%   |
| Other                                                      | 4%   |
| <b>Ethnicity: Hispanic or Latino/Latina/Latinx</b>         |      |
| Mexican/Mexican-American/Chicano                           | 24%  |
| <b>Ethnicity: Non-Hispanic or Non-Latino/Latina/Latinx</b> |      |
| Declined to Answer (or Unknown)                            | 100% |
| <b>Primary Language</b>                                    |      |
| Declined to Answer (or Unknown)                            | 100% |
| <b>Disability</b>                                          |      |
| Declined to Answer (or Unknown)                            | 100% |
| <b>Gender: Assigned Sex at Birth</b>                       |      |
| Declined to Answer (or Unknown)                            | 100% |

Program Successes:

- On-site technical assistance visits to all Berkeley Help Me Grow providers resumed and the visits went well.
- The program conducted 1,654 ASQ developmental screenings in Berkeley.
- Berkeley Unified School District (BUSD) referred a total of 53 preschool students and the Help Me Grow providers referred 94 infants/children.
- Approximately 78% of all Help Me Grow referrals reached their goals.

Program Challenges:

- There continued to be an impact of the COVID-19 pandemic on program services which decreased the number of screenings that were conducted.
- Staffing changes/turnovers at the Berkeley Help Me Grow sites impacted the continuity of the partnership with the program.
- The Help Me Grow sites do not collect race/ethnicity, language spoken data, or gender; and BUSD does not collect specific ethnicity data, language spoken, or gender for all students who received an ASQ.
- There was a delay in getting the annual data for the Help Me Grow sites.

### **Community-Based Child & Youth At Risk Prevention**

Through FY22, the Community-Based Child & Youth Risk Prevention program targeted children (aged 0-5) who were impacted by multiple risk factors including trauma, family or community violence, familial distress, and/or family substance abuse, (among other issues). A BMH clinician served as the Mental Health Consultant on this project providing information, services and supports to teachers and parents at the YMCA Head Start program in South Berkeley. Services included individual case consultation for teachers and parents, group consultations, classroom observations and interventions, assessments, brief treatment, and referrals to other resources as needed. The main goals were to reduce risk factors or other stressors, and

promote positive cognitive, social, and emotional well-being. This program served approximately 50 Children & Youth a year.

**PEI Goals:** The goal of this program was to bring about mental health including the reduction of school failure and the removal of children from their homes.

**PEI Priority:** Childhood trauma prevention and early intervention to deal with the early origins of mental health needs.

This program was discontinued in April 2022 when the BMH Mental Health Consultant received a promotion to a different position. Once that position was vacated the YMCA Head Start program decided to create an internal staff position for a Mental Health Specialist.

In FY22, 41 children were served through this program. Demographics on those served is as follows:

| <b>DEMOGRAPHICS N=41</b>                                   |      |
|------------------------------------------------------------|------|
| <b>Age Groups</b>                                          |      |
| 0-15 (Children/Youth)                                      | 100% |
| <b>Race</b>                                                |      |
| Asian                                                      | 5%   |
| Black or African American                                  | 44%  |
| White                                                      | 2%   |
| Other                                                      | 12%  |
| More than one Race                                         | 2%   |
| <b>Ethnicity: Hispanic or Latino/Latina/Latinx</b>         |      |
| Declined to Answer or Unknown                              | 35%  |
| <b>Ethnicity: Non-Hispanic or Non-Latino/Latina/Latinx</b> |      |
| Declined to Answer (or Unknown)                            | 100% |
| <b>Primary Language</b>                                    |      |
| Declined to Answer (or Unknown)                            | 100% |
| <b>Disability</b>                                          |      |
| Declined to Answer (or Unknown)                            | 100% |
| <b>Gender: Assigned Sex at Birth</b>                       |      |
| Declined to Answer (or Unknown)                            | 100% |

Program Successes:

- Returned to in-person Mental Health Consultations in the summer of 2021 which enabled the provision of in-person classroom consultation and direct interventions with children and teachers; increased

visibility and interactions with parents; and helped to improve the overall collaborations with administrators, teachers, and parents.

- Participated in-person in meetings with parents, teachers and administrators to provide direct consultation around behavior management in the classroom and at home.
- Modeled parent engagement strategies for teachers, advocates and staff. Modeling how to have difficult conversations using a trauma-informed perspective is essential to mental health consultations.
- Provided in vivo conflict management among teachers and with parents as well as provided case management and support as conflicts occurred.
- Return to in-person care also enabled the Mental Health Consultant to be able to observe classrooms and child behaviors over a period of time at different times of the day which allowed for better overall clinical understanding of the children's behaviors and needs, and improved their ability to make recommendations for services and classroom interventions.

Program Challenges:

- The onsite manager at the YMCA resigned mid-year, which made collaborating with the teachers and classroom staff challenging.
- There were center and classroom closures due to flooding in the infant room.
- COVID-19 pandemic exposures continued to impact the center and caused temporary classroom closures that created disruptions to the continuity of care.

In FY23, this program was discontinued as the YMCA Head Start program created a staff position for an internal Mental Health Specialist.

### **Supportive Schools Program**

Through this program leveraged MHSA PEI funds support the provision of mental health prevention and early intervention services at each of the Elementary Schools in Berkeley. Services include: outreach; mental health programming; classroom; group; one-on-one psycho-social education and support; and consultation with parents and/or teachers.

**PEI Goals:** The goal of this program is to bring about mental health, including the reduction of school failure and the removal of children from their homes.

**PEI Priority:** Childhood trauma prevention and early intervention to deal with the early origins of mental health needs.

In FY22 Early Intervention Services were provided at each of the BUSD elementary schools. BUSD subcontracted with local agencies to provide early intervention services based upon the standard of evidence-based practices. Bay Area Community Resources (BACR), Child Therapy Institute (CTI), and Lifelong Medical (Lifelong) were subcontracted to provide services at BUSD elementary schools.

BACR provided services to improve emotional functioning and success in school and life, including individual and group therapy, family consultation, conflict resolution/restorative justice, suicide prevention, check-in/check-out, crisis intervention, and classroom presentations. Additionally, BACR participated in weekly Coordination of Services (COST), Student Success Team (SST), and Individualized Education Program (IEP) meetings for students, providing mental health and trauma informed perspectives. BACR consulted with staff on many issues and provided trauma informed coaching for teachers needing support. BACR also made referrals to outside providers, parenting classes/support groups, crisis hotlines, and other

programs. Due to the continuation of the impacts of the COVID-19 pandemic, BACR also provided resource networking and support for families in navigating the public health crisis.

Lifelong Medical Provided a Licensed Clinical Social Worker (LCSW) and interns who provided individual counseling to students, family counseling, and mental health consultation to caregivers and school staff. Full-class support was provided in several classrooms. The full class support was tailored to the needs of the teacher and class and consisted of community building, regulation strategies such as Zones of Regulation, and social emotional learning.

Supports for each school per each service provider, and numbers served in FY22 were as follows:

| Elementary School                                                                                                                                                                                                  | Agency/Provider                     | Number of Students Served |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------|---------------------------|
| <ul style="list-style-type: none"> <li>• Cragmont</li> <li>• Emerson</li> <li>• John Muir</li> <li>• Malcolm X</li> <li>• Oxford</li> <li>• Ruth Acty</li> <li>• Sylvia Mendez</li> <li>• Thousand Oaks</li> </ul> | Bay Area Community Resources (BACR) | 420                       |
| <ul style="list-style-type: none"> <li>• Bay Area Arts Magnet (BAM)</li> <li>• Washington</li> </ul>                                                                                                               | Child Therapy Institute             | 55                        |
| <ul style="list-style-type: none"> <li>• Rosa Parks</li> </ul>                                                                                                                                                     | Lifelong Medical Care               | 116                       |
| <b>Total</b>                                                                                                                                                                                                       |                                     | <b>591</b>                |

Demographic data provided by BUSD on 591 students that were served through this project in FY22, is outlined below:

| <b>DEMOGRAPHICS N= 591</b>       |      |
|----------------------------------|------|
| <b>Age Group</b>                 |      |
| 0-15 (Children/Youth)            | 100% |
| <b>Race</b>                      |      |
| American Indian or Alaska Native | 3%   |
| Asian                            | 6%   |
| Black or African American        | 25%  |
| Native Hawaiian/Pacific Islander | <1%  |
| White                            | 47%  |
| More than one Race               | 20%  |
| Declined to Answer (or Unknown)  | 1%   |

| <b>Ethnicity: Hispanic or Latino/Latina/Latinx</b>                                                                                          |      |
|---------------------------------------------------------------------------------------------------------------------------------------------|------|
| Unspecified Hispanic or Latino/Latina/Latinx                                                                                                | 34%  |
| South American                                                                                                                              | <1%  |
| Declined to Answer (or Unknown)                                                                                                             | 1%   |
| <b>Ethnicity: Non-Hispanic or Non- Latino/Latina/Latinx</b>                                                                                 |      |
| Black or African American                                                                                                                   | 15%  |
| Asian Indian/South Asian                                                                                                                    | <1%  |
| Chinese                                                                                                                                     | 1%   |
| Eastern European                                                                                                                            | 27%  |
| European                                                                                                                                    | 1%   |
| Filipino                                                                                                                                    | 1%   |
| Other                                                                                                                                       | 4%   |
| More than one Ethnicity                                                                                                                     | 8%   |
| Declined to Answer (or Unknown)                                                                                                             | 7%   |
| <b>Primary Language Used</b>                                                                                                                |      |
| English                                                                                                                                     | 25%  |
| Spanish                                                                                                                                     | 3%   |
| Declined to Answer (or Unknown)                                                                                                             | 72%  |
| <b>Sexual Orientation</b>                                                                                                                   |      |
| Declined to Answer (or Unknown)                                                                                                             | 100% |
| <b>Disability</b>                                                                                                                           |      |
| Communication Domain                                                                                                                        | <1%  |
| Mental domain not including a mental illness<br>(including but not limited to a learning disability,<br>developmental disability, dementia) | 5%   |
| Declined to Answer (or Unknown)                                                                                                             | 8%   |
| <b>Veteran Status</b>                                                                                                                       |      |
| No                                                                                                                                          | 100% |
| <b>Gender: Assigned sex at birth</b>                                                                                                        |      |
| Male                                                                                                                                        | 15%  |
| Female                                                                                                                                      | 14%  |

| Declined to Answer (or Unknown) | 71% |
|---------------------------------|-----|
| Current Gender Identity         |     |
| Male                            | 53% |
| Female                          | 44% |
| Transgender                     | <1% |
| Genderqueer                     | <1% |
| Other Gender Identity           | 2%  |

### Community Education & Supports Program

The Community Education & Supports program implements culturally-responsive psycho-educational trauma support services for individuals (18 and above) in various cultural, ethnic and age specific populations that are unserved, underserved and inappropriately served in Berkeley including: African Americans; Latino/a/x; LGBTQIA+; TAY; and Senior Citizens. All services are conducted through area community-based organizations.

In FY22 three of the five contractors in the Community Education & Supports project participated in the HHCS Results-Based Accountability (RBA) Evaluation. RBA evaluation results are presented in an aggregated format across all programs as follows:

| How Much Did We Do?                                                                                                                                                                                                                                                                                | How Well Did We Do It?                                                                                                                                                                                                                                                                                                                          | Is Anyone Better Off?                                                                                                                                                                                                                                                                              |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <ul style="list-style-type: none"> <li>• 527 Support Groups/Workshops</li> <li>• 2,427 Support Groups/Workshop Encounters</li> <li>• 121 Individual Contacts (2 of 3 programs reporting)</li> <li>• 132 Outreach Activities</li> <li>• 1,815 Outreach Contacts</li> <li>• 443 Referrals</li> </ul> | <ul style="list-style-type: none"> <li>• 94% of program respondents reported satisfaction with the services they received</li> <li>• Referrals by type: <ul style="list-style-type: none"> <li>135 Mental Health</li> <li>55 Social Services</li> <li>72 Physical Health</li> <li>20 Housing</li> <li>161 Other Services</li> </ul> </li> </ul> | <ul style="list-style-type: none"> <li>• 90% of program participants reported an increase in social supports or trusted people they can turn to for help</li> <li>• 92% of program participants reported positive changes in terms of coping strategies, feeling anxious or overwhelmed</li> </ul> |

Descriptions for each project within the Community Education & Supports program and FY22 data are outlined below:

#### ➤ Transition Age Youth Trauma Support Project

In FY22 this project was implemented through Youth Spirit Artworks. This project provides supportive services for Transition Age Youth (TAY) who are suffering from the impact of trauma and/or other life stressors and are homeless, marginally housed, or housed but in need of supports. The project serves a wide range of youth from various cultural and ethnic backgrounds who share the common goal of living lives less impacted by trauma and more impacted by wellness. The project consists of the following four components: One-on-one sessions that assess individuals needs around trauma supports and support group readiness; psycho-educational support groups; youth social outings that provide TAY with exposure to healthy settings

designed to enhance life skills and choices; and youth celebratory events that are held monthly to convene youth around a positive occasion to acknowledge the various small and large accomplishments of TAY participants, and build trust and community. Approximately 30-35 TAY receive services through this project a year.

**PEI Goals:** The goal of this project is to address and promote recovery and related functional outcomes for a mental illness early in its emergence, including the prevention of suicide.

**PEI Priorities:**

- Culturally competent and linguistically appropriate prevention and intervention; including community defined evidence practices (CDEPs).
- Youth engagement and outreach strategies that target secondary school and transition age youth, with a priority on partnership with college mental health programs, and transition age youth not in college.

In FY22, 105 TAY participated in one or more program services. Demographics on youth served were as follows:

| <b>DEMOGRAPHICS N = 105</b>                                |      |
|------------------------------------------------------------|------|
| <b>Age Group</b>                                           |      |
| 16-25 (Transition Age Youth)                               | 99%  |
| 26-59 (Adults)                                             | 1%   |
| <b>Race</b>                                                |      |
| American Indian or Alaska Native                           | 1%   |
| Asian                                                      | 4%   |
| Black or African American                                  | 12%  |
| White                                                      | 2%   |
| More than one Race                                         | 8%   |
| Declined to Answer (or Unknown)                            | 47%  |
| <b>Ethnicity: Latino/Latina/Latinx</b>                     |      |
| Other                                                      | 12%  |
| Declined to Answer (or Unknown)                            | 13%  |
| <b>Ethnicity: Non-Hispanic or Non-Latino/Latina/Latinx</b> |      |
| Declined to Answer (or Unknown)                            | 74%  |
| <b>Primary Language Used</b>                               |      |
| Declined to Answer (or Unknown)                            | 100% |

| <b>Sexual Orientation</b>            |      |
|--------------------------------------|------|
| Gay or Lesbian                       | 13%  |
| Heterosexual or Straight             | 22%  |
| Declined to Answer (or Unknown)      | 65%  |
| <b>Disability Status</b>             |      |
| Declined to Answer (or Unknown)      | 100% |
| <b>Veteran Status</b>                |      |
| No                                   | 100% |
| <b>Gender: Assigned sex at birth</b> |      |
| Declined to Answer (or Unknown)      | 100% |
| <b>Current Gender Identity</b>       |      |
| Male                                 | 23%  |
| Female                               | 11%  |
| Genderqueer                          | 7%   |
| Declined to Answer (or Unknown)      | 59%  |

Project Successes:

- Improved and integrated Art as Therapy content, and ironed out logistics.
- Successfully engaged increasing numbers of youth into Art as Therapy and Peer Mentoring over the reporting timeframe. Art as Therapy sessions consisted of activities that both teach art and provided a forum for sharing challenges common to TAY.
- Conducted outreach to 59 youth, made numerous contacts to other providers and organizations, and conducted events to publicize project services.
- Although, the program was not able to consistently conduct youth surveys, per staff report, youth indicated that services were helpful. Increased attendance was also an indication that Art as Therapy and Peer Mentoring sessions were valuable to the youth participants.
- Despite challenges with engagement, project outreach efforts resulted in 21 TAY trying out the Behavioral Health support groups. This progress was disrupted by staff turnover, and attendance dropped off towards the end of the year.
- The project engaged 29 new TAY into Peer Mentoring training this year. Meetings were held on a weekly basis at the Tiny House Village (THEV) serving the residents there, as well as other youth in the community. Transportation was provided for youth at the studio so they could easily.
- Many of the youth were pursuing education in the social services field or they wanted to explore this opportunity to see if they wanted to be in the field. The youth received training on healthy communication, coping with crisis and de-escalation, giving constructive feedback, health insurance and other topics. Youth were encouraged and supported to share and teach topics they found interesting to their peers.



- Six events were planned and conducted with 55 total youth in attendance. Youth expressed that they enjoyed and valued these events and would attend more if offered.

#### Project Challenges:

- Project challenges were compounded by the agency's rapid growth over the past two years, staff turnover, and lagging recruitment for the management function needed to operationalize the expansion, develop infrastructure, and implement better systems to gather client data and track outcomes.
- Engaging youth in services was challenging due to continued concerns and fears about the COVID-19 pandemic, and staff turnover, and the process of nearly doubling the services offered by this contractor during the COVID-19 pandemic.
- The holiday season seemed to impact responsiveness from the school district as school staff prepared for the end of the semester and district closures during the holidays. During this time, Omicron also became a serious threat and schools were again overwhelmed with new and changing restrictions. These factors caused significant barriers to having a consistent presence at the schools, along with delays in communication regarding the project implementation efforts and coordinating outreach and logistics for groups and events.
- The project social worker engaged both staff and students at Berkeley High School (BHS) and Berkeley Technical Academy (BTA), attended weekly staff meetings at BTA, conducted outreach to students on both campuses, and presented about PEI activities in classes at different times throughout the year, although consistency was difficult to achieve during the COVID-19 pandemic and holiday season. Despite these efforts, students were not readily engaged and attendance was inconsistent. Reports were that staff seemed to be ambivalent about new initiatives. Feedback from two students indicated that they (and their friends) didn't want mental health type services and that they didn't want to attend groups during their free period when they have a break from classes.
- By the beginning of March 2022 many of the existing program participants obtained full time jobs and could no longer commit to the project activities.

#### ➤ **Trauma Support Project for LGBTQIA+ Population**

Implemented through the Pacific Center for Human Growth, this project provides outreach, engagement and support group services for individuals (18 and above) in the LGBTQIA+ community who are suffering from the impact of oppression, trauma and other life stressors. Particular emphasis is on outreaching and providing supportive services to identified underserved populations within the local LGBTQIA+ community. Approximately 12-15 weekly or bi-weekly support groups are held throughout the year targeting various populations and needs within the LBGTQIA+ community. Support groups are led by Peer Facilitator community volunteers who are trained in Group Facilitation/Conflict Resolution and who have opportunities to participate in additional Skill Building workshops in order to share methods used to address group challenges and to learn new facilitator techniques. Approximately 250 individuals a year are served through this project.

**PEI Goals:** The goal of this project is to address and promote recovery and related functional outcomes for a mental illness early in its emergence, including the prevention of suicide.

#### **PEI Priorities:**

- Culturally competent and linguistically appropriate prevention and intervention; including community defined evidence practices (CDEPs).

- Youth Engagement and Outreach Strategies that target secondary school and transition age youth, with a priority on partnership with college mental health programs, and transition age youth not in college.
- Strategies targeting the mental health needs of older adults.

In FY22, a total of 439 support groups were conducted, serving 45 individuals. \*Demographics on individuals served include the following:

| <b>DEMOGRAPHICS N=45</b>                                   |     |
|------------------------------------------------------------|-----|
| <b>Age Groups</b>                                          |     |
| 16-25 (Transitional Age Youth)                             | 29% |
| 26-59 (Adult)                                              | 62% |
| Ages 60+ (Older Adult)                                     | 2%  |
| Declined to Answer (or Unknown)                            | 7%  |
| <b>Race</b>                                                |     |
| Asian                                                      | 16% |
| Black or African American                                  | 11% |
| White                                                      | 42% |
| More than one Race                                         | 13% |
| Declined to Answer (or Unknown)                            | 18% |
| <b>Ethnicity: Hispanic or Latino/Latina/Latinx</b>         |     |
| Caribbean                                                  | 2%  |
| Central American                                           | 2%  |
| Puerto Rican                                               | 2%  |
| South American                                             | 2%  |
| Declined to Answer (or Unknown)                            | 2%  |
| <b>Ethnicity: Non-Hispanic or Non-Latino/Latina/Latinx</b> |     |
| African                                                    | 4%  |
| Asian Indian/South Asian                                   | 7%  |

|                                            |     |
|--------------------------------------------|-----|
| Chinese                                    | 2%  |
| Eastern European                           | 2%  |
| European                                   | 22% |
| Filipino                                   | 2%  |
| Korean                                     | 4%  |
| Middle Eastern                             | 2%  |
| More than one Ethnicity                    | 20% |
| Declined to Answer (or Unknown)            | 24% |
| <b>Primary Language Used</b>               |     |
| English                                    | 98% |
| Declined to Answer (or Unknown)            | 2%  |
| <b>Sexual Orientation</b>                  |     |
| Gay or Lesbian                             | 9%  |
| Heterosexual or Straight                   | 7%  |
| Bisexual                                   | 18% |
| Questioning or Unsure                      | 9%  |
| Queer                                      | 22% |
| Another Sexual Orientation                 | 24% |
| Declined to Answer (or Unknown)            | 11% |
| <b>Disability</b>                          |     |
| Difficulty Seeing                          | 2%  |
| Mental (not Mental Health)                 | 9%  |
| Chronic Health Condition                   | 4%  |
| Other (Specify) – More than one disability | 7%  |
| No Disability                              | 78% |

| <b>Veteran Status</b>                |      |
|--------------------------------------|------|
| No                                   | 98%  |
| Declined to Answer (or Unknown)      | 2%   |
| <b>Gender: Assigned Sex at Birth</b> |      |
| Declined to Answer (or Unknown)      | 100% |
| <b>Current Gender Identity</b>       |      |
| Male                                 | 4%   |
| Female                               | 13%  |
| Transgender                          | 31%  |
| Genderqueer                          | 11%  |
| Questioning or Unsure                | 4%   |
| Another gender identity              | 29%  |
| Declined to Answer (or Unknown)      | 7%   |

\*(From Project staff report, the state PEI demographic data requirements requires the inclusion of percentages, therefore they had to code folx – used to explicitly signal the inclusion of groups commonly marginalized - with any multiple identities, into some form of a "multiple identity" category or "other" category. For example, in the ethnicity section when folx selected multiple ethnicities, it was reported as "More than one ethnicity." While this strategy generally works well to reduce confusion by ensuring legible percentages, this manner of reporting is reductive and doesn't allow for the full picture of the data. For instance, someone who identified as both Native and white is only being reported as "multiple races" and therefore, the category for Native participants is blank. This caused it to appear as though there weren't any Native participants in the project, when there were. The demographic reporting structure required simply does not allow for the level of detail and nuance needed to have a fuller picture of the project data).

There were 76 referrals for additional services and supports. The number and type of referrals was as follows: 24 Mental Health; 27 Physical Health; 2 Social Services; 23 other unspecified services. To assess the project services, a self-administered Peer Support Group Survey was distributed to all peer group members. Survey results were as follows:

- 81% indicated they would recommend the organization to a friend or family member;
- 77% felt like staff and facilitators were sensitive to their cultural background;
- 77% reported they deal more effectively with daily problems;
- 70% indicated they have trusted people they can turn to for help;
- 79% felt like they belong in their community.

Program Successes:

- The impact of the COVID-19 pandemic continued to be felt throughout the LGBTQIA+ community. The project continued providing peer groups online, providing spaces for the community members to gather; to receive and provide emotional support, feel a sense of belonging and connection; and to share resources.
- Some folx were not able to move to the online space due to privacy concerns, other safety issues, lack of devices, or unstable Wi-Fi. Despite that, the peer group facilitators reported that many of their group members expressed appreciation for the access to the virtual space during a time of increased isolation, especially those with chronic pain, disability, transportation or other barriers to in-person services.
- Community members also asked about the possibilities of additional new groups in FY23 including: Q-Finity for neurodiverse folx; a group focusing on the needs of the QT polyamorous community; a parent's group; as well as a restarting of the Thursday Night Men's group. New peer group facilitators were scheduled to be onboarded in Aug 2022.
- Opportunities for project outreach increased dramatically through the website, and through the Meetup, Instagram and Facebook accounts.
- A few quotes from feedback forms on the support group were as follows:  
 "I love the sense of community and support I feel in the group."  
 "Thank You for holding the space."  
 "I found the group understanding and supportive and [it] makes me feel I am not alone on an island, as others have [the] same circumstances."

Program Challenges:

- With more online offerings, the facilitators had additional work to do. For example, checking their email frequently, coping with technology issues, navigating facilitation while some group members and even facilitators joined via phones. These challenges were used as an opportunity to evaluate how to support facilitators as the project migrates to an in-person/hybrid, model and how facilitators can be set up to easily navigate the technological needs.
- While COVID-19 pandemic protocols were developed the project space was in transition since it was purchased by a development corporation and that hindered the ability to fully return to all in-person services.
- The contractor that implements this project experienced big leadership changes in the Executive Director, Clinical Director, Finance Director and Community Programs Director positions. These shifts impacted staff capacity and resulted in some schedule changes until the vacancies were able to be filled.
- The project will be examining ways to broaden and deepen community engagement, especially to community members who live at intersections of disabled, trans, and Black, Indigenous, and People Of Color (BIPOC) communities. An outreach committee was assembled to better track and prioritize engagement with more of a systematic approach.
- Although there was a decrease in numbers on the demographic sheets gathered on the peer group members and therefore, a lower number of group members reported, the number of duplicated participants was 2,118 in FY22, which indicated that despite lower unduplicated participants, individuals who joined groups returned regularly to meetings.
- Project staff will continue to evaluate issues of attrition and Zoom fatigue while exploring in-person and hybrid models of meeting, as well as ways to improve completion and submission of the demographic forms and surveys by peer group members.



### ➤ Living Well Project

Implemented through Center for Independent Living, this project provides services for Senior Citizens (aged 50 and over) who are coping with trauma and/or mental health issues associated with acquired disabilities. Senior Citizens with acquired disabilities are one of the most difficult groups to reach with disability services. It is similarly difficult to intervene with this group's developing mental health issues related to aging and the traumatic impact of acquiring one or more disabilities (such as loss of mobility, vision, hearing, et al). The core of the project is a wellness workshop series entitled "Living Well with a Disability". Through a combination of education, goal setting, group and peer counseling, the workshop series is designed to promote positive attitudinal shifts in a population who, despite the tremendous need for care, are often typically not responsive to mental health intervention. The workshop series includes a 10 week, one to two-hour class conducted by Peer Facilitators, and an optional 30-minute counseling session. Counseling sessions are designed to monitor curriculum impact and continually assess individual goals and resource needs. This project serves up to 150 Older Adults a year.

**PEI Goals:** The goal of this project is to address and promote recovery and related functional outcomes for a mental illness early in its emergence, including the prevention of suicide.

#### **PEI Priorities:**

- Culturally competent and linguistically appropriate prevention and intervention; including community defined evidence practices (CDEPs).
- Strategies targeting the mental health needs of older adults.

In FY22, 47 Living Well Workshop sessions were conducted. Each Living Well Workshop series included the following sessions: Orientation; Goal Setting; Problem Solving; Healthy Reactions; Beating the Blues (Depression and Moods); Healthy Communication; Seeking Information; Physical Activity; Eating Well (Nutrition); Advocacy (Self and Systems Change); and Maintenance. Topics of Grief and Loss, Depression, Retirement, and Senior Invisibility were also incorporated into the project. In all, 14 Senior Citizens participated in the Living Well Workshops. Demographics of Workshop participants are outlined below:

| <b>DEMOGRAPHICS N=14</b>                                   |      |
|------------------------------------------------------------|------|
| <b>Age Groups</b>                                          |      |
| 26-59 (Adult)                                              | 7%   |
| Age 60+ (Older Adult)                                      | 93%  |
| <b>Race</b>                                                |      |
| Asian                                                      | 7%   |
| Black or African American                                  | 14%  |
| White                                                      | 65%  |
| Other                                                      | 7%   |
| More than one race                                         | 7%   |
| <b>Ethnicity: Hispanic or Latino/Latina/Latinx</b>         |      |
| Other                                                      | 7%   |
| Declined to Answer (or Unknown)                            | 7%   |
| <b>Ethnicity: Non-Hispanic or Non-Latino/Latina/Latinx</b> |      |
| European                                                   | 14%  |
| Other                                                      | 7%   |
| Declined to Answer (or Unknown)                            | 65%  |
| <b>Primary Language Used</b>                               |      |
| English                                                    | 100% |
| <b>Sexual Orientation</b>                                  |      |
| Heterosexual or Straight                                   | 7%   |
| Questioning or Unsure                                      | 7%   |
| Declined to Answer (or Unknown)                            | 86%  |
| <b>Disability</b>                                          |      |
| Difficulty Seeing                                          | 7%   |
| Difficulty Hearing or Having Speech Understood             | 7%   |
| Mental (not mental health)                                 | 21%  |
| Physical/mobility disability                               | 14%  |
| Chronic health condition                                   | 7%   |
| Other Disability                                           | 29%  |

|                                      |      |
|--------------------------------------|------|
| No Disability                        | 7%   |
| Declined to Answer (or Unknown)      | 8%   |
| <b>Veteran Status</b>                |      |
| No                                   | 100% |
| <b>Gender: Assigned Sex at birth</b> |      |
| Male                                 | 21%  |
| Female                               | 79%  |
| <b>Current Gender Identity</b>       |      |
| Male                                 | 21%  |
| Female                               | 79%  |

During the reporting timeframe 14 outreach and informational events were conducted reaching 38 individuals, with 45 unduplicated individuals receiving further engagement services. There were 257 referrals for additional services and supports. The number and type of referrals were as follows: 80 Mental Health; 35 Physical Health; 20 Social Services; 20 Housing; 102 other unspecified services. A total of 100% of project participants completed a Living Well Workshop Series. Feedback per participant self-report was as follows:

- 100% reported they felt satisfied with the workshops;
- 100% indicated an improvement in feeling satisfied in general;
- 100% had increased feelings of social supports;
- 100% felt prepared to make positive changes; and
- 100% reported they felt less overwhelmed and helpless.

#### Project Successes:

The workshops were well attended with lively engagement. The workshops provided a safe space where some of the participants were able to share painful testimonies of isolation, sadness and fear and others of loneliness. Many missed their families, their grandchildren, and friends. To help participants stay connected 96 tele-support group sessions were held. Living Well Program virtual/tele-workshops were offered every Monday and tele-support groups every Tuesday. In December and May laptops and technical training were provided to previous participants and individuals who completed The Living Well Workshop Series.

#### Project Challenges:

Some participants had to travel out of state to support adult children with life-threatening illnesses and two struggled with potentially life-threatening diagnoses themselves. There was a lot of uncertainty revolving around the COVID-19 pandemic. Many participants had difficulties connecting with others due to the technological gap. The Workshop Series facilitator also had to learn systems that had not been used before.

#### ➤ **SoulSpace Project**

In FY22, following a competitive Request For Proposal (RFP) process, ONTRACK Program Resources began implementing the SoulSpace Project for African Americans in Berkeley. The project assists African Americans in Berkeley to access culturally, ethnically, and linguistically responsive and trauma-informed prevention and early intervention services. Project services include: community education; outreach and



engagement; individual quality of life assessments; coaching; empowerment planning; referrals; navigation supports; support groups; and life skills training.

**PEI Goals:** The goal of this project is to address and promote recovery and related functional outcomes for a mental illness early in its emergence, including the prevention of suicide.

**PEI Priorities:**

- Culturally competent and linguistically appropriate prevention and intervention; including community defined evidence practices (CDEPs).
- Youth Engagement and Outreach Strategies that target secondary school and transition age, with a priority on partnership with college mental health programs, and transition age youth not in college.
- Strategies targeting the mental health needs of older adults.

This project began operating in the last month of the 2<sup>nd</sup> Quarter of FY22. During that timeframe ONTRACK served 16 individuals in intensive case management, including a total of 45 empowerment activities, and support groups. Demographics on individuals served through this project were as follows:

| <b>DEMOGRAPHICS N=16</b>                                   |      |
|------------------------------------------------------------|------|
| <b>Age Groups</b>                                          |      |
| Transition Age Youth (16-25)                               | 19%  |
| Adults (26-59)                                             | 62%  |
| Older Adults (60+)                                         | 19%  |
| <b>Race</b>                                                |      |
| Black or African American                                  | 100% |
| <b>Ethnicity: Non-Hispanic or Non-Latino/Latina/Latinx</b> |      |
| Other                                                      | 100% |
| <b>Primary Language</b>                                    |      |
| English                                                    | 100% |
| <b>Sexual Orientation</b>                                  |      |
| Heterosexual or Straight                                   | 94%  |
| Another sexual orientation                                 | 6%   |
| <b>Disability</b>                                          |      |
| Mental (not mental health)                                 | 6%   |
| Physical/Mobility Disability                               | 6%   |
| No Disability                                              | 88%  |
| <b>Veteran Status</b>                                      |      |
| No                                                         | 100% |

| <b>Gender: Assigned Sex at Birth</b> |     |
|--------------------------------------|-----|
| Male                                 | 56% |
| Female                               | 44% |
| <b>Current Gender Identity</b>       |     |
| Male                                 | 56% |
| Female                               | 44% |

#### Project Successes:

Despite a program starting date of December, 1, 2021, ONTRACK launched the SoulSpace project and accomplished the following during the reporting timeframe:

- Hired two staff who have deep familiarity with Berkeley.
- Secured a work space.
- Built out the case management platform, Apricot by Social Solutions, to match the system used by Berkeley—City Data Services.
- Conducted outreach and began implementing services.
- In order to quickly gain a foot in Berkeley’s mental health provider network, the contractor established several partnerships with longstanding organizations in the city of Berkeley including:
  - A partnership with Options for Recovery which included their co-hosting an in-person public education event with Roland Williams, an expert in co-existing substance use and mental health concerns among African Americans. The contractor also provided one-to-one empowerment services for some of their dually-diagnosed clients as well as members of their staff working through the compassion fatigue that often accompanies work with this population.
  - Through a partnership with Building Opportunities for Self-Sufficiency (BOSS), the contractor conducted onsite—and off-site-one-to-one and group empowerment services to their otherwise unsheltered population of African Americans.
- Conducted two well-reviewed community education events. Dr. La Tanya Takla conducted a 2-part series on trauma informed care to African Americans, and Roland Williams conducted an in-person workshop at the Veterans Memorial Building.

#### Project Challenges:

- The contractor experienced a number of challenges during the program period, several of which have been rectified since the ending of the June 30, 2022 MHSA reporting period. The truncated MHSA 2021-2022 service period was short due to a contract execution date of December 1, 2021, and a delay in final contracting processes.
- Outreach efforts to community members was restricted due to the COVID-19 pandemic, which meant greater reliance on social media and outreach to other community organizations who were seeking to adapt to their own challenges.
- The initial location of the Soul Space office in West Berkeley was less accessible to community members than the current location in North Berkeley on Adeline Street.

### ➤ **Latinx Trauma Support Project**

In FY22, following a competitive Request For Proposal (RFP) process, East Bay Sanctuary Covenant began implementing the Latinx Trauma Support Project. This project assists low-income, Latinx families in Berkeley to access culturally, ethnically, and linguistically responsive and trauma-informed prevention and intervention services. Project services are in direct response to, and in collaboration with, Latinx community members, and are largely facilitated by individuals from within the targeted community and are conducted in Spanish or an indigenous language. Services include: One-on-one outreach and support; support groups; staff and partner training and warm referrals.

**PEI Goals:** The goal of this project is to address and promote recovery and related functional outcomes for a mental illness early in its emergence, including the prevention of suicide.

#### **PEI Priorities:**

- Culturally competent and linguistically appropriate prevention and intervention; including community defined evidence practices (CDEPs).
- Youth Engagement and Outreach Strategies that target secondary school and transition age youth, with a priority on partnership with college mental health programs, and transition age youth not in college.
- Strategies targeting the mental health needs of older adults.

In FY22, this project began implementing services. Over the course of the year a total of 224 individuals were served. Demographics on individuals served through this project were as follows:

| <b>DEMOGRAPHICS N=224</b>        |     |
|----------------------------------|-----|
| <b>Age Groups</b>                |     |
| Children and Youth (0-15)        | 2%  |
| Transition Age Youth (16-25)     | 13% |
| Adults (26-59)                   | 82% |
| Older Adults (60+)               | 1%  |
| Declined to Answer (or Unknown)  | 2%  |
| <b>Race</b>                      |     |
| American Indian or Alaska Native | 10% |
| Asian                            | 1%  |
| Black or African American        | <1% |
| White                            | 2%  |
| Other                            | 85% |
| Declined to Answer (or Unknown)  | 2%  |

| <b>Ethnicity: Hispanic or Latino/Latina/Latinx</b>     |     |
|--------------------------------------------------------|-----|
| Central American                                       | 45% |
| Mexican/Mexican-American/Chicano                       | 29% |
| South American                                         | 8%  |
| Other                                                  | 8%  |
| Declined to Answer (or Unknown)                        | 7%  |
| <b>Ethnicity: Non-Hispanic or Latino/Latina/Latinx</b> |     |
| African                                                | <1% |
| Asian Indian/South Asian                               | 1%  |
| Chinese                                                | <1% |
| Eastern European                                       | <1% |
| Middle Eastern                                         | <1% |
| Other                                                  | <1% |
| <b>Primary Language</b>                                |     |
| English                                                | 3%  |
| Spanish                                                | 83% |
| Declined to Answer (or Unknown)                        | 14% |
| <b>Sexual Orientation</b>                              |     |
| Gay or Lesbian                                         | 28% |
| Heterosexual or Straight                               | 43% |
| Questioning or unsure of sexual orientation            | 1%  |
| Queer                                                  | 1%  |
| Another sexual orientation                             | 2%  |
| Declined to Answer (or Unknown)                        | 25% |
| <b>Disability</b>                                      |     |
| Difficulty Seeing                                      | <1% |
| Other                                                  | 1%  |
| No Disability                                          | 95% |
| Declined to Answer (or Unknown)                        | 4%  |

| <b>Veteran Status</b>                |     |
|--------------------------------------|-----|
| No                                   | 91% |
| Declined to Answer (or Unknown)      | 9%  |
| <b>Gender: Assigned Sex at Birth</b> |     |
| Male                                 | 49% |
| Female                               | 50% |
| Declined to Answer (or Unknown)      | 2%  |
| <b>Current Gender Identity</b>       |     |
| Male                                 | 46% |
| Female                               | 50% |
| Transgender                          | 1%  |
| Genderqueer                          | 1%  |
| Declined to Answer (or Unknown)      | 2%  |

During the reporting timeframe 41 Support Group sessions were conducted reaching 26 individuals, and 76 individuals received One-on-One Supports. A total of 49 Trainings were conducted, reaching 78 individuals. There were 110 warm referrals for additional services and supports. The number and type of referrals were as follows: 31 Mental Health; 10 Physical Health; 33 Social Services; 36 other unspecified services.

Support Group feedback per participant self-report was as follows:

- 100% reported they liked participating in the Support Group;
- 100% indicated they would recommend the organization to a friend or family member;
- 100% indicated they felt safe, included and respected;
- 100% reported that they were able to deal more effectively with daily problems;
- 100% reported increased feelings of supports after participating in the support group.

Training feedback per participant self-report was as follows:

- 98% of participants indicated that they were satisfied with the training;
- 100% of participants indicated that the information in the training was informative;
- 100% of participants indicated that the training would help them in their work.

#### Project Successes:

- In the first fiscal year of this contract, an effective and efficient support services project was built to better serve members of the Latinx community through a holistic trauma-informed approach.
- Having a dedicated staff allowed the project to connect more deeply with Latinx community members, offering early intervention and prevention education, one-on-one supports, warm referrals to a wide range of social and mental health services, and two support groups (one for LGBTQ Latinx asylum seekers and one for Indigenous Maya Mam women).
- The project trained a total of seventy-eight staff and employees of partner agencies in the trauma-informed approach. These trainings were designed after the Program Manager interviewed key

stakeholders within the organization about their understanding of trauma and what training needs they saw for improving our services. Externally, customized trainings for partners working in healthcare, education, and social services were also provided.

- The Support Services Manager strengthened partnerships with community agencies around a range of services that clients desperately needed, including health care, public benefits, services for survivors of domestic violence, housing, and many other needs.
- A sophisticated comprehensive system for identifying the resources available to community members and tracking referrals after initial contact using the Airtable platform, was created and utilized.

Project Challenges:

An early challenge was that the project was not able to hire a Support Services Program Manager until two months after the grant began, however despite this delay, project goals were still met.

## **PREVENTION & EARLY INTERVENTION COMBINED PROGRAMS**

Prevention Program – Includes a set of related activities to reduce risk factors for developing a potentially serious mental illness and to build protective factors.

Early Intervention Program – Provides treatment and other services and interventions, including relapse prevention, to address and promote recovery and related functional outcomes for a mental illness early in its emergence, including the applicable negative outcomes that may result from untreated mental illness.

The City of Berkeley Prevention & Early Intervention combined programs are as follows:

### **Mental Health Peer Education Program**

The Mental and Emotional Education Team (MEET) program implements a peer-to-peer mental health education curriculum to 9<sup>th</sup> graders and an internship program for a cohort of high school students to serve as peers to their fellow students. The goals of the program are to increase student awareness of common mental health difficulties, resources, and healthy coping and intervention skills. Through this program, students are trained by a licensed BUSD clinician to conduct class presentations covering common mental health disorders, on and off campus resources, and basic coping and intervention skills.

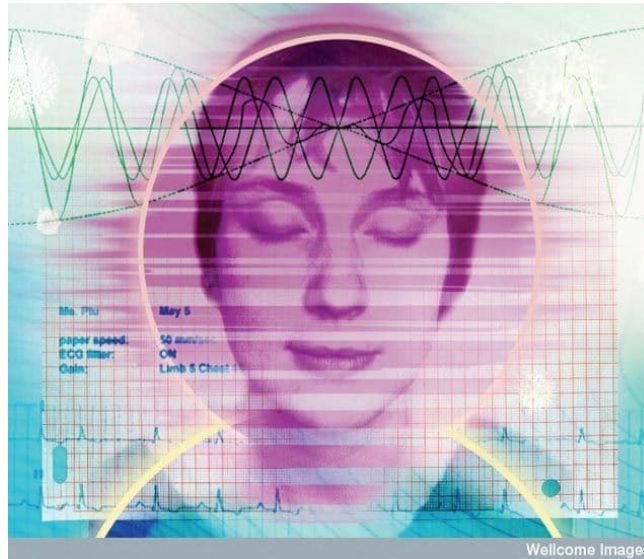
**PEI Goals:** The goal of this program is to bring about mental health, including the reduction of school failure and the removal of children from their homes.

**PEI Priorities:**

- Youth Engagement and Outreach Strategies that target secondary school and transition age youth, with a priority on partnership with college mental health programs, and transition age youth not in college.
- Early identification programming of mental health symptoms and disorders, including but not limited to, anxiety, depression, and psychosis.

In FY22, although the funding was allocated for this program, it was implemented by BUSD.

## Dynamic Mindfulness Program (DMind)



DMind is an evidence-based trauma-informed program implemented in BUSD middle and high schools. Validated by independent researchers as a transformative program for teaching children and youth skills for optimal stress resilience and healing from trauma, the DMind program integrates mindful action, breathing, and centering into an intervention that is implemented in the classroom in 5-15 minute sessions, 3 to 5 times a week. This program has proven to be successful with vulnerable students who are exhibiting signs of chronic stress/trauma/PTSD from Adverse Childhood Experiences (ACEs), and/or disengagement from school, chronic absences, and significant behavioral challenges, including emotion regulation, impulse control, anger management, and/or getting frequent referrals/suspensions and at high risk of school failure. DMind also enables teacher and staff well-being, which has been shown to enhance student learning. Program components include in-class and after-school DMind sessions for students, student peer leadership development, and training and coaching of school staff.

**PEI Goals:** The goal of this program is to bring about mental health, including the reduction of school failure and the removal of children from their homes.

### **PEI Priorities:**

- Youth Engagement and Outreach Strategies that target secondary school and transition age youth, with a priority on partnership with college mental health programs, and transition age youth not in college.
- Early identification programming of mental health symptoms and disorders, including but not limited to, anxiety, depression, and psychosis.

In FY22, DMIND was provided both live on-line, and in-person. Training and coaching services were also provided through this program. The training and coaching services build capacity among teachers and staff, so they have the skills for their own self-care, stress resilience and personal sustainability, and for the professional application with students to teach emotional regulation as well as social-emotional learning. Training and coaching was also used to build capacity among student peer leaders, with structured opportunities for application in conflict resolution, peer mediation, restorative justice circles, and leading

DMIND practice in their classrooms. Additionally, this program provided videos to the schools and Yoga at Independent Study. A total of 1,546 students and 139 teachers/school staff received services through this program during the reporting timeframe as follows:

| School                         | Number of Students Served | Number of School Staff Served |
|--------------------------------|---------------------------|-------------------------------|
| • Berkeley High School         | 455                       | 76                            |
| • Berkeley Technical Institute | 28                        | 12                            |
| • King Middle School           | 248                       | 15                            |
| • Longfellow Middle School     | 127                       | 19                            |
| • Willard Middle School        | 688                       | 17                            |
| <b>Total</b>                   | <b>1,546</b>              | <b>139</b>                    |

Demographic data on individuals served in FY22 was not provided by BUSD.

### African American Success Project



The African American Success Project (AASP) implements “Umoja” - a daily elective class offered at Longfellow Middle School. Umoja provides African American students a safe affinity space to explore their cultural heritage and identity, while building positive peer relationships and establishing relational trust with adults. Umoja provides an ongoing focus on social and emotional development, including building skills, habits and mindsets that enable self-regulation, interpersonal skills, perseverance and resilience. This project aligns with stated needs found in key BUSD initiatives, and strategic actions, including but not limited to



the: Black Lives Matter Resolution, Local Control & Accountability Plan (LCAP), the African American Success Framework (AASF), and the Comprehensive Coordinated Early Intervention Services (CCEIS) Plan.

This project provides a unique chance to expose learners to content traditionally overlooked by educational institutions. Umoja course lessons are rooted in African and African American cultural precepts, and are composed to guide African American learners through:

- An exploration of their identities;
- An interrogation (questioning or query) of their ancestral history;
- Development of a positive sense of purpose and cultural pride;
- Envisioning their futures and outlining a path for fulfillment;
- Developing an awareness of their communal role.

Direct services for parents and guardians:

The project seeks to increase entry points for caregivers to be informed and involved in their child's learning. Highlights in this area include:

- Providing digital newsletters, and updates using email marketing;
- Coordinating and hosting parent teacher conferences;
- Individual parent meetings/contacts, including advising, problem-solving, and updates regarding student progress;
- Hosting events including the Annual Kwanzaa celebration, and an end of the year meeting to gather qualitative program feedback.

Direct services for students (academic, social, behavioral):

- School-day cultural enrichment designed to uplift and empower African American learners using African centered pedagogical approaches;
- Equity centered support sessions (weekly);
- Structured class check-in sessions.

**PEI Goals:** The goal of this program is to bring about mental health, including the reduction of school failure and the removal of children from their homes.

**PEI Priorities:**

- Culturally competent and linguistically appropriate prevention and intervention; including community defined evidence practices (CDEPs).
- Youth engagement and outreach strategies that target secondary school and transition age youth, with a priority on partnership with college mental health programs, and transition age youth not in college.
- Early identification programming of mental health symptoms and disorders, including but not limited to, anxiety, depression, and psychosis.

In FY22, 73 students participated in this project. Outlined below are demographics on individuals served through this project:

| <b>DEMOGRAPHICS N=73</b>                           |      |
|----------------------------------------------------|------|
| <b>Age Groups</b>                                  |      |
| Children/Youth (0-15)                              | 100% |
| <b>Race</b>                                        |      |
| Black or African American                          | 79%  |
| More than one Race                                 | 10%  |
| Declined to Answer (or Unknown)                    | 1%   |
| <b>Ethnicity: Hispanic or Latino/Latina/Latinx</b> |      |
| Hispanic/Latino/Latina/Latinx                      | 10%  |
| <b>Primary Language</b>                            |      |
| English                                            | 96%  |
| Other                                              | 4%   |
| <b>Sexual Orientation</b>                          |      |
| Declined to Answer (or Unknown)                    | 100% |
| <b>Disability</b>                                  |      |
| Other                                              | 25%  |
| <b>Veteran Status</b>                              |      |
| No                                                 | 100% |
| <b>Gender: Assigned sex at birth</b>               |      |
| Male                                               | 53%  |
| Female                                             | 47%  |
| <b>Current Gender Identity</b>                     |      |
| Male                                               | 53%  |
| Female                                             | 47%  |

Worth noting is this project's continued emphasis on school success and reinforcing literary skills. In addition to incorporating literacy structures into the class setting, the project made a strategic investment to establish a classroom library, which affords students access to over 100 unique titles. Efforts were made to select books written by Black/African American authors whose books feature Black/African American history, culture, and stories. Building the library was in direct response to a student survey conducted in a prior school year in which project participants indicated they would read more, if books were available that reflected their lived experience and related to their cultural background.

*ACCESS AND LINKAGE TO TREATMENT PROGRAM  
and Combined Programs*



## **ACCESS AND LINKAGE TO TREATMENT AND PREVENTION & EARLY INTERVENTION COMBINED PROGRAM**

Access and Linkage to Treatment Programs – Connects children who are seriously emotionally disturbed, and adults and seniors with severe mental illness as early in the onset of these conditions as practicable, to medically necessary care and treatment, including but not limited to care provided by county mental health programs.

Prevention Programs – Includes a set of related activities to reduce risk factors for developing a potentially serious mental illness and to build protective factors.

Early Intervention Programs – Provides treatment and other services and interventions, including relapse prevention, to address and promote recovery and related functional outcomes for a mental illness early in its emergence, including the applicable negative outcomes that may result from untreated mental illness.

The City of Berkeley has one combined Prevention, Early Intervention program that also has an Access to Linkage and Treatment program component:

### **High School Youth Prevention Program**

This program operates in conjunction with other health school related services offered at Berkeley High School (BHS) and Berkeley Technology Academy (BTA) and has become a successful partnership between BUSD and the Public Health and Mental Health Divisions of Berkeley's HHCS Department. The program provides young people with the information and individual support they need to make positive and healthy decisions in their lives. The program includes: outreach activities designed to provide students with basic information around the risks of certain behaviors, and ways to protect themselves and make positive and safer decisions; classroom presentations to enable students to receive more in-depth information around a variety of health topics and available resources, and provide the opportunity for students to do a personal assessment of risk and current lifestyle choices; drop-in crisis, counseling services; individual appointments to identify young people who may need more intensive intervention; and short-term treatment. The individual appointments, held at the school-based health center, provide young people with the opportunity to hold very in-depth discussions around the choices they are making and the risks that are involved in their choices. They receive guidance about changes they can make to reduce or eliminate their risks, and are given the opportunity to identify barriers that might exist for them that prevent them from making healthier choices. In addition, they complete a 40 question, in-depth HEADSSS (Home, Education, Activities, Drugs/Alcohol, Sexuality, Safety, and Suicidality) assessment. Based on the outcome of the individual appointment and/or assessment, a young person may be referred to either a medical or mental health professional at the High School Health Center or in the community for follow-up care and intervention and/or treatment.

**PEI Goals:** The goal of this program is to bring about mental health, including the reduction of school failure or dropout.

**PEI Priorities:**

- Youth engagement and outreach strategies that target secondary school and transition age youth, with a priority on partnership with college mental health programs, and transition age youth not in college.
- Early identification programming of mental health symptoms and disorders, including but not limited to, anxiety, depression, and psychosis.

In FY22, approximately 233 students received services through this project. Demographics on youth served are outlined below:

| <b>DEMOGRAPHICS N=233</b>                                                                   |     |
|---------------------------------------------------------------------------------------------|-----|
| <b>Age Groups</b>                                                                           |     |
| 0-15 Years                                                                                  | 33% |
| 16-25 Years                                                                                 | 67% |
| <b>Race</b>                                                                                 |     |
| American Indian or Alaska Native                                                            | 2%  |
| Asian                                                                                       | 7%  |
| Black or African American                                                                   | 17% |
| Native Hawaiian or other Pacific Islander                                                   | <1% |
| White                                                                                       | 33% |
| More than one Race                                                                          | 14% |
| Other                                                                                       | 11% |
| Declined to Answer (or Unknown)                                                             | 16% |
| <b>Ethnicity: Hispanic or Latino/Latina/Latinx</b>                                          |     |
| Other                                                                                       | 22% |
| Declined to Answer (or Unknown)                                                             | 16% |
| <b>Primary Language</b>                                                                     |     |
| English                                                                                     | 93% |
| Spanish                                                                                     | 6%  |
| Declined to Answer (or Unknown)                                                             | 1%  |
| <b>Sexual Orientation</b>                                                                   |     |
| Gay or Lesbian or Bisexual or Questioning or Queer, or Unsure or Another Sexual Orientation | 21% |
| Heterosexual or Straight                                                                    | 35% |
| Declined to Answer (or Unknown)                                                             | 44% |

| <b>Disability</b>                               |      |
|-------------------------------------------------|------|
| Declined to Answer (or Unknown)                 | 100% |
| <b>Veteran Status</b>                           |      |
| No                                              | 100% |
| <b>Gender: Assigned sex at birth</b>            |      |
| Male                                            | 21%  |
| Female                                          | 45%  |
| Gender non-conforming, Transgender, Genderqueer | 11%  |
| Declined to Answer (or Unknown)                 | 23%  |
| <b>Current Gender Identity</b>                  |      |
| Male                                            | 21%  |
| Female                                          | 44%  |
| Transgender                                     | 3%   |
| Genderqueer                                     | 7%   |
| Another gender identity                         | <1%  |
| Declined to Answer (or Unknown)                 | 25%  |

Program Successes:

- Resumed providing the full range of services when students returned to full-time in-person learning.
- Following multiple staff transitions during the summer of 2021, this project was able to add two diverse, experienced, highly skilled, licensed clinicians, one of whom is a native bilingual Spanish speaker. Both clinicians quickly became part of a cohesive and collaborative mental health team and have integrated well into the larger Health Center team.
- The mental health team was able to substantially increase service utilization year-over-year compared to the FY21 school year. As half of the student body were new to campus in FY22, the project focused more of its efforts on outreach in order to familiarize students with the array of services.
- The mental health team maintained the use of the JotForm application for referrals. The team also integrated QR code technology into the referral form so that it can be more easily accessed and completed by students and school staff.
- The mental health team maintained a collaborative and productive relationship with the Berkeley High School Coordination of Services Team (OST) throughout the school year in order to ensure that appropriate referrals were made to the program.
- The mental health team was able to support students by providing an array of crisis support services following the tragic death of a Berkeley High School student in April 2022.
- The mental health team was also able to build upon and improve existing relationships and partnerships with Berkeley High School stakeholders. To this end the team collaborated with several different on-campus programs throughout the year such as the Multi-cultural Program, McKinney Vento Program, Special Education Program, and Intervention Counselors. The team also conducted stakeholder meetings

at the end of the school year in order to elicit feedback around the services that are provided with a focus on how to improve collaboration, advance equity, and improve service accessibility.

**Program Challenges:**

- Two newly hired full-time Mental Health Clinicians were onboarded in FY22 in September and November. From August through December 2021 one full-time bilingual Mental Health Clinician was on parental leave. These staffing limitations contributed to the teams reduced service capacity during the Fall 2021 timeframe.
- Due to staff transitions during the preceding summer, the project was not able to host a cohort of graduate-level trainees, which also contributed to reduced service capacity during the FY22 school year.
- As a result of reduced staffing and service capacity, the mental health team did not facilitate support groups during the FY22 school year.
- Berkeley High School administration and staff also experienced difficulties with the transition back to full-time in-person learning and it took time to rebuild coordinated systems for supporting a range of student's needs. Project leadership and Berkeley High School Administration continued to develop relevant protocols during the courses of the school year to better support student accessibility to needed services.

Results Based Accountability (RBA) measures for this project in FY22, were as follows:

| <b>Process Measures</b><br><b>How much did we do?</b>                                                                                                                         | <b>Quality Measures</b><br><b>How well did we do it?</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | <b>Impact Measures</b><br><b>Is Anyone Better off?</b>                                                                                                                                                                                                                                                             |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <ul style="list-style-type: none"> <li>• # of clients served</li> <li>• # of clients opened for ongoing services</li> <li>• # of services provided by service type</li> </ul> | <ul style="list-style-type: none"> <li>• # of clients screened for depression, trauma, and substance use</li> <li>• # of clients contacted within a week following a referral to the High School Health Center (HSHC)</li> <li>• % of school population served</li> <li>• % of clients satisfied with services, as measured by % of clients who agree with the following: HSHC Staff... <ul style="list-style-type: none"> <li>-Treat me with respect</li> <li>-Listen carefully to what I have to say</li> </ul> </li> <li>• Make me feel like there's an adult at school who cares about me</li> </ul> | <ul style="list-style-type: none"> <li>• % of clients able to receive needed care, as measured by % of clients who agree with the following: The HSHC... <ul style="list-style-type: none"> <li>-Is easy to get help from when I need it</li> <li>-Helps me to meet many of my health needs</li> </ul> </li> </ul> |

\*Demographic data was reported at the program level, where available

| <b>Measure</b>                      | <b>Definition</b>                                                                                                                                           | <b>Data Source</b> |
|-------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------|
| # clients served                    | Total clients served                                                                                                                                        | ETO/RedCap         |
| # services provided by service type | # of services coded as behavioral_service with codes BHSV1-8. Key code accompanies Redcap data. Each incident could include more than one service provided. | ETO/RedCap         |

| Measure                                                                                             | Definition                                                                                                                                                                                                                                 | Data Source                 |
|-----------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------|
| % clients screened for depression, trauma, and substance use                                        | Percent of total clients that were recorded as having been screened for depression, trauma, and/or substance abuse at least one-time during reporting period.                                                                              | ETO/RedCap                  |
| % referrals to HSHC followed up within one week                                                     | Percentage of referrals that had 7 days or less between referral date and response date. Calculation reflects % of total referrals, not % of total clients.                                                                                | Referral Log                |
| % of school population served                                                                       | Unique clients served by HSHC divided by total student population                                                                                                                                                                          | ETO/RedCap; BHS data        |
| % of clients satisfied with services, as measured by % of clients who agree with various statements | % of responses marked as "agree" or "strongly agree" for various survey questions. Note: these responses are from all students who accessed the health center and answered the survey, not just those who received mental health services. | Berkeley SBHC Client Survey |

Data Development Agenda: measures the team is interested in reporting on but for which reliable data was not available:

- Responsiveness of service (e.g. x days following qualifying event)
- % of clients who have at least one completed CANS/ANSA for each six-month period that they are in the program

In FY22, the RBA Outcomes for this program were as follows:



# High School Health Center (HSHC)

## RBA Outcomes

Reporting Period: July 2021-June 2022 (Baseline)

### Process Outcomes ("How much did we do?")



# 233

Clients Served

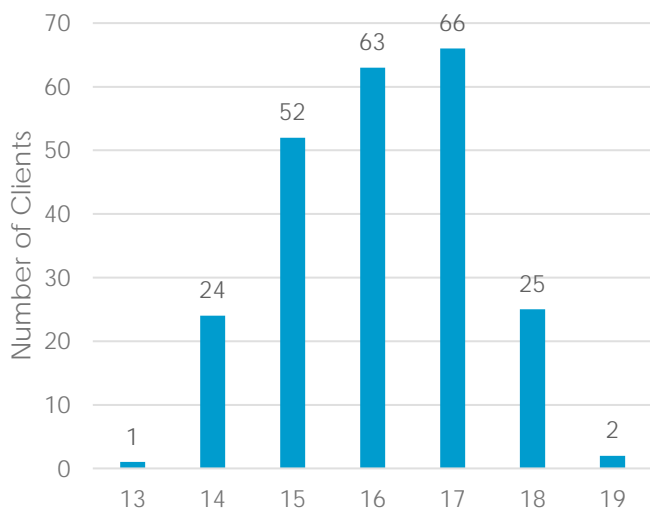


1 icon represents 20 clients

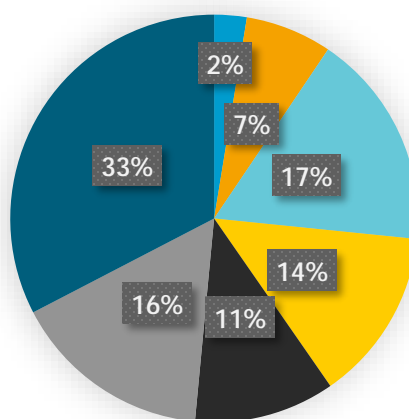
#### Program Description

The HSHC team provides mental health services on site at Berkeley High School; these services include individual and group therapy, crisis assessments, and drop in support. The program also hosts graduate students for training.

#### Demographics (Age)

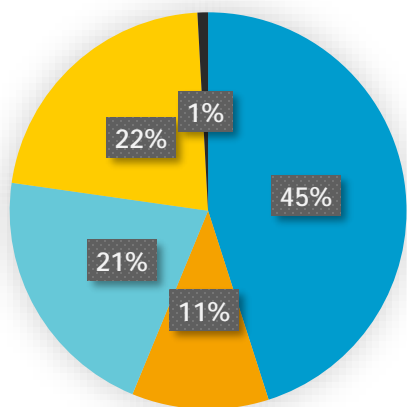


#### Demographics (Race)



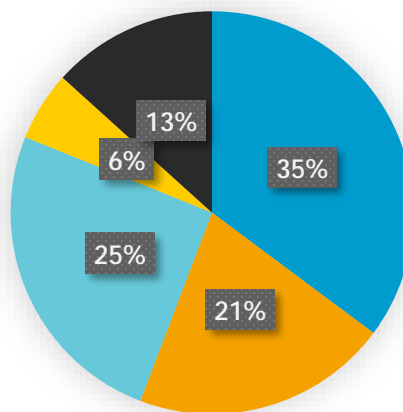
- Alaska Native or American Indian (2%)
- Asian or Pacific Islander (7%)
- Black or African American (17%)
- More than one race (14%)
- Other (11%)
- Prefer not to answer (16%)
- White (33%)

#### Demographics (Gender Identity)



- Female (45%)
- Gender nonconforming, transgender, genderqueer (11%)
- Male (21%)
- Missing (22%)
- Prefer not to answer (1%)

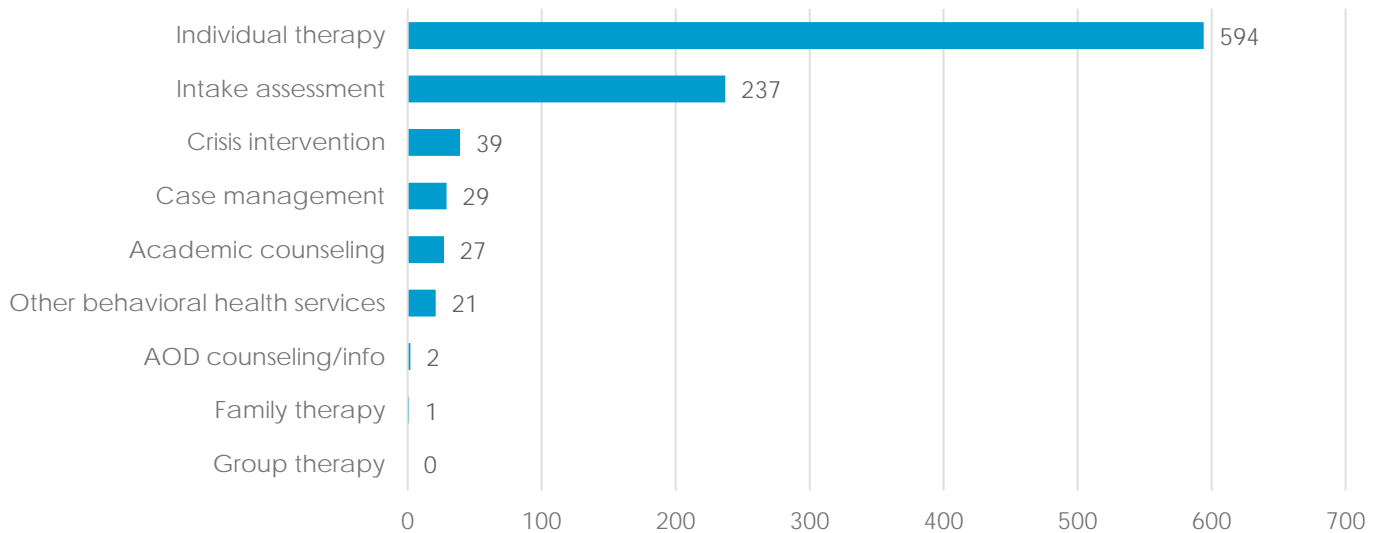
#### Demographics (Sexual Orientation)



- Heterosexual (35%)
- LGBTQ\* (21%)
- Missing (25%)
- Prefer not to answer (6%)
- Unknown/unsure (13%)

\*includes students who self-identified as aromantic, asexual, bisexual, gay, homosexual, lesbian, pansexual, queer, and questioning

### Services Provided by Service Type

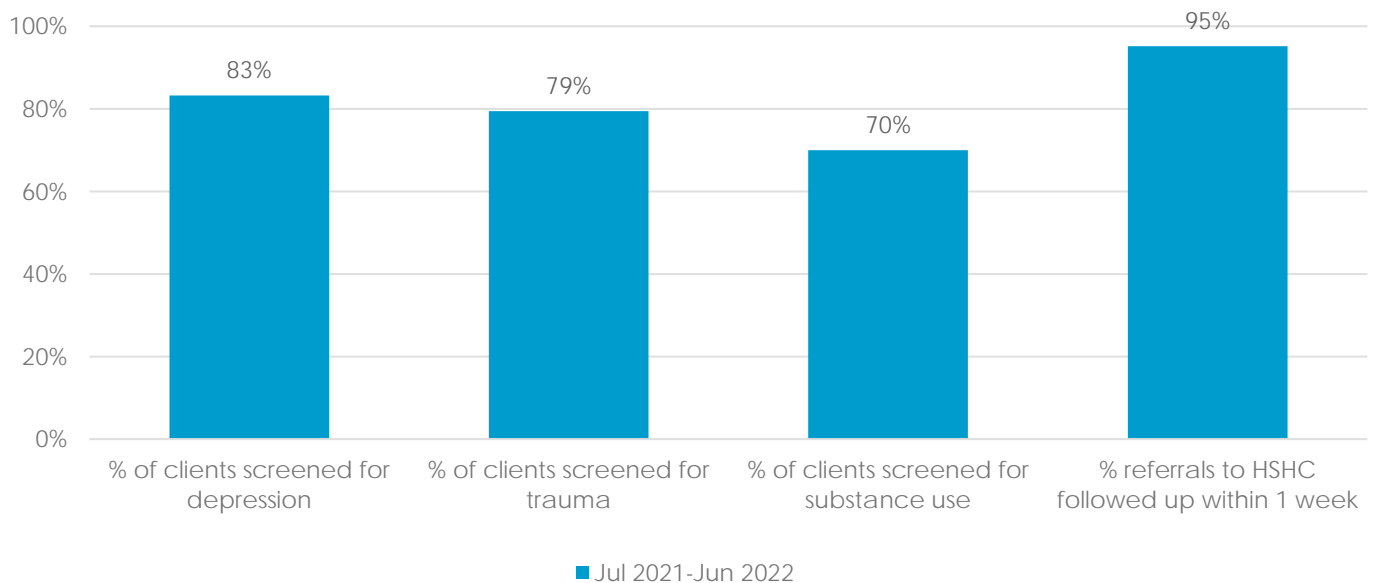


Note that multiple services could be provided in one visit (e.g. crisis assessment and referral) so total services by type (n=950) is greater than total encounters (n=846)

### Quality Outcomes ("How well did we do it?")

In 2021-2022, the HSHC program served **7%** of the school population.

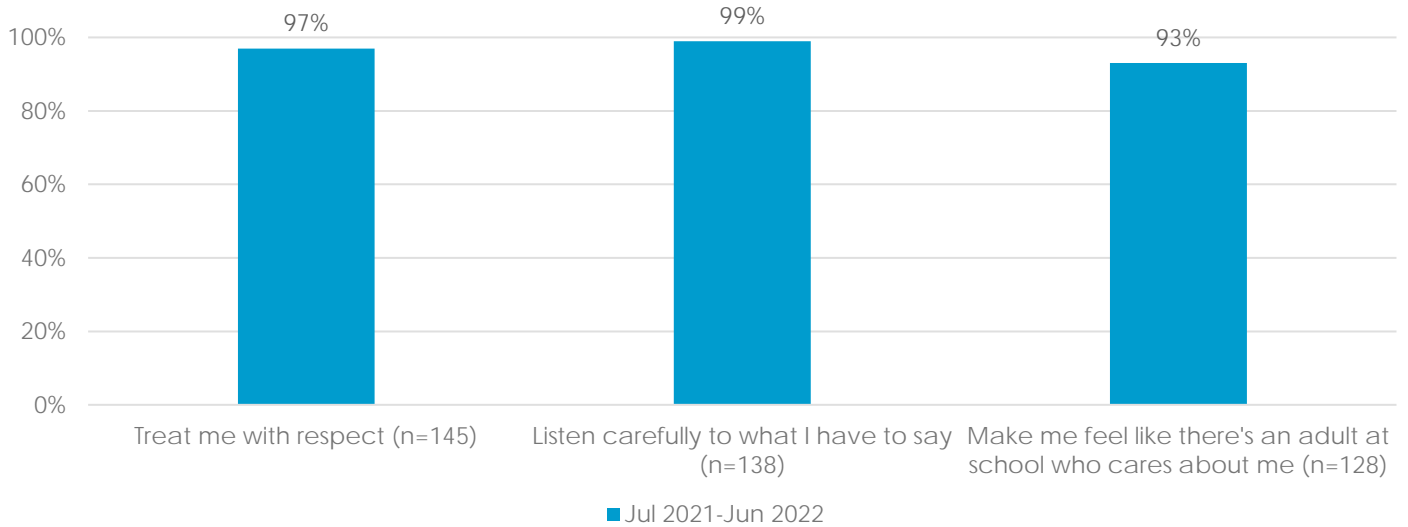
### Service Consistency



## Impact Outcomes ("Is anyone better off?")

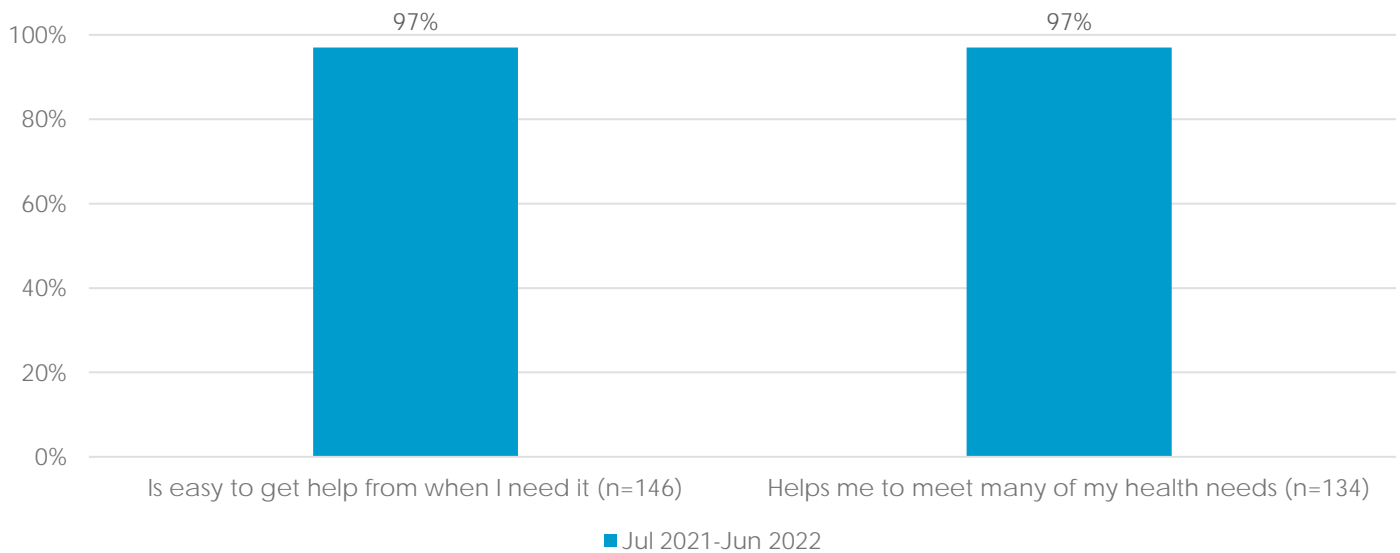
### Client Satisfaction

(% of clients who agree that "HSHC staff...")



### Client Satisfaction

(% of clients who agree that "The HSHC...")



## **ACCESS & LINKAGE TO TREATMENT AND EARLY INTERVENTION COMBINED PROGRAM**

Access and Linkage to Treatment Programs – Connect children who are seriously emotionally disturbed, and adults and seniors with severe mental illness as early in the onset of these conditions as practicable, to medically necessary care and treatment, including but not limited to care provided by county mental health programs.

Early Intervention Programs – Provide treatment and other services and interventions, including relapse prevention, to address and promote recovery and related functional outcomes for a mental illness early in its emergence, including the applicable negative outcomes that may result from untreated mental illness.

Through the FY22 Annual Update the City of Berkeley provided a one-time amount of CSS and PEI funding to support the implementation of a Specialized Care Unit pilot project. The City of Berkeley provides funding for one Early Intervention program that also has an Access to Treatment program component. The program is as follows:

### **Specialized Care Unit**

On July 14, 2020 City Council passed Resolution No, 69,501-N.S.; a package of items providing direction for the development of a new paradigm of public safety in Berkeley. One of the items adopted by City Council directed the City Manager to analyze and develop a pilot program to re-assign mental health and substance use calls, that do not include a threat of violence to a Specialized Care Unit (SCU). The SCU will consist of trained crisis-response field workers who will respond to behavioral health occurrences that do not pose an imminent threat to safety without the involvement of law enforcement. The SCU will be implemented as a pilot model and lessons-learned will inform the long-term implementation.

**PEI Goals:** The goal of this program is to connect individuals who have severe mental illnesses as early in the onset of these conditions as practicable, to medically necessary care and treatment, including but not limited to, care provided by county mental health programs.

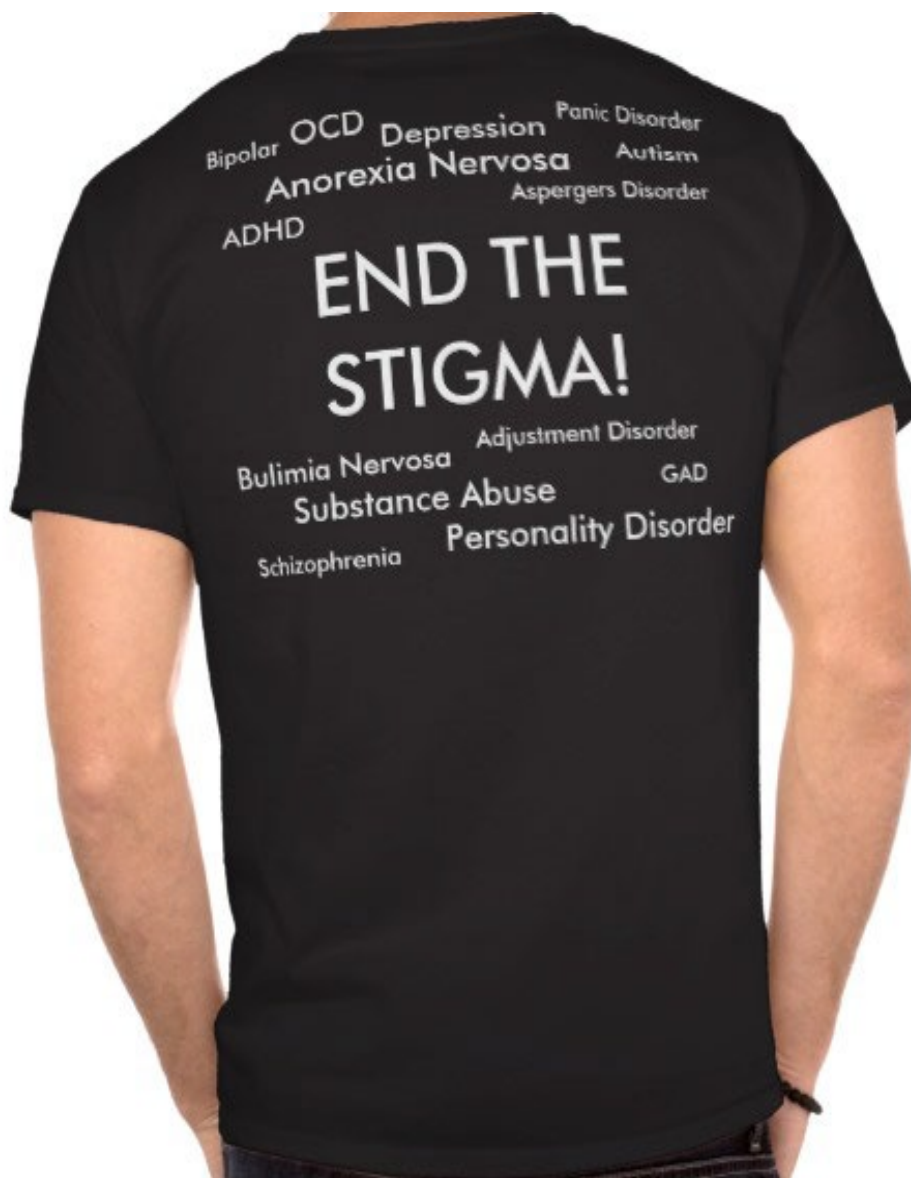
**PEI Priority:** Early identification programming of mental health symptoms and disorders, including but not limited to, anxiety, depression, and psychosis.

In FY21, Resource Development Associates (RDA), chosen through a competitive Request for Proposal (RFP) process to evaluate the current crisis system in Berkeley, received an expanded scope of work to provide recommendations on the implementation of the SCU. To oversee and advise RDA in their work, the City formed an SCU Steering Committee consisting of Health, Housing and Community Services Department and Fire Department staff, and community representatives from the Mental Health Commission and the Berkeley Community Safety Commission. The Steering Committee met from January 2021 through January 2022 and advised on RDA's completion of three critical reports. The first two reports summarized crisis response programs in the United States and internationally as well as gathered perspectives from community and City stakeholders regarding the crisis response system. This included gathering input from City of Berkeley and Alameda County agencies, local community-based organizations (CBOs), local community leaders, and utilizers of Berkeley's crisis response services. These reports laid the foundation for the twenty-five recommendations that were the subject of the third and final report to inform the SCU model. Each recommendation put forth in the final report is deeply rooted in the stakeholder feedback included in the two previous reports.

In Spring 2022, the design for the SCU received City Council approval and the work of the SCU Steering Committee transitioned from planning to implementation. At the beginning of FY23, the City of Berkeley launched a competitive RFP process, which included providing live question and answer as well as published resources on the City website. After an extensive review process, the City chose Bonita House to implement the SCU pilot program.

Since the beginning of 2023, Bonita House has taken initial steps to implementing the SCU including: selecting an operating location for the program, working with the City to obtain response vehicles, and hiring staff. The Berkeley and Bonita House teams are hoping to launch a version of the SCU at the end of FY23, or beginning of FY24, as the full program ramps up.

# STIGMA AND DISCRIMINATION REDUCTION PROGRAM



Stigma and Discrimination programs - Direct activities to reduce negative feelings, attitudes, beliefs, perceptions, stereotypes and/or discrimination related to being diagnosed with a mental illness, having a mental illness, or to seeking mental health services and to increase acceptance, dignity, inclusion, and equity for individuals with mental illness, and members of their families. The City of Berkeley has one Stigma and Discrimination program:

### Social Inclusion Program

The Social Inclusion program was created to combat stigma, attitudes and discrimination around individuals with mental health issues. Through this program, a “Telling Your Story” group provides mental health consumers with opportunities to be trained, compensated and empowered to share their stories of healing in a supportive peer environment. When they feel ready, consumers can elect to be community presenters, sharing their inspirational stories at pre-arranged local public venues to dispel myths and educate others. This program serves approximately 10-20 individuals a year.

**PEI Goals:** To reduce negative feelings, attitudes, beliefs, perceptions, stereotypes and/or discrimination related to being diagnosed with a mental illness, having a mental illness, or to seeking mental health services and to increase acceptance, dignity, inclusion, and equity for individuals with mental illness, and members of their families. To create changes in attitude, knowledge and/or behaviors related to seeking mental health services or related to mental illness.

**PEI Priority:** Culturally competent and linguistically appropriate prevention and intervention; including community defined evidence practices (CDEPs).

In FY22, 13 unduplicated individuals participated in the program. Demographics on program participants served were as follows:

| DEMOGRAPHICS N= 13                          |       |
|---------------------------------------------|-------|
| Age Groups                                  |       |
| 26-59 (Adult)                               | 38.5% |
| Ages 60+ (Older Adult)                      | 38.5% |
| Declined to Answer (or Unknown)             | 23%   |
| Race                                        |       |
| Asian                                       | 8%    |
| Black or African American                   | 23.5% |
| White                                       | 38.5% |
| Other                                       | 15%   |
| Declined to Answer (or Unknown)             | 15%   |
| Ethnicity: Hispanic or Latino/Latina/Latinx |       |
| Mexican/Mexican-American Chicano            | 8%    |
| Puerto Rican                                | 8%    |

| <b>Ethnicity: Non-Hispanic or Non-Latino/Latina/Latinx</b> |       |
|------------------------------------------------------------|-------|
| African                                                    | 15%   |
| European                                                   | 15%   |
| Japanese                                                   | 8%    |
| Other                                                      | 31%   |
| Declined to Answer (or Unknown)                            | 31%   |
| <b>Primary Language Used</b>                               |       |
| English                                                    | 84%   |
| Declined to Answer (or Unknown)                            | 16%   |
| <b>Sexual Orientation</b>                                  |       |
| Gay or Lesbian                                             | 8%    |
| Heterosexual or Straight                                   | 54%   |
| Bisexual                                                   | 15%   |
| Questioning or Unsure                                      | 8%    |
| Declined to Answer (or Unknown)                            | 15%   |
| <b>Disability</b>                                          |       |
| Difficulty Hearing                                         | 15%   |
| Mental Domain not including a mental illness               | 15%   |
| Physical Mobility domain                                   | 31%   |
| Chronic Health Condition                                   | 23%   |
| Other (Specify):                                           | 8%    |
| Declined to Answer (or Unknown)                            | 31%   |
| <b>Veteran Status</b>                                      |       |
| Yes                                                        | 77%   |
| No                                                         | 33%   |
| <b>Gender: Assigned sex at birth</b>                       |       |
| Male                                                       | 15.4% |
| Female                                                     | 69.2% |
| Declined to Answer (or Unknown)                            | 15.4% |
| <b>Current Gender Identity</b>                             |       |
| Male                                                       | 15%   |
| Female                                                     | 54%   |



|                                 |     |
|---------------------------------|-----|
| Questioning or unsure           | 8%  |
| Another gender identity         | 8%  |
| Declined to Answer (or Unknown) | 15% |

Program Successes:

The Telling Your Story group had more consistent attendees who were prepared to share based on the topics provided. The structure of having a brainstorming session proved to be really beneficial for the attendees. Some participants enjoyed having the group virtually in the comfort of their home, they felt safer and the hassle of commuting was eliminated. Participants felt more prepared during their shares and enjoyed the support they received from their peers.

Program Challenges:

The Telling Your Story group challenges were a lack of in-person connection and some participants who didn't have access to Zoom were unable to see others on the screen. This group provided gift cards for each session that a person participated within the program guidelines. There was a challenge for some individuals to come into the office to sign for the gift cards which created some distain from the participants, or they waited months before they decided to have their gift card mailed. A similar gift card challenge was that some participants waited for months until they picked them up, so it would be worth the commute they had to make to come to the office.



In FY22, as the Social Inclusion – Telling Your Story Project, is conducted by the same staff who operate Wellness Recovery Services, the Results Based Accountability (RBA) Measures for this project were combined with the Wellness Recovery program measures. RBA measures were as follows:

| <b>Process Measures</b>                                                                                                                                                                                                                                                                     | <b>Quality Measures</b>                                                                             | <b>Impact Measures</b>                                                                                                                                                                                                |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>How much did we do?</b>                                                                                                                                                                                                                                                                  | <b>How well did we do it?</b>                                                                       | <b>Is Anyone Better off?</b>                                                                                                                                                                                          |
| <ul style="list-style-type: none"> <li>• # of participants served</li> <li>• # of different groups convened per year</li> <li>• # of group events held per year</li> <li>• # of group participants who meet the requirements for “Telling Your Story”<br/>(MHSA PEI Requirement)</li> </ul> | <ul style="list-style-type: none"> <li>• #/% of participants who return for group events</li> </ul> | <ul style="list-style-type: none"> <li>• #/% of participants who reported feeling less shame about their experiences and challenges</li> <li>• #/% of participants who reported progress in their recovery</li> </ul> |

| <b>Measure</b>                                                                           | <b>Definition</b>                                                                                       | <b>Data Source</b>                         |
|------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------|--------------------------------------------|
| # participants served                                                                    | Total # of participants served                                                                          | Wellness Recovery Group Attendance Tracker |
| # of different group convened                                                            | Number of different types of groups (i.e. walking group, mood group, Telling Your Story group) convened | Wellness Recovery Group Attendance Tracker |
| Group events                                                                             | Total number of meetings held                                                                           | Wellness Recovery Group Attendance Tracker |
| # of participants who meet the requirements for "Telling Your Story"                     | Total number of participants in all "Telling Your Story" meetings                                       | Wellness Recovery Group Attendance Tracker |
| # of participants who return for group events                                            | Of total number of participants, % who returned for more than one event or meeting                      | Wellness Recovery Group Attendance Tracker |
| % of participants who reported feeling less shame about their experiences and challenges | Of participants who took the survey, percent who responded "agree" or "strongly agree" to the question. | Telling Your Story Survey                  |
| % of participants who reported recognizing progress in their recovery                    | Of participants who took the survey, percent who responded "agree" or "strongly agree" to the question. | Telling Your Story Survey                  |

Data Development Agenda: measures the team is interested in reporting on but for which reliable data was not available:

- Advance Directives Data:
  - #/% of participants with an Advance Directive completed
  - #/% of participants able to advocate for themselves with service providers
- Equity of services (e.g. client demographics compared to MediCal population)
- % of clients who were satisfied with services

In FY22, the RBA Outcomes for this program were as follows:

## Wellness & Recovery Services RBA Outcomes

Reporting Period: July 2021-June 2022 (Baseline)

### Process Outcomes ("How much did we do?")

**Program Description** The Wellness and Recovery Program is designed to provide outreach, support, education, activities, and advocacy to consumer members living with mental illness and living in Berkeley. Wellness group activities include: Berkeley Pool of Consumer Champions (POCC), Card Groups, Mood Groups, Walking Groups, and field trips.



Participants served



Different groups convened



Group events



Participants who meet the requirements for "Telling Your Story"

represents 10 clients/events/groups

#### Quality Outcomes ("How well did we do it?")

# 71%

of participants returned for group events

#### Impact Outcomes ("Is anyone better off?")

# 4 out of 5

participants reported feeling less shame about their experiences and challenges (n=5).

# 3 out of 5

participants reported recognizing progress in their recovery (n=5).

## *OUTREACH FOR INCREASING RECOGNITION OF EARLY SIGNS OF MENTAL ILLNESS*



Outreach for Recognizing the Early Signs of Mental Illness Program - A process of engaging, encouraging, educating, and/or training, and learning from potential responders about ways to recognize and respond effectively to early signs of potentially severe and disabling mental illness.

Per PEI State Regulations in addition to having the required “Outreach for Increasing Recognition of Early Signs of Mental Illness Program”, mental health jurisdictions may also offer Outreach for Increasing Recognition of Early Signs of Mental Illness as: a strategy within a Prevention program, a strategy within an Early Intervention program, a strategy within another program funded by PEI funds, or a combination thereof. Additionally, an Outreach for Increasing Recognition of Early Signs of Mental Illness program, may be provided through other MHSA components as long as it meets all of the program requirements.

### **Mental Health First Aid**

City of Berkeley Mental Health staff has previously implemented a Mental Health First Aid Training to the community through non-MHSA funds. Mental Health First Aid is a groundbreaking public education program that helps the public identify, understand, and respond to signs of mental health issues and substance use disorders. Mental Health First Aid presents an overview of mental health issues and substance use disorders and introduces participants to risk factors and warning signs of mental health problems, builds understanding of their impact, and provides an overview of common treatments. Through this training a five step action plan is taught that encompasses the skills, resources and knowledge to help an individual in crisis connect with appropriate professional, peer, social, and self-help care.

**PEI Goals:** The goal of this campaign is to increase prevention efforts and response to early signs of emotional and behavioral health problems.

#### **PEI Priorities:**

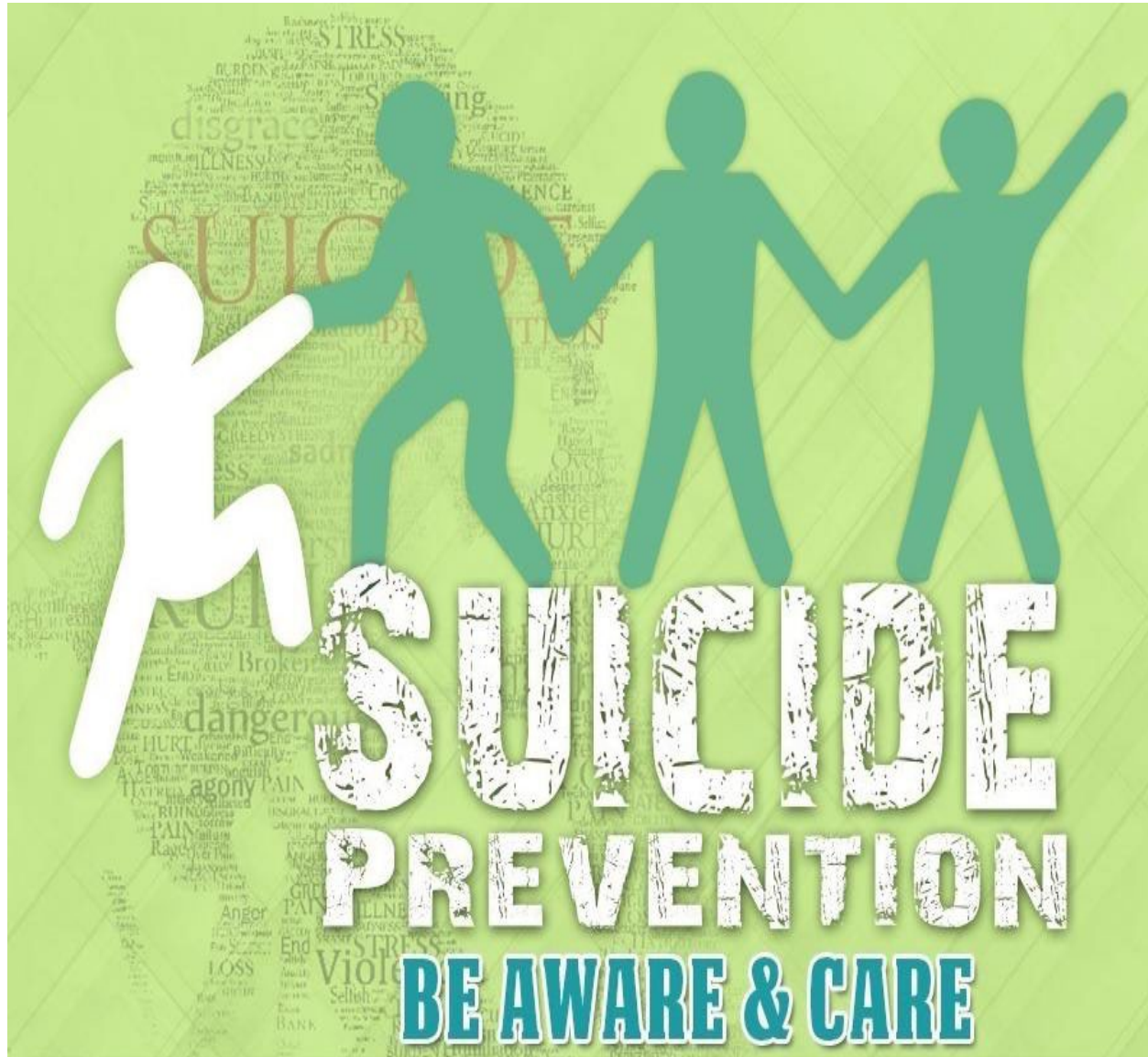
- Culturally competent and linguistically appropriate prevention and intervention; including community defined evidence practices (CDEPs).
- Early identification programming of mental health symptoms and disorders, including but not limited to, anxiety, depression, and psychosis.



Due to the pandemic and vacancies in staff, Mental Health First Aid trainings have not been provided in the past several years. It is envisioned that this program will be restarted in FY24 through MHSA CSS funds.



**SUICIDE PREVENTION  
(OPTIONAL PEI PROGRAM)**



Suicide Prevention Programs (Optional) - Activities to prevent suicide as a consequence of mental illness.

The City of Berkeley has one PEI funded Suicide Prevention program:

### **California Mental Health Services Authority (CalMHSA) PEI Statewide Projects**

Per PEI State Regulations mental health jurisdictions have an option on whether to utilize MHSA PEI funds on Suicide Prevention programs. While the City of Berkeley has not previously chosen to utilize PEI funds to implement a local Suicide Prevention program, in FY18 the Division began contributing 4% of PEI funding to the California Mental Health Services Authority (CalMHSA) to participate in the PEI Statewide Projects Initiative to locally obtain State resources on Suicide Prevention, Student Mental Health, and Stigma and Discrimination.

**PEI Goals:** The goal of this campaign is to increase prevention efforts and response to early signs of emotional and behavioral health problems.

#### **PEI Priorities:**

- Culturally competent and linguistically appropriate prevention and intervention; including community defined evidence practices (CDEPs).
- Early identification programming of mental health symptoms and disorders, including but not limited to, anxiety, depression, and psychosis.

In FY22, through this initiative resources on Suicide Prevention, Student Mental Health and Stigma and Discrimination reached approximately 1,624 individuals. Additionally, resources were distributed via email to local schools, community agencies and community members.

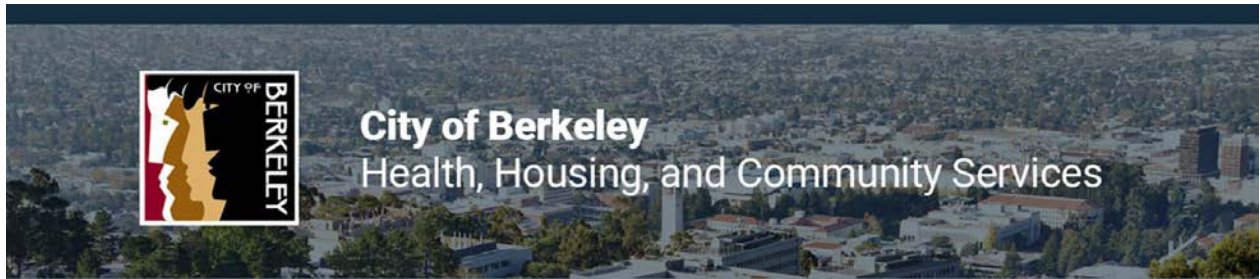


**APPENDIX E**

**INNOVATION**

**FY22 ANNUAL EVALUATION REPORT**





# **City of Berkeley Mental Health Mental Health Services Act (MHSA)**

## **Innovations (INN)**

**FY21/22**

## **Annual Evaluation Report**

## **INTRODUCTION**

Mental Health Services Act (MHSA) Innovation (INN) funds are to be utilized for short-term projects that contribute to new learning in the mental health field. This MHSA component provides the opportunity to pilot test and evaluate new strategies that can inform future practices in communities and mental health settings. INN projects can target any population and any aspect of the mental health system as long as the strategies or approaches that are being implemented address at least one of the following areas:

- Increase access to mental health services;
- Increase access to mental health services for underserved groups;
- Increase the quality of mental health services, including better outcomes;
- Promote interagency collaboration.

INN projects should also have one of the following primary practices: introduce new mental health practices or approaches that have never been done before; or make changes to existing mental health practices/approaches, including adapting them to a new setting or community; or introduce a new promising community-driven practice/approach that has been successful in non-mental health contexts or settings.

Per Mental Health Services Act (MHSA) State requirements, Mental Health jurisdictions are to submit an Innovation (INN) Evaluation Report to the Mental Health Services Oversight and Accountability Commission (MHSOAC) on an annual basis. INN Regulations released in 2018 also require mental health jurisdictions to submit an Annual Evaluation Report to the State each fiscal year. The Evaluation Report should be included with the MHSA Annual Update or Three Year Program and Expenditure Plan and undergo a 30 Day Public Comment period and approval from the local governing board. Per state regulations, the MHSA INN Fiscal Year 2021/2022 (FY22) Annual Evaluation Report that covers data from FY22 is due.

This FY22 INN Annual Evaluation Report provides descriptions of currently funded MHSA INN services, and reports on FY22 program and demographic data.

## **BACKGROUND**

On October 6, 2015, updated INN regulations designed by the Mental Health Services Oversight and Accountability Commission (MHSOAC) became effective. The new INN Regulations, included program and demographic data requirements that are to be reported to the MHSOAC through INN Annual Evaluation Reports. Per the new requirements, Mental Health Jurisdictions should report on the following INN Program and Demographic elements.

- Name of the Innovative Project.
- Whether changes were made to the Innovative Project during the reporting period, a description of the changes and the reasons for the changes.
- Available evaluation data, including outcomes of the Innovative Project and information about which elements of the Project are contributing to outcomes.
- Program information collected during the reporting period, including for applicable Innovative Projects that serve individuals, and the number of participants served.
- All Demographic Data as applicable per project (as outlined below).

### **INN Demographic Reporting Requirements**

For the information reported under the various program categories, each program will need to report disaggregate numbers served, number of potential responders engaged, and number of referrals for treatment and other services by:

**(A) The following Age groups:**

- 0-15 (children/youth)
- 16-25 (transition age youth)
- 26-59 (adult)
- ages 60+ (older adults)
- Number of respondents who declined to answer the question

**(B) Race by the following categories:**

- American Indian or Alaska Native
- Asian
- Black or African American
- Native Hawaiian or other Pacific Islander
- White
- Other
- More than one race
- Number of respondents who declined to answer the question

**(C) Ethnicity by the following categories:****(i) Hispanic or Latino as follows**

- Caribbean
- Central American
- Mexican/Mexican-American/Chicano
- Puerto Rican
- South American
- Other
- Number of respondents who declined to answer the question

**(ii) Non-Hispanic or Non-Latino as follows**

- African
- Asian Indian/South Asian
- Cambodian
- Chinese
- Eastern European
- European
- Filipino
- Japanese
- Korean
- Middle Eastern
- Vietnamese
- Other
- Number of respondents who declined to answer the question
- More than one ethnicity
- Number of respondents who declined to answer the question

**(D) Primary language used listed by threshold languages for the individual county**

- English
- Spanish
- Number of respondents who declined to answer the question

**(D) Primary language used listed by threshold languages for the individual county**

- English
- Spanish
- Number of respondents who declined to answer the question

**(E) Sexual orientation**

- Gay or Lesbian
- Heterosexual or Straight
- Bisexual
- Questioning or unsure of sexual orientation
- Queer
- Another sexual orientation
- Number of respondents who declined to answer the question

**(F) Disability**, defined as a physical or mental impairment or medical condition lasting at least six months that substantially limits a major life activity, which is not the result of a severe mental illness

- If Yes, report the number that apply in each domain of disability(ies)
  - Communication domain separately by each of the following:
    - difficulty seeing,
    - difficulty hearing, or having speech understood)
    - other, please specify
  - Mental domain not including a mental illness (including but not limited to a learning disability, developmental disability, dementia)
  - Physical/mobility domain
  - Chronic health condition (including but not limited to chronic pain)
  - Other (specify)
- No
- Number of respondents who declined to answer the question

**(G) Veteran Status,**

- Yes
- No
- Number of respondents who declined to answer the question

**(H) Gender**

- (i) Assigned sex at birth:
  - (a) Male
  - (b) Female
  - (c) Number of respondents who declined to answer the question
- (ii) Current gender identity:
  - (a) Male
  - (b) Female
  - (c) Transgender
  - (d) Genderqueer
  - (e) Questioning or unsure of gender identity
  - (f) Another gender identity
  - (g) Number of respondents who declined to answer the question.

Effective July 2018 amended INN regulations specified the following:

- For projects/programs serving children or youth younger than 18 years of age, the demographic information collected and reported should only be done so to the extent permissible by privacy laws;
- For projects/programs serving minors younger than 12 years of age, demographic information shall be collected and reported, except for sexual orientation, current gender identity, and veteran status;
- Information that cannot be obtained directly from the minor may be obtained from the minor’s parent, legal guardian, or other authorized source.

### **CITY OF BERKELEY INN PROGRAMS**

A description of the currently funded INN programs and FY22 data are outlined below:

#### **Help@Hand - Technology Suite Project**

In September 2018, following a four-month community planning process and approval from City Council, the [City of Berkeley Technology Suite Project](#) (which has since been renamed

“Help@Hand”) was approved by the MHSOAC. This project allocates INN funding to participate in a Statewide Collaborative with other California counties to pilot a Mental Health Technology Project that makes various technology-based mental health services and supports applications (Apps) locally available in Berkeley. The [Help@Hand Project](#) seeks to learn whether the use of the Apps will increase access to mental health services and supports; and whether it will increase the quality of mental health services, including leading to better outcomes.

Since plan approval, the Division worked both internally and with the California Mental Health Services Authority (CalMHSA), the fiscal intermediary for this project, to prepare for citywide implementation. Due to a need for additional community mental health supports as a result of the pandemic, the priority population for accessing Apps was changed from the original primary focus being on TAY and Older Adults, to now include anyone who lives, works and goes to school in Berkeley.

Per a competitive recruitment process, the Division contracted with Resource Development Associates (RDA), who conducted Project Coordination work through early FY22 on this project. Following that timeframe the BMH MHSA Coordinator has served as the Project Coordinator for this project. On behalf of the City and with locally designated Help@Hand project funds, CalMHSA executed a contract with Uptown Studios, in early FY22 to conduct a marketing and social media campaign for this project.

In November 2021, as a result of this project, free access to the HeadSpace and MyStrength Apps became locally available in Berkeley for a limited timeframe. The MyStrength App was available through October 2022 and the HeadSpace App will be available through September 2023. A large

interest in the HeadSpace App in FY22 led the Division to decide to allocate a portion of non-MHSA funds to add additional licenses of this App for the community.

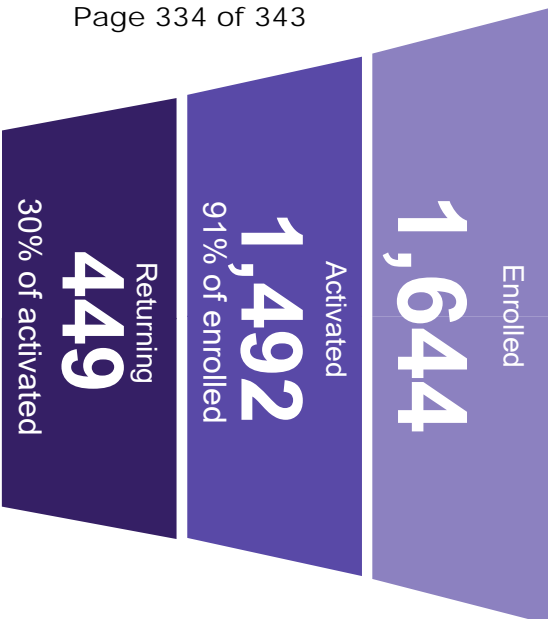
The Division is currently participating in a State Evaluation with other counties in this project. The evaluation is being conducted by the University of California at Irvine (UCI). Additionally, following a competitive recruitment process, the Division entered into a contract with Hatchuel, Tabernik & Associates to conduct a local evaluation of this project. The Division is currently participating in a State Evaluation with other counties in this project. The evaluation is being conducted by the University of California at Irvine (UCI). Additionally, following a competitive recruitment process, the Division entered into a contract with Hatchuel, Tabernik & Associates to conduct a local evaluation of this project. The evaluations are currently underway and will be reported on in future MHSA INN Evaluation Reports.

In FY22 there were 1,644 Berkeley community members who accessed MyStrength, and 5,097 accessed Headspace. Each App company collected and provided reporting on various user data measures.

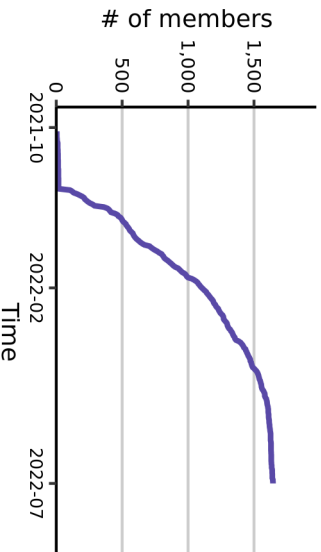
Local usage data in FY22 for each App is outlined on the preceding pages.

Program launch: 2021-09-20 Data thru: 2022-06-30

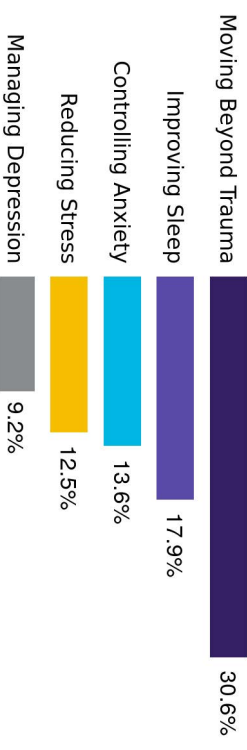
## Members enrolled



## Enrollment trends

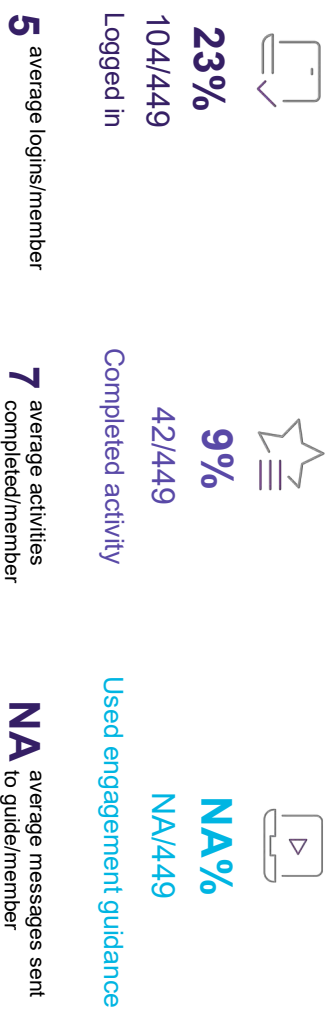


## Top 5 digital recommendations



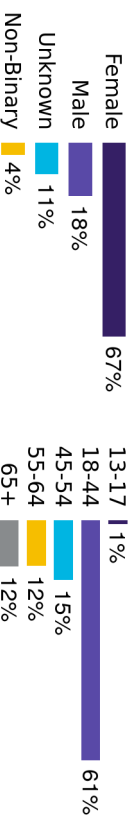
## Program engagement

Average 90 day member engagement rates (% of returning)



## Member demographics

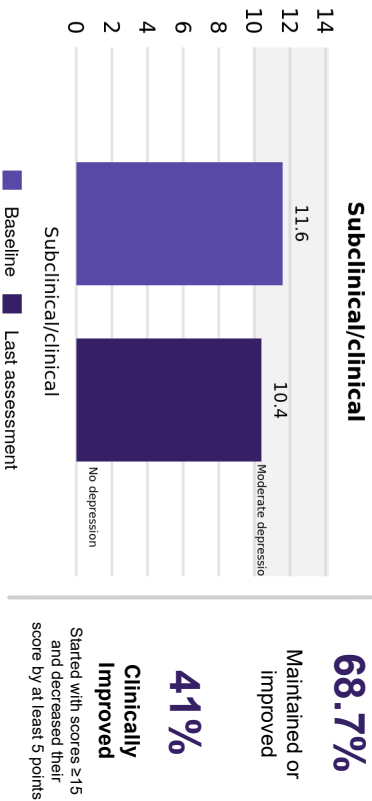
(% of enrolled)





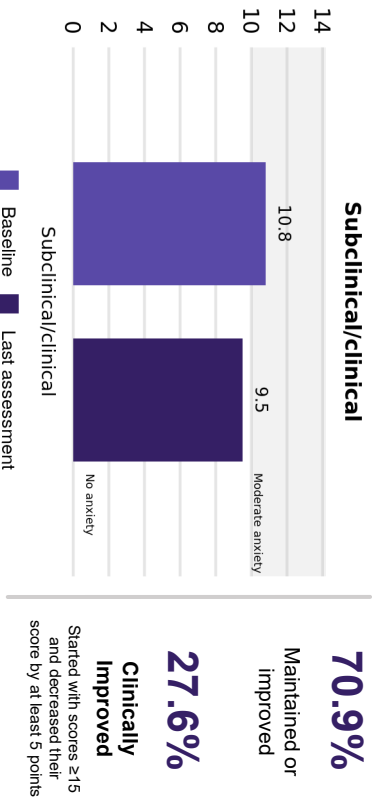
Program launch: 2021-09-20 Data thru: 2022-06-30

## Depression outcomes



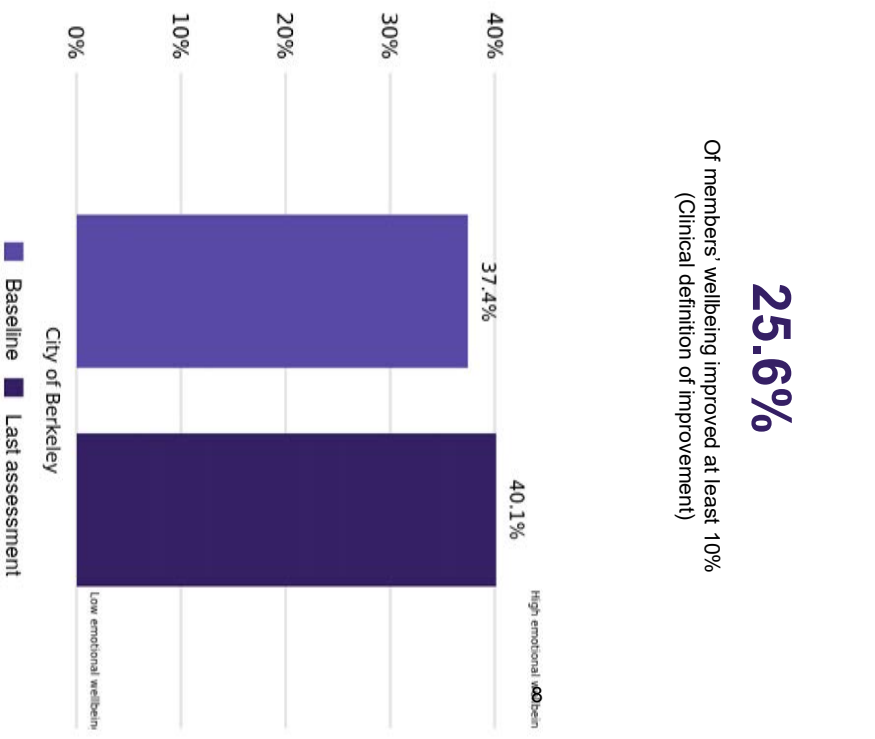
A PHQ-9 score indicates the severity level of a member's symptoms, where a score of 0-4 is nonclinical, 5-14 is subclinical, and 15+ is clinical.

## Anxiety outcomes



A GAD-7 score indicates the severity level of a member's symptoms, where a score of 0-4 is nonclinical, 5-14 is subclinical, and 15+ is clinical.

## Wellbeing outcomes



A WHO-5 score below 52% (13 points) indicates poor well-being.

### DATA DEFINITIONS

#### Top 5 digital recommendations

The percentage of returning members that were recommended “Just for You” content or digital courses and programs.



#### Members enrolled

**Enrolled:** Number of members who registered and successfully enrolled

**Activated:** Number of members who completed the onboarding assessment

**Returning:** Number of activated members who have logged into the myStrength program at least once after onboarding assessment completion

**Enrollment trends:** Number of members who have enrolled (current enrolled) over time since the program launch date



**Logged in:** The percentage of returning members that logged into the myStrength application via the mobile app or the myStrength website at least once in the last 90 days.



**Completed activity:** The percentage of returning members that completed at least one activity in the last 90 days. Members must click the “Finish” button after going through all the steps in order to be counted.



**Engagement guidance:** The percentage of returning members that have sent at least one message to a guide in the last 90 days.

\*N/A will display if engagement guidance is not a part of the program that was purchased

#### Clinical outcomes

**PHQ-9** is a validated depression screening tool. Total score is between 0 and 27 with higher scores meaning more symptoms. Metrics show % of members who have taken the PHQ-9 assessment at least twice – once at baseline and at least once more after baseline.

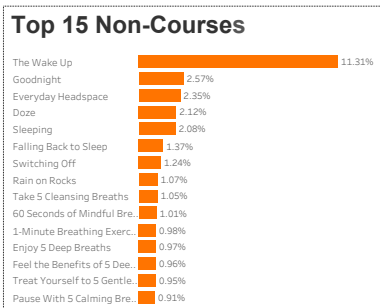
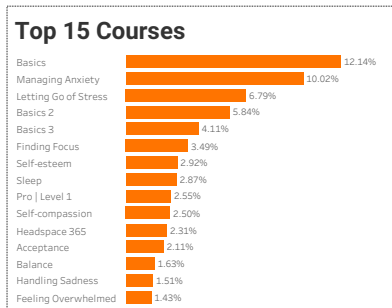
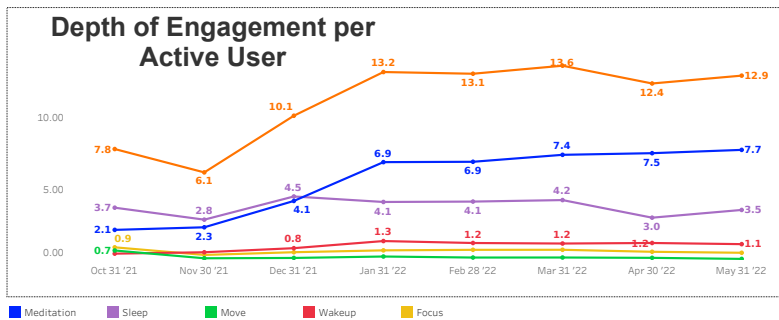
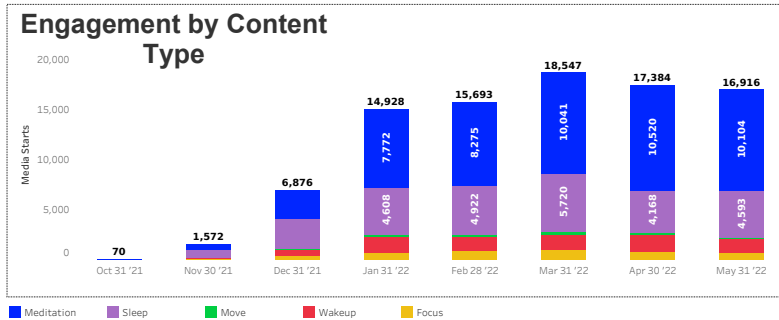
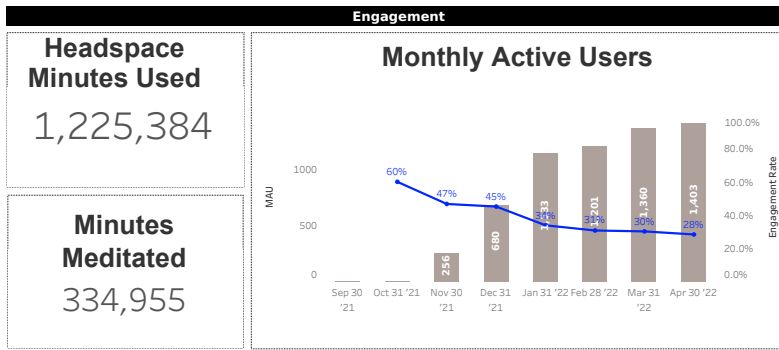
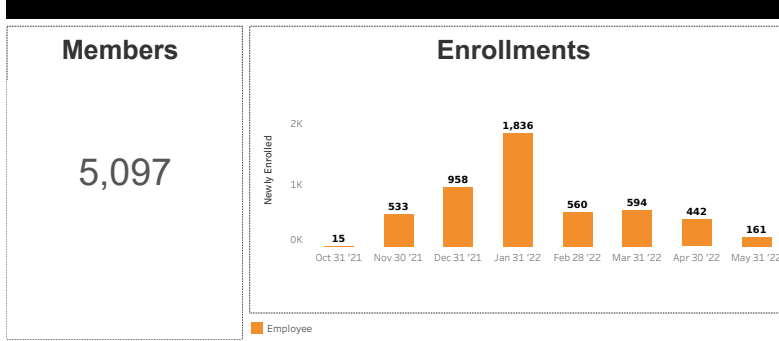
**GAD-7** is a validated anxiety screening tool. Total score is between 0 and 21 with higher scores meaning more symptoms. Metrics show % of members who have taken the GAD-7 assessment at least twice – once at baseline and at least once more after baseline.

**WHO-5** is a validated measure of general wellbeing (not a specific diagnosis or problem). Total score is between 0 and 25 with lower scores showing lower quality of life and higher scores showing higher quality of life. Raw scores are multiplied by 4 to get a percentage score. Metrics show % of members who have taken the WHO-5 assessment at least twice – once at baseline and at least once more after baseline.

\*For each clinical outcome, the reported population has at least 10 members in the program and completed at least two assessments.



# Help@Hand FY22 Report



### **Encampment-Based Mobile Wellness Center Project**

In April 2022, the Division received approval to implement an [Encampment-Based Mobile Wellness Center Project](#) from the Berkeley City Council and the State Mental Health Oversight and Accountability Commission (MHSOAC). This new project will pilot a Mobile Wellness Center at Homeless encampments in Berkeley. The Mobile Wellness Center project will provide an on-site, customizable menu of services that are chosen by individuals who reside at the encampments. The project will be led by peers with lived experience of homelessness, and include partners from encampment communities to encourage participation, help define service needs, and support service provision at the site. The project will be implemented through a community partner who will be chosen through a competitive Request For Proposal (RFP) process.

The project will seek to learn whether on-site wellness center services have a positive impact on mental health outcomes including an increase in the uptake of mental health services. The project will also assess the impact of how having individuals from the community help to provide services, shapes service delivery, and the participant satisfaction with services.

The RFP process was executed in the third quarter of FY23 and it is envisioned that the program will be implemented in early FY24. The program will include an evaluation which will be reported on in future MHSA INN Evaluation Reports.

# **APPENDIX F**

## **PUBLIC COMMENTS**

# AFRICAN AMERICAN HOLISTIC RESOURCE CENTER

## REQUEST FOR INCLUSION IN THE MENTAL HEALTH SERVICES ACT (MHSA) THREE-YEAR FUNDING PLAN FY 2024-2026

FOR COMMUNITY-DEFINED CULTURALLY CONGRUENT HOLISTIC SERVICES AND  
PROGRAMMING



### **The African American Holistic Resource Center Mission Statement**

The mission of the African American Holistic Resource Center (AAHRC) is to eliminate inequities and disparities by using community-defined best practices and approaches. Culturally responsive services are offered in order to address social determinants of overall health, mental wellness and equity across the life span. The AAHRC provides advocacy, support and referral services for an array of educational issues, legal matters and programming and services for cultural, social and recreation. A strong focal point is on promoting self-awareness and strengthening connections by fostering unity in the African American community.




### **Summary of the needs assessment**

The African American/Black community in Berkeley has the highest morbidity and mortality rate of any racial/ethnic group. According to the City of Berkeley *Health Status Summary Report 2018*, "African Americans are 2.3 times more likely to die in a given year from any condition than Whites"<sup>2</sup>. The intersectionality between wealth, race/ethnicity, and class has a slight positive effect on the health status of African Americans due to institutionalized racism and implicit bias. Unfortunately, the Black community in Berkeley is experiencing poor quality outcomes regarding adverse health indicators across the lifespan. According to comprehensive community assessments, most African American/Black community members who live, work, and/or connect to Berkeley believe that the City of Berkeley needs to show their community a sign that they are valued citizens and that *their lives matter*.

The African American Holistic Resource Center is submitting this proposal for funding from the Mental Health Services Act to improve mental health and wellness outcomes for the Berkeley community in general and the African American/Black community in particular. The AAHRC achieves its goals for improving the social determinants of mental health (SDOMH) outcomes within the African American/Black community by utilizing a culturally congruent healing-centered engagement system model of care. The AAHRC has developed collaborative partnerships with culturally congruent service providers and organizations to assist in achieving its goal.

## THE OBJECTIVE

---

 The AAHRC facility, as outlined in the Feasibility Study, 2018 is stated to be a state-of-the-art green building of 6,000 Square feet that includes but is not limited to a multipurpose room, culinary learning kitchen, South Berkeley Legacy Library, medical screening room, two therapy offices, two classrooms, dance studio, game room, kitchen, offices with a reception area, and a yard/garden area. The delivery of culturally congruent services at the AAHRC will provide African Americans with the support they need to decrease inequities and disparities and build community.

- **Need #1: [FY 24] Community capacity building efforts; publish the operational plan; Barbara Ann White Scholarship Award to expand the Black Mental Health Workforce**
- **Need #2: [FY 25] Secure peer navigator and community specialist; Secure furniture, fixtures, and equipment (FF&E); Barbara Ann White Scholarship Award to expand the Black Mental Health Workforce**
- **Need #3: [FY 26] Secure peer navigator and community specialist; Barbara Ann White Scholarship Award to expand the Black Mental Health Workforce**

## THE OPPORTUNITY

---

### **Welcoming and Culturally Congruent Services and Staff**

Numerous survey respondents commented on a sense of belonging and receiving culturally-appropriate services. There was an emphasis on the significance of Black people being treated with respect and their presence being acknowledged by professional staff when they showed up for services. Also highlighted was creating a safe space for the African American community.

- **Goal #1: Implement 1<sup>st</sup> stage of a culturally centered engagement system of care model**
- **Goal #2: Implement 2<sup>nd</sup> stage of the culturally centered engagement system of care model; equip mental wellness space for mild to moderate consumers**
- **Goal #3: Implement 3<sup>rd</sup> stage of the culturally centered engagement system of care model**

THE SOLUTION



“The assessment identified the need to have a haven or safe space for members of the African American/Black community to gather and unwind from the daily stressors of being Black in America. Survey respondents expressed the need to have a safe healing space to address the traumas and challenges of life". "Respondents expressed a need to have a place where they can gather and organize in order to develop leadership skills and improve community engagement. It was evident from the data collected that respondents want a place for the Black community, where they can unite, organize, and develop action plans, as it relates to uplifting the African American community. The information shared in this category appears paramount in terms of Black people wanting to problem-solve for themselves and find solutions to issues that negatively impact their community” (AAHRC Feasibility Study, p. 10).

|                                  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
|----------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p><b>Recommendation #1:</b></p> | <p><b>Include the AAHRC in the MHSA Three-year plan</b> with maximum available funding</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| <p><b>Recommendation #2:</b></p> | <p><b>Add the AAHRC under the following areas:</b></p> <ul style="list-style-type: none"> <li>• Community Services and Supports (CSS)</li> <li>• Prevention and Early Intervention (PEI)</li> <li>• Capital Expenditure Funding to assist with the construction of the new City of Berkeley owned 6,000 square-foot facility</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| <p><b>Recommendation #3:</b></p> | <p><b>Follow up on previous MHSA Plan Three-Year cycle recommendations:</b></p> <ul style="list-style-type: none"> <li>• On page 2 of the DRAFT Mental Health Services Act (MHSA) FY20/21 – 22/23 Three Year Program and Expenditure Plan, it states that: African Americans have been an additional population of focus as data indicates they are overrepresented in the mental health system and hence "inappropriately served", which could be due to being provided services that are not culturally responsive and/or appropriate".</li> <li>• Follow up on the previous MHSA cycle recommendation: "The Mental Health Division is very interested in supporting the African American Holistic Resource Center, and will work with the planning group for the AAHRC to obtain a specific proposal. The Mental Health Division intends to work with the planning group to propose funding for the AAHRC in the FY21/22 Plan Update, once the specific needs and appropriate funding categories are determined. Following the Public Hearing the Mental Health Commission made the following motion regarding the Three-Year Plan: 16 M/S/C (Pritchett, Davila) Motion to approve the report and forward to the City Council for approval. Ayes: Davila, Hawkins, Kealoha-Blake, Moore, Opton, Pritchett; Noes: None; Abstentions: None; Absent: None.” (City of Berkeley Mental Health Services Act FY 2020/21-2022/23 Three Year Program Expenditure Plan, page 14).</li> </ul> |



## CONCLUSION

---



The AAHRC is expected to provide the following services to address inequities and disparities and support the African American/Black community in Berkeley: health education, health screenings, mental wellness services, educational support, cultural events, legal services, social and recreational programs, and other services as needed. Services at the AAHRC will be open to all. However, the primary focus will be to enhance and strengthen the lives of African Americans. The center will acknowledge and celebrate the cultural values, rituals, and traditions of Black people. The center will support an African American/Black way of life by using African American community-defined approaches and practices and African-centered treatment models and services to decrease inequities and disparities in all aspects of life for African Americans in Berkeley.

We look forward to collaborating with the City of Berkeley Mental Health MHSA board to accomplish the AAHRC goals and objectives.

If you have questions on this funding request proposal, feel free to contact any of the three listed persons at your convenience:

Babalwa Kwanele  
E-mail: [Babalwa.kwanele@yahoo.com](mailto:Babalwa.kwanele@yahoo.com)  
Phone: (510) 866-5697

Mansour Id-Deen  
E-mail: [middeen@berkeleynaacp.com](mailto:middeen@berkeleynaacp.com)  
Phone: (510) 206-2129

Starly Gay  
E-mail: [starlagay@gmail.com](mailto:starlagay@gmail.com)  
Phone: 510-725-8776

Thank you for being so considerate,

AAHRC Steering Committee





Office of the City Manager

CONSENT CALENDAR  
July 25, 2023

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

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

Subject: Reserving Predevelopment Funds BRIDGE Housing Corporation to Support the Development of Affordable Housing at the North Berkeley BART Site

RECOMMENDATION

Adopt a Resolution:

1. Reserving \$1,500,000 in Affordable Housing Mitigation Fee funds to BRIDGE Housing Corporation (BRIDGE) or its affiliate to support master planning and predevelopment activities related to the development of affordable housing at the North Berkeley BART site.
2. Authorizing the City Manager or her designee to execute all original or amended documents or agreements to effectuate this action.

FISCAL IMPACTS OF RECOMMENDATION

City Council reserved \$53M in funding for the BART sites at their April 27, 2021 meeting through Resolution 69,833-N.S. Of that total reservation, \$13M will come from Affordable Housing Mitigation Fees, and \$40M will come from Measure O. The Measure O portion will be available in the third and fourth issuances, expected in 2025 and 2027.

Predevelopment funding for the BART sites, including this current request for \$1,500,000, will come from Affordable Housing Mitigation Fees already collected. Funding is subject to appropriation in the FY 2024 budget in the Affordable Housing Mitigation Fee fund (Fund 120).

CURRENT SITUATION AND ITS EFFECTS

BRIDGE requested \$1.5M in predevelopment funds to support the development of affordable housing at North Berkeley BART.

On December 1, 2022, the San Francisco Bay Area Rapid Transit District (“BART”) Board approved the selection of a development team to build housing at the North Berkeley BART station site. The team is comprised of lead nonprofit developer BRIDGE, nonprofit development partners East Bay Asian Local Development

Corporation (EBALDC) and Insight Housing (formerly Berkeley Food and Housing Project), and market-rate developer Avalon Bay Communities. The BRIDGE team proposes to exceed the requirement that at least 35% of new housing be affordable to households earning an average of 60% of Area Median Income. The preliminary design concept includes three affordable housing buildings for low-income families and one permanent supportive housing project.

On December 13, 2022, City Council adopted Resolution No. 70,643-N.S reserving \$500,000 to help finance predevelopment expenses related to the development of affordable housing at the North Berkeley BART station. The BRIDGE team is currently engaged in community outreach and planning activities that will inform the project design.

The project's current schedule assumes State of California Housing and Community Development funding in 2024, which requires projects to be entitled. The BRIDGE team is requesting an additional \$1.5M in order to prepare a set of entitlement plans in time to meet funding deadlines and stay on schedule. In addition to architectural and engineering costs related to the design of the affordable buildings, the funds may be used to pay for the nonprofit development team members' collective share of the early costs related to the BART Exclusive Negotiating Agreement (ENA), station access study, and other master planning and predevelopment activities. The City Housing Trust Fund Guidelines and the Affordable Housing Framework for North Berkeley BART establish the standards for determining eligible costs.

Funding predevelopment activities at North Berkeley BART supports the Strategic Plan Priority Project to create affordable housing and housing support service for our most vulnerable community members.

## BACKGROUND

For the past few years, the City has been working closely with BART on the development of the North Berkeley and Ashby BART sites. The City created a BART Community Advisory Group (CAG), made up of 15 members of the public to develop a vision for affordable housing, land use, station access, building form, and new public spaces. The CAG met throughout 2020 and 2021 at public meetings and community workshops, and provided feedback on the new zoning regulations impacting the North Berkeley BART site. The City and BART entered into a Memorandum of Agreement (MOA) in June 2022 to address additional aspects of the collaboration, and both agencies adopted the Joint Vision and Priorities for Transit-Oriented Development for Ashby and North Berkeley Stations (JVP) in June 2022. The JVP articulates the shared goals of the City and BART, including the goal of achieving at least 35% affordability at each site.

To support the shared affordable housing goal at the BART sites, City Council set aside \$53M through Resolution 69,833-N.S. on April 27, 2021. Council also indicated that a portion of the BART set-aside funds could be used to support predevelopment activities.

Predevelopment funding sources are limited, and by offering predevelopment loans with favorable terms, the City and BART were hoping to attract more nonprofit developers. The predevelopment funds are only available to nonprofits to cover their proportional share of master planning costs.

BART issued a Request for Qualifications (RFQ) in July 2022 to select a team to develop housing at the North Berkeley BART station site. A selection panel with equal representation of City and BART staff reviewed the qualifications of all teams, interviewed the team leads, and attended the public presentations on November 10, 2022. Based on their cumulative score, the panel recommended the selection of BRIDGE team to the BART Board of Supervisors.

Through the RFQ, the City offered up to \$2M in predevelopment funding authorized by Resolution 69,833-N.S. The RFQ identified two phases of the predevelopment funding: 1) up to \$500,000 to support the nonprofit partner's share of the master planning and predevelopment costs, and 2) up to \$1.5M to support predevelopment activities for specific affordable housing projects located at the North Berkeley BART site. After the release of the RFQ, Department of Health, Housing, and Community Services (HHCS) staff and the development team learned that the costs associated with the first phase exceed the amount budgeted and that nonprofit developers need to access funds in the second phase sooner in the predevelopment process in order to be competitive for State funding.

#### ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

Creating new affordable housing in Berkeley that allows lower income individuals and families to live closer to transit will advance the goal of making the City more economically and racially equitable, and reduces greenhouse gas emissions by reducing vehicle-miles-traveled and decreasing reliance on personal vehicles. New affordable housing developments are typically built to third-party green building standards (either GreenPoint or LEED Gold).

#### RATIONALE FOR RECOMMENDATION

There are early and significant costs associated with transforming the current parking lot at the North Berkeley BART station to a vibrant residential community serving a mix of incomes and household types. The selected developer team will need to pay BART's ENA fees, station access fees, and other costs related to master planning, infrastructure, and predevelopment work. There are few sources of predevelopment funding available, and most come with interest rates higher than what the City offers which would add costs to creating affordable housing.

#### ALTERNATIVE ACTIONS CONSIDERED

Since the City agreed in the MOA and RFQ to make this funding available for the selected nonprofit developer, and since the BRIDGE team qualifies for this funding under the City's Housing Trust Fund criteria, staff did not consider any alternative actions.

Reserving Predevelopment Funds for the Development  
of Affordable Housing at the North Berkeley BART Site

CONSENT CALENDAR  
July 25, 2023

CONTACT PERSON

Grace Streltsov, Community Development Project Coordinator, HHCS, 510-981-5430

Attachments:

1: Resolution

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

RESERVING \$1,500,000 OF AFFORDABLE HOUSING MITIGATION FEES FOR  
PREDEVELOPMENT AT THE NORTH BERKELEY BART SITE

WHEREAS, City Council established a Housing Trust Fund Program (HTF) to assist in the development and expansion of housing affordable to low and moderate income persons and authorized the City Manager to implement the Program; and

WHEREAS, there is a great need for affordable and special needs housing in the City of Berkeley as stated in the General Plan Housing Element and the City of Berkeley's Consolidated plan; and

WHEREAS, the City and BART are collaborating on the development of the North Berkeley BART site, and articulated shared goals in a Memorandum of Understanding, Memorandum of Agreement, and Joint Vision and Priorities for Transit-Oriented Development for Ashby and North Berkeley Stations; and

WHEREAS, the City and BART are committed to achieving a minimum of 35% affordable housing at each BART site; and

WHEREAS, on April 27, 2021, with Resolution 69,883-N.S., the City Council reserved \$53 million, to be divided between the two BART sites, as the subsidy needed to achieve 35% affordability, and allowed for a portion of that funding to be considered for predevelopment costs associated with affordable housing; and

WHEREAS, the \$53 million includes \$40 million in Measure O funds, and \$13 million in Affordable Housing Mitigation Fees; and

WHEREAS, in July 2022, BART issued a Request for Qualifications (RFQ) to select a team to develop new housing at the North Berkeley BART site and created an RFQ selection panel with equal representation from the City and BART; and

WHEREAS, through the RFQ, the City indicated that up to \$2 million of the \$53 million funding reservation could be available for predevelopment for each BART site; and

WHEREAS, on December 1, 2022, the BART Board of Supervisors approved the RFQ panel's recommendation to select a development team made up of BRIDGE Housing Corporation (BRIDGE), East Bay Asian Local Development Corporation, Berkeley Food and Housing Project, and Avalon Bay Communities; and

WHEREAS, the BRIDGE development team proposed to develop 50% of the residential units at the North Berkeley BART as affordable to lower-income persons; and

WHEREAS, on December 13, 2022, City Council adopted Resolution No. 70,643-N.S., reserving \$500,000 of Affordable Housing Mitigation Fees for predevelopment at the North Berkeley BART site; and

WHEREAS, the development team requested an additional \$1,500,000 in predevelopment funding from the City's set-aside funds; and

WHEREAS, the City's BART set-aside of Measure O funds will be available after the third and fourth issuances, currently projected for 2025 and 2027, and therefore any predevelopment support for the BART projects will be allocated from the \$13 million set-aside of Affordable Housing Mitigation Fees.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that it approves the reservation of \$1,500,000 of Affordable Housing Mitigation Fees (Fund 120) to BRIDGE Housing Corporation or its affiliate to support master planning and predevelopment activities related to the development of affordable housing at the North Berkeley BART site.

BE IT FURTHER RESOLVED that the City's Housing Trust Fund program guidelines will apply to the use of these funds.

BE IT FURTHER RESOLVED that the City Manager, or her designee, is hereby authorized to execute all original or amended documents or agreements to effectuate this action; a signed copy of said documents, agreements, and any amendments will be kept on file in the Office of the City Clerk.





Office of the City Manager

CONSENT CALENDAR

July 25, 2023

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Aram Kouyoumdjian, Director of Human Resources

Subject: Establish Classification and Salary Range – Deputy Police Chief

RECOMMENDATION

Adopt a Resolution establishing the unrepresented classification of Deputy Police Chief with an hourly salary range of \$96.1538 - \$125.0000, and an annual salary range of \$200,000.0000 - \$260,000.0000.

FISCAL IMPACT

Based on comparable classifications of surrounding police agencies, as well as internal alignment with existing Police Command Staff classifications, staff is recommending an hourly salary range of \$96.1538 - \$125.0000. This range is within the market mean and median for the Bay Area municipalities that have Deputy Police Chief and Assistant Police Chief positions. One vacant Police Captain position will be reallocated to create a Deputy Police Chief position, which will result in an annual fiscal impact of \$94,450 that will be funded by the General Fund.

CURRENT SITUATION AND ITS EFFECTS

The City Manager's Office, Police Department, and Human Resources Department analyzed the organizational structure of the Berkeley Police Department and identified the need for the new job class specification of Deputy Police Chief, a single class position to act as second in command and to serve as the department head in the absence of the Police Chief.

The position will provide professional and administrative support, as well as oversight of day-to-day operations, and will assist the Police Chief in meeting the City's public safety goals and objectives and the demands for police services in Berkeley's diverse

Establishing Deputy Police Chief Classification

Consent Calendar  
July 25, 2023

communities, including the divisions of Operations, Investigations, Police Support Services, Policy and Planning, as well as Audit and Inspection.

Moreover, the addition of this position will create a succession plan and career ladder within the Command Staff. During periods of leadership change, having a Deputy Police Chief who can serve in the Chief's absence will help maintain the continuity of the Police Department's operations, presence in the community, and relationships with other City departments.

### BACKGROUND

The Human Resources Department contracted with independent HR consultant Tina Lee Rodriguez to conduct a classification and compensation study for the creation of the Deputy Police Chief classification. The study included a job analysis, a review of the police class series within the City and comparable classifications of surrounding police agencies, salary market research to determine competitive compensation, and internal alignment of the salary level. Surrounding agencies were reviewed to determine comparable classifications, including the City of Richmond, City of Vallejo, City of Hayward, City of Stockton, City of San Mateo, City of Fremont, and others. The maximum base pay is approximately 19.95% above the Police Captain maximum base pay and 16.08% below the Police Chief maximum base pay.

The Personnel Board discussed and voted unanimously at its June 5, 2023 meeting to send this classification and salary to the City Council for approval (Motion to Approve: Bartlow, Gilbert; Vote - Ayes: Bartlow, Dixon, Gilbert, Lacey, Wenk; Noes: None; Abstains: None; Absent: Karpinski, O'Loughlin).

### ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

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

### RATIONAL FOR RECOMMENDATION

The new classification will fill a gap in the organizational structure of the Police Department, provide the Police Chief with professional and operational support, maintain continuity of operations in the Police Chief's absence, and create a succession plan for the department's Command Staff.

Establishing Deputy Police Chief Classification

Consent Calendar  
July 25, 2023

ALTERNATIVE ACTIONS CONSIDERED

None.

CONTACT PERSON

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

ATTACHMENTS

1. Resolution  
Exhibit: Attachment A to Resolution: Deputy Police Chief – Proposed Job Class  
Specification and Salary Range

RESOLUTION NO. xxxxx - N.S.

ESTABLISHING THE DEPUTY POLICE CHIEF CLASSIFICATION

WHEREAS, the Human Resources Department maintains the Classification and Compensation plan for the City of Berkeley; and

WHEREAS, the Human Resources Department has completed a classification review and recommended the creation of the Deputy Police Chief classification;


WHEREAS, the Deputy Police Chief classification will fill a gap in the organizational structure of the Police Department, provide the Police Chief with professional and operational support, maintain continuity of operations in the Police Chief's absence, and create a succession plan for the department's Command Staff; and

WHEREAS, the Personnel Board recommended on June 5, 2023 to establish the unrepresented Deputy Police Chief job class specification and salary range exempt from the overtime provisions of the Fair Labor Standards Act (FLSA) effective July 25, 2023.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the classification for Deputy Police Chief is established, with a salary range and classification specification as shown in Attachment A, effective July 25, 2023.

[Attachment A: Deputy Police Chief, Classification Specification and Salary Schedule]

**ATTACHMENT A**

|                                                                                   |                                                          |                             |
|-----------------------------------------------------------------------------------|----------------------------------------------------------|-----------------------------|
|  | <p><b>DEPUTY POLICE CHIEF</b></p>                        | <p>Class Code:<br/>XXXX</p> |
| <p>CITY OF BERKELEY<br/>Established Date: July 25, 2023</p>                       | <p>Bargaining Unit: Unrepresented<br/>Classification</p> |                             |

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p><b>SALARY RANGE</b><br/>       \$96,153.8 - \$125,000.00 Hourly<br/>       \$7,692.3077 - \$10,000.0000 Biweekly<br/>       \$16,666.6667 - \$21,666.6667 Monthly<br/>       \$200,000.0000 - \$260,000.0000 Annually</p>                                                                                                                                                                                                                                                                                                                                                                                         |
| <p><b>DESCRIPTION:</b></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| <p><b>DEFINITION</b></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| <p>Under administrative direction, provides professional and administrative assistance to the Police Chief in planning, organizing, coordinating and directing the City's police services and law enforcement program; provides highly responsible and technical staff assistance to the Police Chief, including fiscal and personnel management and policy development and implementation; coordinates and supervises the activities of divisions and units within the Police Department; assumes command of the Police Department in the absence of the Police Chief; and performs related duties as required.</p> |
| <p><b>CLASS CHARACTERISTICS</b></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| <p>This single class position serves as an administrative and professional assistant to the Police Chief in policy development, program planning, risk management, training, fiscal and personnel management, administration, and division operations. This classification is the second in command for the Police Department and acts as the Department Head in the absence of the Police Chief.</p>                                                                                                                                                                                                                |
| <p>This class is distinguished from the Police Captain classification in that the incumbent is responsible for overall operations of the divisions and units within the Police Department; has departmentwide authority; and works with considerable latitude and independent judgment in developing, interpreting, and applying broad policies, rules, and regulations, and implementing and evaluating performance management systems, procedures, and standards for the department.</p>                                                                                                                           |

**EXAMPLES OF DUTIES:**

The following list of duties is intended only to describe the various types of work that may be performed and the level of technical complexity of the assignment(s) and is not intended to be an all-inclusive list of duties. The omission of a specific duty statement does not exclude it from the position if the work is consistent with the concept of the classification, is similar or closely related to another duty statement, or a logical assignment to the classification.

1. Assists the Police Chief with the day-to-day administrative and technical operations of the Police Department;
2. Plans, organizes, coordinates, and directs the work of divisions and units in City police functions, including patrol, law enforcement, crime investigation, community services, operation of the City jail, Communications Center, Traffic/Parking Enforcement, Property room, maintenance of police records, and related support services;
3. Assumes command of the department in the absence of the Police Chief;
4. Assists in the development and implementation of policies, goals, objectives, procedures, and work standards for the department;
5. Evaluates programs, functions, activities, and procedures to ensure compliance with legal and regulatory requirements, efficient and effective operations of the department, and that organizational goals and objectives are met;
6. Monitors developments related to police service matters, evaluates their impact on City operations, and implements policy and procedure improvements;
7. Evaluates the progress of program plans to determine if command-wide objectives are accomplished economically and within budget and personnel allocation;
8. Oversees the development of performance management systems, procedures, and standards for program evaluation to ensure that financial and operational targets are met;
9. Works closely with the department's senior management to develop and deliver an overall strategy focused on developing and managing effective operational processes and procedures;
10. Works closely with the City Manager, the City Council, other city departments, a variety of public and private organizations, and citizen groups in developing programs and implementing projects to solve police service problems;
11. Represents the City and works closely with citizen boards and commissions and public and private officials to provide technical assistance, directly or through subordinate staff;
12. Prepares a wide variety of reports or presentations for City management or outside agencies;
13. Directs the selection, supervision, and work evaluation of department personnel;
14. Monitors and directs employee relations and grievance procedures;
15. Provides for staff development and supervisory training programs;

16. Provides staff and technical assistance to boards and commissions; and
17. Performs related duties as assigned.

**KNOWLEDGE AND ABILITIES:**

Note: The level and scope of the knowledge, skills and abilities listed below are related to job duties as defined under Class Characteristics.

Knowledge of:

1. Roles and responsibilities of the Police Department and its personnel;
2. Administrative principles and methods including goal setting, program development and implementation, delegation and employee supervision;
3. Principles and practices of law enforcement, investigation, patrol, community policing and problem-solving strategies services, school and traffic safety, and related police services;
4. Crime prevention services, including crime prevention through environmental design and construction of new buildings and surrounding landscaping;
5. Criminal law, codes, ordinances and court interpretations including rights of citizens, apprehension, arrest, search and seizure, and rules of evidence;
6. Principles and practices of budget development and administration;
7. City Administrative Regulations, Personnel Rules and Regulations, Memoranda Agreements, and the City Council agenda and report processes;
8. Special event and demonstration planning; and
9. Disaster preparedness and terrorism response.

Skill in and ability to:

1. Plan, organize, administer and coordinate the City's police services program;
2. Recognize and mitigate risks and liabilities;
3. Select, motivate, and evaluate staff and provide for their training and professional development;
4. Develop and implement goals, objectives, policies, procedures, work standards and internal controls;
5. Analyze complex technical and administrative police services problems and projects, evaluate alternative solutions, and adopt effective courses of action;
6. Prepare clear and concise reports, correspondence, and other written materials;
7. Complete a wide variety of written projects in a timely manner;
8. Establish and maintain cooperative working relationships with a variety of citizens, public and private organizations, boards and commissions, and City staff;
9. Make oral presentations in a variety of settings such as departmental meetings, community meetings, and service clubs;
10. Exercise sound independent judgment within general guidelines; and
11. Make quick and effective decisions in emergencies.

**MINIMUM QUALIFICATIONS:**

A TYPICAL WAY OF GAINING THE KNOWLEDGE AND SKILLS OUTLINED ABOVE IS: Equivalent to graduation from a four-year college or university with major coursework in criminology, social science, business or public administration, or a related field, and at least four (4) years of full-time paid experience equivalent to a Police Captain and/or Police Lieutenant in the City of Berkeley Police Department. Completion of a post graduate degree in an applicable field is desirable.

OTHER REQUIREMENTS Must possess a valid California driver's license and have a satisfactory driving record. Must be able to meet physical, psychological and background standards. Must be willing to work evening, night, weekend, and holiday call-ins. Must be able to maintain firearms qualification. Must possess a P.O.S.T. Management Certificate.

CLASSIFICATION HISTORY:

Classification Code: XXXX

Classification Established: July 25, 2023

FLSA Status: Exempt

Representation Unit: Unrepresented

Probationary Period: One Year

Workers' Comp Code: 7720





Office of the City Manager

CONSENT CALENDAR  
July 25, 2023

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Aram Kouyoumdjian, Director of Human Resources

Subject: Salary Range Adjustments: Senior Building Maintenance Supervisor, Senior Equipment Supervisor, Senior Public Works Supervisor, and Senior Solid Waste Supervisor

RECOMMENDATION

Adopt a Resolution amending Resolution No. 69,997-N.S., Salary Resolution for Public Employees Union (PEU) – Local 1, to increase the salary range of the Senior Building Maintenance Supervisor by 9.30%; Senior Equipment Supervisor by 13.00%; Senior Public Works Supervisor by 8.53%; and Senior Solid Waste Supervisor by 8.53%, effective January 1, 2023.

This Resolution follows Council consideration of this item in Closed Session on May 1, 2023.

FISCAL IMPACTS OF RECOMMENDATION

Total cost of approximately \$88,035.46 in salary only. For FY 2022-23, the variance can be absorbed through salary savings due to vacancies within the classifications.

CURRENT SITUATION AND ITS EFFECTS

Within the current Memorandum of Understanding with PEU – Local One, which was approved on July 29, 2021, section 13.11.1 states:

Beginning no later than six (6) months after ratification of this Agreement, the City agrees to work with two representatives designated by the Union with the intent of completing a classification and compensation review of the Economic Development Project Coordinator, Mental Health Program Supervisor, Mental Health Clinical Supervisor, Senior Public Works Supervisor, Senior Building Maintenance Supervisor, and Senior Equipment Supervisor. As part of this, the City will also conduct a study related to the creation of a Senior Economic Development Project Coordinator classification.

A market salary survey of comparable classifications to the senior supervisor classifications represented by Public Employees Union (PEU) – Local 1 – in particular, the salaries of Senior Building Maintenance Supervisor, Senior Equipment Supervisor, Senior Public Works Supervisor, and Senior Solid Waste Supervisor – revealed that these classifications were behind in the market median as shown in Table A below:

Salary Range Adjustments: Senior Building Maintenance Supervisor, Senior Equipment Supervisor, Senior Public Works Supervisor, and Senior Solid Waste Supervisor

| <b>Table A: City of Berkeley Senior Supervisory Job Classifications</b> |                         |                                       |
|-------------------------------------------------------------------------|-------------------------|---------------------------------------|
| <b>Job Title</b>                                                        | <b>Current top step</b> | <b>Current % behind market median</b> |
| Senior Building Maintenance Supervisor                                  | \$111,178.50            | 9.30%                                 |
| Senior Equipment Supervisor                                             | \$121,282.51            | 13.00%                                |
| Senior Public Works Supervisor                                          | \$129,121.82            | 8.53%                                 |
| Senior Solid Waste Supervisor                                           | \$129,121.82            | 8.53%                                 |

**ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS**

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

**RATIONALE FOR RECOMMENDATION**

To comply with the provisions of the City’s MOU with PEU – Local One (specifically, section 13.11.1), City staff conducted a compensation market survey and determined that the salaries of Senior Building Maintenance Supervisor, Senior Equipment Supervisor, Senior Public Works Supervisor, and Senior Solid Waste Supervisor classifications are out of market by at least eight percent (8%). As such, increases in salary for these classifications are needed to bring the salaries within the median levels of the market.

**ALTERNATIVE ACTIONS CONSIDERED**

None.

**CONTACT PERSON**

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

**Attachments:**

- 1: Resolution  
Exhibit A: Salary Adjustments

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

SALARY ADJUSTMENT: SENIOR BUILDING MAINTENANCE SUPERVISOR,  
SENIOR EQUIPMENT SUPERVISOR, SENIOR PUBLIC WORKS SUPERVISOR, AND  
SENIOR SOLID WASTE SUPERVISOR

WHEREAS, the Human Resources Department maintains the Classification and Compensation plan for the City of Berkeley; and

WHEREAS, the City's current Memorandum of Understanding with Public Employees Union (PEU) – Local One required a compensation review of certain supervisor classifications represented by Local One;

WHEREAS, the Human Resources Department completed a compensation market survey and ascertained that the salaries of Senior Building Maintenance Supervisor, Senior Equipment Supervisor, Senior Public Works Supervisor, and Senior Solid Waste Supervisor classifications were behind the median surveyed market by at least eight percent (8%); and

WHEREAS, it is necessary for the City Council to adopt an amendment to PEU – Local 1 salary resolution, No. 69,997-N.S., to provide the salary adjustments reflected in Exhibit A to bring these classifications within the market median.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that Resolution No. 69,997-N.S., Salary Resolution for PEU – Local 1, is amended to include the salary adjustments in Exhibit A, attached hereto and made part hereof, effective January 1, 2023.

Attachment: Exhibit A

## EXHIBIT A

The following classifications' salary shall be increased according to the following table:

| Classification                                | 1       | 2       | 3       | 4       | 5       |
|-----------------------------------------------|---------|---------|---------|---------|---------|
| <b>Senior Building Maintenance Supervisor</b> | 51.4582 | 53.8963 | 56.5474 | 59.1780 | 61.9706 |
| <b>Senior Equipment Supervisor</b>            | 55.5537 | 58.2001 | 61.0872 | 64.0576 | 67.1646 |
| <b>Senior Public Works Supervisor</b>         | 51.0957 | 53.5166 | 56.1491 | 58.7611 | 61.5340 |
| <b>Senior Solid Waste Supervisor</b>          | 51.5781 | 54.0193 | 56.6813 | 59.3139 | 62.1061 |



Office of the City Manager

CONSENT CALENDAR  
July 25, 2023

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: Kevin C. Fong, Director of Information Technology  
 Subject: Piggyback Contract – SmartWave for City Facility Managed Wi-Fi

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to execute a contract which aligns with the City of Tucson, AZ existing contract and amendments, to provide managed Wi-Fi throughout City of Berkeley facilities in an amount of \$325,000 with an option to extend ongoing Operations and Maintenance (O&M) for an additional year for a total contract value not to exceed \$370,000 through FY2025.

FISCAL IMPACTS OF RECOMMENDATION

This contract will begin in FY2024 and funding in the amount of \$325,000 is available in Department of Information Technology's Cost Allocation Fund (680). In future years, Operation and Maintenance (O&M) will be included within updated IT Cost Allocation rates.

| FY2024              | Description                 |
|---------------------|-----------------------------|
| \$221,020.00        | Materials and Equipment     |
| \$28,050.00         | Survey and Design Services  |
| \$30,930.00         | Implementation Services     |
| \$45,000.00         | Remote Support Year 1 (O&M) |
| <b>\$325,000.00</b> | <b>FY2024 Subtotal</b>      |

| FY2025             | Description                 |
|--------------------|-----------------------------|
| \$45,000.00        | Remote Support Year 2 (O&M) |
| <b>\$45,000.00</b> | <b>FY2025 Subtotal</b>      |

|                     |                                              |
|---------------------|----------------------------------------------|
| <b>\$370,000.00</b> | <b>Total FY2024-2025 Not To Exceed Value</b> |
|---------------------|----------------------------------------------|

CURRENT SITUATION AND ITS EFFECTS

The City is rapidly adopting a more mobile workforce, and the platforms that we provide and support are increasingly dependent upon wireless technology. For example, public safety is relying more and more on mobile laptops and tablets and many staff from Planning, Public Works and HHCS are in transit from office to office throughout the workday.

July 25, 2023

The City is playing “catch-up” and struggling to establish seamless, enterprise quality wireless access (Wi-Fi) at all City facilities for City staff and for use by the community in City facilities that are open to the public, including the Finance Customer Service Center, the Permit Service Center, the Public Health Clinic, the Mental Health Clinic, and the North and South Berkeley Senior Centers. Additionally, existing wireless access points (WAPs) have been in place for 9+ years and are past end-of-life and due for replacement, on top of the fact that IT has not reached every City facility as of 2023 due to resource constraints.

The City plans to modernize, expand and maintain its wireless infrastructure footprint throughout City facilities by engaging a vendor to provide a turnkey, managed service (a similar model to printer leasing). This will relieve City staff of the overburdening effort to keep Wi-Fi up, and provide a 99% uptime while staff focus on other areas of importance.

Having an enterprise quality Wi-Fi infrastructure is consistent with the City’s Strategic Plan Priority to provide state-of-the-art, well-maintained infrastructure, amenities, and facilities.

#### ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

Overall cost-effectiveness of Wi-Fi is greater than hard-wired ethernet, as there is no need to fully wire a facility with ethernet cable (comprised of copper and other materials), so the deployment cost of Wi-Fi is significantly less than a hardwired office.

Because Wi-Fi is “radio” based, it has a broader reach within a facility than a hardwired option. Reconfiguration of office space will require less material and labor with Wi-Fi than a hardwired solution, thus reducing the carbon footprint and cost of ownership over a lifespan.

Finally, as the City deploys more advanced technologies, and with the increasing demand from the community, this project will assist in providing community access to Wi-Fi at all City locations. By providing remote access to data, operational efficiencies are increased for staff, and energy and global warming emissions are reduced by both staff and the community.

#### RATIONALE FOR RECOMMENDATION

Deploying and managing a city-wide Wi-Fi solution requires dedicated staff time, both for monitoring the “uptime” of the system as well as replacing failed hardware. With over 200+ anticipated access points, IT does not have adequate staff to provide for a 99% uptime, let alone, an ability to deploy Wi-Fi throughout all city-wide facilities.

Engaging a vendor to provide a managed service is the logical solution. A vendor will be responsible for the initial deployment of hardware with IT supervision and leadership, management and upkeep of the network, and “truck runs” (service calls) for repair. This

July 25, 2023

will make Wi-Fi throughout City facilities as ubiquitous as a telephone and will be an expected service that is available and “just works”.

The City of Tucson, AZ conducted a competitive Request for Proposal (RFP) process that solicited bids for a vendor to provide “Region-Wide Point to Point Wireless System for the Regional Transportation Data Network” and selected SmartWave Technologies LLC (Attachment 1, Contract 120558), which was awarded and accepted on February 15, 2013 with one-year options to extend on an annual basis (Attachments 2 through 11) through February, 2025. The City of Berkeley Information Technology Department is requesting to piggyback off the City of Tucson, AZ contract for the same services.

SmartWave Technologies LLC has extensive experience providing Wi-Fi installation and maintenance services and has a demonstrated, proven track record of completing projects on time and on budget, in addition to having responsive customer service. They are currently contracted by many local municipalities, including Oakland, San Jose, Dublin and Pleasanton. Furthermore, the County of San Mateo, Daly City, San Leandro, Hayward, South San Francisco and Livermore are currently “piggy-backing” off of the Tucson, AZ contract.

#### ALTERNATIVE ACTIONS CONSIDERED

Staff considered completing these installation services internally, but due to the high volume of existing work, staff do not currently have the capacity or the expertise to perform such a high volume of Wi-Fi installations and ongoing maintenance at all City locations.

#### CONTACT PERSON

Kevin C. Fong, Director of Information Technology, (510) 981-6541

Attachments:

- 1: Resolution
- 2: Tucson Contract Signed 02/15/2013
- 3: Tucson Renewal Amendments Years 2014 through 2024

July 25, 2023

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

PIGGYBACK CONTRACT – SMARTWAVE FOR CITY FACILITY MANAGED WI-FI

WHEREAS, the City is rapidly adopting a more mobile workforce, and the platforms that we provide and support are increasingly dependent upon wireless technology, and

WHEREAS, the City is playing “catch-up” and struggling to establish reliable, enterprise quality and seamless wireless access (Wi-Fi) at all City facilities, both for use by City staff and for use by the community in City facilities that are open to the public, including the Finance Customer Service Center, the Permit Service Center, the Public Health Clinic, the Mental Health Clinic, and the North and South Berkeley Senior Centers, and

WHEREAS, existing wireless access points (WAPs) have been in place for 9+ years and are past end-of-life and due for replacement, on top of the fact that IT has not reached every City facility as of 2023 due to resource constraints, and

WHEREAS, The City plans to modernize, expand and maintain its wireless infrastructure footprint throughout City facilities by engaging a vendor to provide a turnkey, managed service (a similar model to printer leasing). This will relieve City staff of the overburdening effort to keep Wi-Fi up, and provide a 99% uptime, and

WHEREAS, having an enterprise quality Wi-Fi infrastructure is consistent with the City’s Strategic Plan Priority to provide state-of-the-art, well-maintained infrastructure, amenities, and facilities, and

WHEREAS, The City of Tucson conducted a competitive Request for Proposal (RFP) process that solicited bids for a vendor to provide “Region-Wide Point to Point Wireless System for the Regional Transportation Data Network” and selected SmartWave Technologies LLC, which was awarded and accepted on February 15, 2013 with one-year options to extend on an annual basis, and

WHEREAS, the City of Berkeley Information Technology Department is requesting to piggyback off the City of Tucson for the same services.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to execute a contract which aligns with the City of Tucson, AZ existing contract and amendments, to provide managed Wi-Fi throughout City of Berkeley facilities in an amount of \$325,000 with an option to extend ongoing Operations and Maintenance (O&M) for an additional year for a total contract value not to exceed \$370,000 through FY2025.



# CONTRACT AMENDMENT

CITY OF TUCSON DEPARTMENT OF BUSINESS SERVICES  
255 W. ALAMEDA, 6TH FLOOR, TUCSON, AZ 85701  
P.O. BOX 27210, TUCSON, AZ 85726  
PHONE: (520) 837-4143 / FAX: (520) 791-4735  
[Nora.corral@tucsonaz.gov](mailto:Nora.corral@tucsonaz.gov)  
ISSUE DATE: January 29, 2023

**CONTRACT #120558-01**  
CONTRACT AMENDMENT NUMBER: TEN (10)  
PAGE 1 of 1  
NC  
SENIOR CONTRACT OFFICER: NORA CORRAL

## REGION WIDE POINT TO POINT WIRELESS SYSTEM FOR THE REGIONAL TRANSPORTATION DATA NETWORK

THIS CONTRACT IS AMENDED AS FOLLOWS:

### ITEM ONE (1): CONTRACT RENEWAL

Pursuant to the Contract No.120558, Special Terms and Conditions, Paragraph 5 (Term and Renewal), the City is hereby exercising its option to renew the contract for the period of February 16, 2023 through February 15, 2024.

**\*\*\*End of Amendment\*\*\***

**ALL OTHER PROVISIONS OF THE CONTRACT SHALL REMAIN IN THEIR ENTIRETY.**

**CONTRACTOR: SmartWave Technologies LLC**

CONTRACTOR HEREBY ACKNOWLEDGES RECEIPT OF AND UNDERSTANDING OF THE ABOVE AMENDMENT

**CITY OF TUCSON:** \_\_\_\_\_

THE ABOVE REFERENCED CONTRACT AMENDMENT IS HEREBY EXECUTED THIS 3rd DAY OF February, 2023, AT TUCSON, ARIZONA.

 2/3/2023  
Signature of person authorized to sign Date

Dan Longanecker for  
Director of Business Services and not personally

AL BROWN - CEO  
Name and Title (typed or printed legibly)

SMARTWAVE TECHNOLOGIES LLC  
Company Name

2662 HOLCOMB BRIDGE RD #340  
Address

al.brown@smartwave.us  
Email Address

ALABAMA GA 30022  
City State Zip

Contact information for Sales/Account Representative for daily business operations:

JOSH KEHL - AZ OPERATIONS MGR  
Name and Title (typed or printed legibly)

443-768-6411  
Phone Number

JOSH.KEHL@SMARTWAVE.US  
Email Address

# REQUEST FOR PROPOSAL AMENDMENT

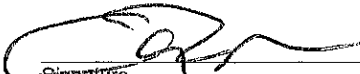
CITY OF TUCSON  
DEPARTMENT OF PROCUREMENT  
255 W. ALAMEDA, 6TH FLOOR, TUCSON, AZ 85701  
P.O. BOX 27210, TUCSON, AZ 85726  
ISSUE DATE: JULY 16, 2012

REQUEST FOR PROPOSAL NO. 120558  
RFP AMENDMENT NO. SIX (6)  
PAGE NO. 2 OF 2  
RFP DUE DATE: JULY 27, 2012  
RESPONSIBLE CONTRACT OFFICER: NATHAN DAOU

A SIGNED COPY OF THIS AMENDMENT MUST BE SUBMITTED WITH YOUR SEALED PROPOSAL.  
THIS REQUEST FOR PROPOSAL IS AMENDED AS FOLLOWS:

**THIS PAGE LEFT BLANK INTENTIONALLY**

ALL OTHER PROVISIONS OF THE REQUEST FOR PROPOSAL SHALL REMAIN IN THEIR ENTIRETY.  
VENDOR HEREBY ACKNOWLEDGES RECEIPT AND UNDERSTANDING OF THE ABOVE AMENDMENT.


7/24/12  
 Signature Date  
A. Beaman / CEO  
 Typed Name and Title

SMART WAVE  
 Company Name  
1275 Bureau Hwy #101  
 Address  
Sumner GA 30029  
 City State Zip





## APPENDIX 5 – PRICING DETAIL

### A5.1 – BACKHAUL LINKS ON EXISTING MESH INFRASTRUCTURE - PRICING DETAIL

| MATERIAL / EQUIPMENT DESCRIPTION                          | MANF. PART #        | QUANTITY |    | UNIT PRICE |
|-----------------------------------------------------------|---------------------|----------|----|------------|
| <b>Base Station Equipment</b>                             |                     |          |    |            |
| AirSynergy, 4900-5100, Connectorised                      | SYN2-CN-00-x40-000  | 50       | ea | \$2,640.00 |
| Synergy-2 Ethernet cable assembly with hood (25m)         | SYN-ETH-25-1        | 50       | ea | \$120.00   |
| Universal Post Mounting Kit                               | SYN-U-PMK-1         | 50       | ea | \$48.00    |
| Front Mount 4.9GHz X-Pol 60deg Sector Antenna             | SEC60D-4.9-SYN-RC-1 | 50       | ea | \$376.00   |
| Front Mount Antenna bracket kit                           | SYN-SEC-MKT-1       | 50       | ea | \$28.00    |
| GPS Antenna                                               | GPS-ANT-1           | 50       | ea | \$112.00   |
| AirSynergy GPS Antenna Mounting kit                       | SYN-GPS-MKT-1       | 50       | ea | \$20.00    |
| WIMAX SW RTU License (per node)                           | SYN-SW-WIMAX-RTU    | 50       | ea | \$720.00   |
| Encryption License (per node)                             | BS-LIC-KEY-AES+DES  | 50       | ea | \$84.00    |
| Netspan AirSynergy Air Interface License (per node)       | NS-AIL-SYN-ALL      | 50       | ea | \$136.00   |
| Belden - UV Resistant, Riser Rated 4 Pair CAT5E - 150ft   | SW-Cat5E-OD         | 50       | ea | \$70.00    |
| Outdoor Gigabit Power-Over-Ethernet (POE) Surge Protector | CMJ8-POE-B          | 100      | ea | \$35.00    |
| 8-10/100/1000TX Rugged POE Managed Switch                 | SW-S-8-PRO          | 31       | ea | \$630.00   |
| Shipping, Consumables, etc.                               | SW-MISC             | 31       | ea | \$833.00   |
| <b>Subscriber Unit/CPE Equipment</b>                      |                     |          |    |            |
| MIMAX Pro, 4.9-5.3GHz - US                                | M-Pro-V-V85-500I-US | 75       | ea | \$823.00   |
| Belden - UV Resistant, Riser Rated 4 Pair CAT5E - 150ft   | SW-Cat5E-OD         | 75       | ea | \$75.00    |
| Outdoor Gigabit Power-Over-Ethernet (POE) Surge Protector | CMJ8-POE-B          | 150      | ea | \$35.00    |
| 8-10/100/1000TX Rugged POE Managed Switch                 | SW-S-8-PRO          | 75       | ea | \$630.00   |
| Shipping, Consumables, etc.                               | SW-MISC             | 75       | ea | \$125.00   |
| <b>Miscellaneous</b>                                      |                     |          |    |            |
| Shipping, consumable items required for mounts, etc.      | SW-MISC             | 1        | ea | \$7,338.00 |

#### PRICING

|                    |                     |  |
|--------------------|---------------------|--|
| Materials/Equip    | \$403,116.00        |  |
| Professional Svcs  | \$380,950.00        |  |
| Tax (9.1%)         | \$36,683.56         |  |
| <b>GRAND TOTAL</b> | <b>\$820,749.56</b> |  |

- Design assumes 31 Tower or Building Roof top locations per propagation map provided.
- Design is based on a 1:1.5 ratio of BSUs to CPEs, providing enhanced capacity and flexibility in Base Station install locations.
- Design assumes the City has a 1000BaseT port for switch to connect to City infrastructure.
- Number of BSUs required for full citywide coverage will be greater, as indicated in the Propagation model provided within this response.
- Mobility is provided with the addition of an ASN Gateway. The ASN Gateway pricing is provided in Section A5.6. The ASN Gateway is not required for operation of the Fixed network.
- AAA Server pricing is provided as an option in Section A5.6, but we assume the existing AAA Server currently installed at the City will support this solution. An AAA Server is only required if the City wants to implement Mobility.



**A5.2 – WIRELESS LINKS ON SIX PUBLIC FACILITIES - PRICING DETAIL**

| <u>MATERIAL / EQUIPMENT DESCRIPTION</u>                         | <u>MANF. PART #</u> | <u>QUANTITY</u> | <u>UNIT PRICE</u> |
|-----------------------------------------------------------------|---------------------|-----------------|-------------------|
| <b>24GHz PTP Equipment (1Gbps)</b>                              |                     |                 |                   |
| AirFiber 24GHz Point-to-Point 1.4+ Gbps Radio                   | SW-UBNT-AF-24       | 4 ea            | \$3,431.00        |
| Outdoor Gigabit Power-Over-Ethernet (POE) surge protector       | SW-CM18-POE-B       | 8 ea            | \$26.00           |
| 48 Vdc Power Over Ethernet power supply and injector 90-264 VAC | SW-POE-48I          | 8 ea            | \$26.00           |
| Belden - UV Resistant, Riser Rated 4 Pair CAT5E - 150ft         | SW-Cat5E-OD         | 8 ea            | \$66.00           |
| Non-Pen Mount, 2.91'x3.33' Footprint, 1.31" ODx5' Mast          | SW-B3-34x40         | 8 ea            | \$169.00          |
| <b>11GHz PTP Equipment (255Mbps)</b>                            |                     |                 |                   |
| ApexPLUS Link 11 GHz 118Mbps Full Duplex                        | SWTLAP2-11          | 2 ea            | \$8,647.00        |
| Key - ApexPlus Enable Max Capacity - 255Mbps Full Duplex        | SWAP-KEY-2          | 2 ea            | \$625.00          |
| 11GHz License Application                                       | 11GHz-License       | 2 ea            | \$1,250.00        |
| POE injector/surge suppressor for ApexPlus                      | SWPOE-GIGE-48       | 4 ea            | \$219.00          |
| Antenna 11 GHz 0.6M/2.4ft Trango                                | SWAD11G-2-S2        | 4 ea            | \$698.00          |
| Antenna 11 GHz 0.9M/3.5ft Trango                                | AD11G-3-S2          | 0 ea            | \$1,221.00        |
| Belden - UV Resistant, Riser Rated 4 Pair CAT5E - 150ft         | SW-Cat5E-OD         | 4 ea            | \$66.00           |
| Non-Pen Mount, 2.91'x3.33' Footprint, 1.31" ODx5' Mast          | SW-B3-34x40         | 4 ea            | \$169.00          |
| <b>Miscellaneous</b>                                            |                     |                 |                   |
| Shipping, consumable items required for mounts, etc.            | SW-MISC             | 6 ea            | \$250.00          |

**PRICING**

|                    |                    |  |
|--------------------|--------------------|--|
| Materials/Equip    | \$43,172.00        |  |
| Professional Svcs  | \$31,574.00        |  |
| Tax (9.1%)         | \$3,928.65         |  |
| <b>GRAND TOTAL</b> | <b>\$78,674.65</b> |  |

**A5.3 – 40 MESH RADIOS ON EXISTING INFRASTRUCTURE - PRICING DETAIL**

| <u>MATERIAL / EQUIPMENT DESCRIPTION</u>                              | <u>MANF. PART #</u> | <u>QUANTITY</u> | <u>UNIT PRICE</u> |
|----------------------------------------------------------------------|---------------------|-----------------|-------------------|
| <b>40 Mesh Radios</b>                                                |                     |                 |                   |
| 7320: 2.4 & 5.8GHz, FCC, 802.11n, DC                                 | 73206000            | 40 ea           | \$3,834.00        |
| Weather-Tight Gateway Connector Kit                                  | EC003500            | 40 ea           | \$97.00           |
| Tropos Control Router License                                        | NMCR OUTER          | 40 ea           | \$162.00          |
| Outdoor Gigabit Power-Over-Ethernet (POE) surge protector CM18-POE-B | CM18-POE-B          | 40 ea           | \$42.00           |
| 48 Vdc Power Over Ethernet power supply and injector 90-264 VAC      | POE-48I             | 40 ea           | \$42.00           |
| Belden - UV Resistant, Riser Rated 4 Pair CAT5E - 250ft              | SW-Cat5E-OD         | 40 ea           | \$109.00          |
| <b>Miscellaneous</b>                                                 |                     |                 |                   |
| Patch cables, power strips, shipping, misc                           | SW-MISC             | 40 ea           | \$75.00           |

**PRICING**

|                    |                     |  |
|--------------------|---------------------|--|
| Materials/Equip    | \$174,440.00        |  |
| Professional Svcs  | \$39,460.00         |  |
| Tax (9.1%)         | \$15,874.04         |  |
| <b>GRAND TOTAL</b> | <b>\$229,774.04</b> |  |



**A5.4 – TUCSON INTERNATIONAL AIRPORT (TIA MESH NETWORK) - PRICING DETAIL**

| MATERIAL / EQUIPMENT DESCRIPTION                                     | MANF. PART #       | QUANTITY | UNIT PRICE |
|----------------------------------------------------------------------|--------------------|----------|------------|
| <b>Airspan Backhaul</b>                                              |                    |          |            |
| 4.9GHz WiMAX 802.16 BSU - Installed                                  | Menu - Item 1      | 1 ea     | \$8,850.00 |
| 4.9GHz WiMAX 802.16 Outdoor SU - Installed                           | Menu - Item 3      | 2 ea     | \$2,850.00 |
| <b>TIA Mesh Radios</b>                                               |                    |          |            |
| 7320: 2.4 & 5.8GHz, FCC, 802.11n, DC                                 | 73206000           | 11 ea    | \$3,834.00 |
| Weather-Tight Gateway Connector Kit                                  | EC003500           | 11 ea    | \$97.00    |
| Tropos Control Router License                                        | NMCRROUTER         | 11 ea    | \$162.00   |
| Outdoor Gigabit Power-Over-Ethernet (POE) surge protector CMJ8-POE-B | CMJ8-POE-B         | 11 ea    | \$42.00    |
| 48 Vdc Power Over Ethernet power supply and injector 90-264 VAC      | POE-48I            | 11 ea    | \$42.00    |
| Belden - UV Resistant, Riser Rated 4 Pair CAT5E - 250ft              | SW-Cat5E-OD        | 11 ea    | \$109.00   |
| 6 Ports (10/100/1000T) w/2 Gig SFP Slots, Rugged Managed Switch      | 8350-604 IGS-2206C | 4 ea     | \$1,220.00 |
| Mini GBIC LHX (LC/SM 50km)                                           | 8330-166           | 2 ea     | \$503.00   |
| <b>Miscellaneous</b>                                                 |                    |          |            |
| Patch cables, power strips, shipping, misc                           | SW-MISC            | 11 ea    | \$75.00    |

**PRICING**

|                    |                    |
|--------------------|--------------------|
| Materials/Equip    | \$68,407.00        |
| Professional Svcs  | \$18,002.00        |
| Tax (9.1%)         | \$6,225.04         |
| <b>GRAND TOTAL</b> | <b>\$92,634.04</b> |

**A5.5 – MONITOR, MANAGEMENT AND WARRANTY - PRICING DETAIL**

| MATERIAL / EQUIPMENT DESCRIPTION                                  | MANF. PART #        | QUANTITY | UNIT PRICE |
|-------------------------------------------------------------------|---------------------|----------|------------|
| <b>Spare Equipment</b>                                            |                     |          |            |
| AirFiber 24GHz Point-to-Point 1.4+ Gbps Radio                     | SW-UBNT-AF-24       | 1 ea     | \$3,921.00 |
| AirSynergy, 4900-5100, Connectorised                              | SYN2-CN-00-x40-000  | 7 ea     | \$2,640.00 |
| MiMAX Pro, 4.9-5.3GHz - US                                        | M-Pro-V-V85-5001-US | 7 ea     | \$768.00   |
| 7320: 2.4 & 5.8GHz, FCC, 802.11n, DC                              | 73206000            | 2 ea     | \$4,121.00 |
| <b>5-Year Extended Warranty</b>                                   |                     |          |            |
| AirSynergy 4.9GHz Base Station - 5 Year Software Support Warranty |                     | 93 ea    | \$0.00     |
| Tropos 7320 Mesh Radio - Std SW Sup Multi Radio Router - 5 Year   | 87-SUSWS002-5       | 60 ea    | \$995.00   |

**PRICING**

|                    |                     |
|--------------------|---------------------|
| Materials/Equip    | \$95,719.00         |
| Professional Svcs  | \$432,000.00        |
| Tax (9.1%)         | \$8,710.43          |
| <b>GRAND TOTAL</b> | <b>\$536,429.43</b> |

- Pricing does not include monitoring and management of existing infrastructure.
- Pricing does not include warranty upgrades to existing infrastructure.
- Pricing is based on Software Upgrades Only over the 5 Year period for all equipment proposed, with adequate sparing of equipment, as listed in the bill of materials.
- Pricing includes Network Monitoring, Maintenance, Truck Rolls, and Optimization associated with the items proposed in this response.



**A5.6 – OPTIONAL ITEMS FOR PROPOSED SOLUTION**

| MATERIAL / EQUIPMENT DESCRIPTION                                                                            | MANF. PART #           | QUANTITY | UNIT PRICE  |
|-------------------------------------------------------------------------------------------------------------|------------------------|----------|-------------|
| <b>ASN Gateway - WIMAX Mobility</b>                                                                         |                        |          |             |
| SmartCore 9120 (Page Controller and dual AC power) with ASN-GW Base Software licenses for 1,000 subscribers | ASNGW-9120-BNDL-1K-2PS | 1 ea     | \$58,165.00 |
| Network Server Hardware and Installation                                                                    | SW-SRVR                | 1 ea     | \$7,900.00  |
| ASNGW 91xx Product Support - 5 Year                                                                         | MTCE-TELLABS-SUPP      | 1 ea     | \$34,899.00 |
| <b>AAA Server - Radius Authentication for Mobility Subscribers</b>                                          |                        |          |             |
| Entry AAA 2.5k subs                                                                                         | AAAB-ENT-DB-2K5-1      | 1 ea     | \$25,786.00 |
| SPARC Enterprise T5120 Server                                                                               | AAA-SUN-HW-T5120       | 1 ea     | \$22,000.00 |
| BRW AAA Installation and Integration & Professional Services                                                | AAA-IIS-0              | 1 ea     | \$17,500.00 |
| Bridgewater Support - 5 Year                                                                                | CMAX-MTCE-AAA-10-1     | 1 ea     | \$12,893.00 |
| <b>AirSynergy Warranty Options</b>                                                                          |                        |          |             |
| AirSynergy BSU Extended Hardware Warranty - 5 Year                                                          |                        | 50 ea    | \$2,767.00  |
| <b>Tropos Warranty Options</b>                                                                              |                        |          |             |
| Tropos Single Radio Mesh Node - Warranty Renewal                                                            | SUSWS001               | 298 ea   | \$298.00    |
| Tropos Dual Radio Mesh Node - Warranty Renewal                                                              | SUSWS002               | 106 ea   | \$398.00    |
| Tropos Re-Instatement Fee                                                                                   | TroposBS               | 1 ea     | \$19,649.00 |
| Tropos Single Radio Mesh Node - Software Support - 5 Year                                                   | SUSWS001-5             | 298 ea   | \$745.00    |
| Tropos Dual Radio Mesh Node - Software Support - 5 Year                                                     | SUSWS002-5             | 106 ea   | \$995.00    |
| Tropos Dual Radio Mesh Node - Hardware Support - 5 Year                                                     | SUHW002-5              | 60 ea    | \$1,129.00  |

**A5.7 – MESH RADIO ALTERNATE FOR 40 MESH NODES**

| MATERIAL / EQUIPMENT DESCRIPTION                                                                                                                            | MANF. PART #  | QUANTITY | UNIT PRICE |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------|----------|------------|
| <b>40 Mesh Radios</b>                                                                                                                                       |               |          |            |
| ZoneFlex 802.11n Outdoor Wireless AP, 2.4GHz/5GHz Dual Band, Dual Ethernet ports, POE in and POE out, IP-67 enclosure, PoE injector, flexible mounting kit. | 901-7762-US01 | 40 ea    | \$1,500.00 |
| Software Upgrade Only for ZoneFlex 7762, 7762-S, 7762-T - 5 Year                                                                                            | 907-7762-2002 | 40 ea    | \$300.00   |
| ZoneDirector 3000, licensed for up to 50 ZoneFlex Access Points.                                                                                            | 901-3050-US01 | 1 ea     | \$7,500.00 |
| Partner Premium Support for ZoneDirector 3050, NBD Replacement - 5 Year                                                                                     | 908-3050-2002 | 1 ea     | \$3,600.00 |
| Outdoor Gigabit Power-Over-Ethernet (POE) surge protector CMJ8-POE-A                                                                                        | CMJ8-POE-A    | 40 ea    | \$42.00    |
| Belden - UV Resistant, Riser Rated 4 Pair CAT5E - 250ft                                                                                                     | SW-Cat5E-OD   | 40 ea    | \$109.00   |
| <b>Miscellaneous</b>                                                                                                                                        |               |          |            |
| Patch cables, power strips, shipping, misc                                                                                                                  | SW-MISC       | 40 ea    | \$75.00    |

**PRICING**

|                    |                     |
|--------------------|---------------------|
| Materials/Equip    | \$92,140.00         |
| Professional Svcs  | \$39,182.00         |
| Tax (9.1%)         | \$8,384.74          |
| <b>GRAND TOTAL</b> | <b>\$139,706.74</b> |

Key advantages of Ruckus dual band (5GHz/2.4GHz) solution over Tropos are as follows:

- 1) Uses all channels available in 5GHz versus Tropos that only uses 5.8GHz. This provides for more flexibility in an overcrowded unlicensed spectrum.
- 2) Provides up to 300Mbps Data Rate versus Tropos with 54Mbps Data Rate.
- 3) Post warranty support approximately 33% of the Tropos post warranty support.
- 4) \$90,000 savings over Tropos solution.



**A5.8 – MESH RADIO ALTERNATE FOR THE AIRPORT MESH SOLUTION**

| <u>MATERIAL / EQUIPMENT DESCRIPTION</u>                                                                                                                     | <u>MANF. PART #</u> | <u>QUANTITY</u> | <u>UNIT PRICE</u> |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------|-----------------|-------------------|
| <b>Airspan Backhaul</b>                                                                                                                                     |                     |                 |                   |
| 4.9GHz WiMAX 802.16 BSU - Installed                                                                                                                         | Menu - Item 1       | 1 ea            | \$8,850.00        |
| 4.9GHz WiMAX 802.16 Outdoor SU - Installed                                                                                                                  | Menu - Item 3       | 2 ea            | \$2,850.00        |
| <b>TIA Mesh Radios</b>                                                                                                                                      |                     |                 |                   |
| ZoneFlex 802.11n Outdoor Wireless AP, 2.4GHz/5GHz Dual Band, Dual Ethernet ports, POE in and POE out, IP-67 enclosure, PoE injector, flexible mounting kit. | 901-7762-US01       | 11 ea           | \$1,500.00        |
| Software Upgrade Only for ZoneFlex 7762, 7762-S, 7762-T - 5 Year                                                                                            | 907-7762-2002       | 11 ea           | \$300.00          |
| ZoneDirector 3000, licensed for up to 25 ZoneFlex Access Points.                                                                                            | 901-3025-US00       | 1 ea            | \$5,000.00        |
| Partner Premium Support for ZoneDirector 3025, NBD Replacement - 5 Year                                                                                     | 908-3025-2002       | 1 ea            | \$2,400.00        |
| Outdoor Gigabit Power-Over-Ethernet (POE) surge protector CMJ8-POE-B                                                                                        | CMJ8-POE-B          | 11 ea           | \$42.00           |
| Belden - UV Resistant, Riser Rated 4 Pair CAT5E - 250ft                                                                                                     | SW-Cat5E-OD         | 11 ea           | \$109.00          |
| 6 Ports (10/100/1000T) w/2 Gig SFP Slots, Rugged Managed Switch                                                                                             | 8350-604 IGS-2206C  | 4 ea            | \$1,220.00        |
| Mini GBIC LHX (LC/SM 50km)                                                                                                                                  | 8330-166            | 2 ea            | \$503.00          |
| <b>Miscellaneous</b>                                                                                                                                        |                     |                 |                   |
| Patch cables, power strips, shipping, misc                                                                                                                  | SW-MISC             | 11 ea           | \$112.00          |

**PRICING**

|                          |             |
|--------------------------|-------------|
| <b>Materials/Equip</b>   | \$50,529.00 |
| <b>Professional Svcs</b> | \$18,002.00 |
| <b>Tax (9.1%)</b>        | \$4,598.14  |
| <b>GRAND TOTAL</b>       | \$73,129.14 |





## A5.9 – MENU OF PRICING

| No.                                         | Product Description                                             | Unit Price (Installed) | Pricing Notes                                                                                                                                                                                                                |
|---------------------------------------------|-----------------------------------------------------------------|------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>PTMP Unit Pricing</b>                    |                                                                 |                        |                                                                                                                                                                                                                              |
| 1                                           | 4.9GHz WIMAX 802.16 BSU - Installed                             | \$ 8,850.00            | Includes Radio, Antenna, Antenna Cable, 150-ft OD-Cat5, Surge Protection, Installation (Does not include conduit, NEMA Enclosure, Electrical Work, or Tower Work). Assumes location is roof top or bucket truck accessible.  |
| 2                                           | 5GHz Unlicensed BSU (100Mbps) - Installed                       | \$ 5,000.00            | Includes Radio, Antenna, Antenna Cable, 150-ft OD-Cat5, Surge Protection, Installation (Does not include conduit, NEMA Enclosure, Electrical Work, or Tower Work). Assumes location is roof top or bucket truck accessible.  |
| 3                                           | 4.9GHz WIMAX 802.16 Outdoor SU - Installed                      | \$ 2,850.00            | Includes Radio, Antenna, Antenna Cable, 150-ft OD-Cat5, Surge Protection, Installation (Does not include conduit, NEMA Enclosure, Electrical Work, or Tower Work). Assumes location is roof top or bucket truck accessible.  |
| 4                                           | 5GHz Unlicensed SU (100Mbps) - Installed                        | \$ 2,000.00            | Includes Radio, Antenna, Antenna Cable, 150-ft OD-Cat5, Surge Protection, Installation (Does not include conduit, NEMA Enclosure, Electrical Work, or Tower Work). Assumes location is roof top or bucket truck accessible.  |
| <b>PTP - Licensed and Unlicensed Option</b> |                                                                 |                        |                                                                                                                                                                                                                              |
| 5                                           | Licensed 11/18GHz PTP Link (Up to 400Mbps) - Installed          | \$ 17,000.00           | Includes 2 Radios, Antennas, Power supplies, Surge Protection, 250FT Cat5 Cable, Sled Mounts, License Registration, Path Analysis and Installation (Does not include conduit, electrical work, switches, or NEMA Enclosures) |
| 6                                           | SmartLink 24GHz Unlicensed PTP Link (Up to 1.4Gbps) - Installed | \$ 9,500.00            | Includes 2 Radios, Antennas, Power supplies, Surge Protection, 250FT Cat5 Cable, Sled Mounts, Path Analysis and Installation (Does not include conduit, electrical work, switches, or NEMA Enclosures)                       |
| 7                                           | SmartLink 5GHz Unlicensed 100Mbps PTP Link                      | \$ 6,000.00            | Includes 2 Radios, 2-FT Antennas, Power supplies, Surge Protection, 250FT Cat5 Cable, Sled Mounts, Path Analysis and Installation (Does not include conduit, electrical work, switches, or NEMA Enclosures)                  |
| <b>Other Products and Services</b>          |                                                                 |                        |                                                                                                                                                                                                                              |
| 8                                           | Pole Mounted Gateway Mesh Node                                  | \$ 5,475.00            | Includes Surge Protection, 250ft OD Cat5, Mesh Radio, Mounting Brackets, Power Supply, Tropos Control License, Installation                                                                                                  |
| 9                                           | Vicon Outdoor Pressurized PTZ IP-Camera                         | \$ 4,950.00            | Includes IP PTZ Camera, Dome, Brackets, Power Supply, and Installation (Does not include conduit or electrical work).                                                                                                        |
| 10                                          | Mobile Mounted Mesh Node                                        | \$ 3,035.00            | Includes mobile radio, mounting hardware and Antenna in Shop and not at location. Customer is responsible for vehicle delivery.                                                                                              |
| 11                                          | Mobile Mounted WIMAX Node                                       | \$ 2,500.00            | Includes mobile radio, mounting hardware and Antenna in Shop and not at location. Customer is responsible for vehicle delivery.                                                                                              |
| 12                                          | Mobile Mounted PepWave Radio                                    | \$ 1,200.00            | Includes mobile radio, mounting hardware and Antenna in Shop and not at location. Customer is responsible for vehicle delivery.                                                                                              |
| 13                                          | Wireless Equipment Maintenance - 1 Year                         | \$ 360.00              | Per Device - Network monitoring, optimization and Truck Roll services required for maintenance related services. Does not include move, add, change work, or manufacturer extended warranties.                               |
| 14                                          | CCTV Equipment Maintenance - 1 Year                             | \$ 220.00              | Per Device - Network monitoring, optimization and Truck Roll services required for maintenance related services. Does not include move, add, change work, or manufacturer extended warranties.                               |



|    |                                                             |    |          |                                                                                       |
|----|-------------------------------------------------------------|----|----------|---------------------------------------------------------------------------------------|
| 15 | Airspan Hardware - Percent of List Price                    |    | 80%      | Percent of list price for all Airspan Hardware                                        |
| 16 | Airspan Support - Percent of List Price                     |    | 100%     | Percent of list price for all Airspan Support                                         |
| 17 | Tropos Hardware - Percent of List Price                     |    | 75%      | Percent of list price for all Tropos Hardware                                         |
| 18 | Tropos Support - Percent of List Price                      |    | 100%     | Percent of list price for all Tropos Support                                          |
| 19 | Vicon - Percent of List Price                               |    | 65%      | Percent of list price for all Vicon Hardware                                          |
| 20 | Ruckus Hardware - Percent of List Price                     |    | 70%      | Percent of list price for all Ruckus Hardware                                         |
| 21 | Ruckus Support - Percent of List Price                      |    | 100%     | Percent of list price for all Ruckus Support                                          |
| 22 | PepLink CPEs - Percent of List Price                        |    | 90%      | Percent of list price for all PepLink Hardware                                        |
| 23 | Wireless Appurtenant Equipment or Subcontractor - Cost plus |    | 20%      | Cost plus 20%                                                                         |
| 24 | Senior RF/Network Engineer Hourly Rate                      | \$ | 135.00   | Does not include Travel or Expenses. Rates may be reduced based on quantity of hours. |
| 25 | Project Manager Hourly Rate                                 | \$ | 110.00   | Does not include Travel or Expenses. Rates may be reduced based on quantity of hours. |
| 26 | RF or Installation Technician Hourly Rate                   | \$ | 75.00    | Does not include Travel or Expenses. Rates may be reduced based on quantity of hours. |
| 27 | Tower Work Upcharge (if required)                           | \$ | 2,400.00 | Two Man Crew Per Day                                                                  |

**The following pricing notes apply:**

- 1 Site Acquisition Services are not included in install estimates. If required, hourly rates of \$150/hr for Site Acquisition services will apply.
- 2 PE Stamped drawings are not included
- 3 Zoning, permitting or environmental services are not included
- 4 RF Planning and Propagation Modeling is not included in Mesh radio pricing
- 5 RF Channel Plan and Spectrum Analysis is included for P2MP and PTP Base Station locations
- 6 Pricing listed is subject to a mutually agreeable contract between SmartWave and City of Tucson
- 7 If not mentioned in the line item, all wireless solutions assume the customer provided switch/router is the demarcation point
- 8 Taxes are not included and will be added to the Final Invoice



Office of the City Manager

CONSENT CALENDAR  
July 25, 2023

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: Scott Ferris, Director, Parks Recreation & Waterfront  
 Subject: Side Letter Agreement: Hornblower Sublease

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to execute and implement a Side Letter Agreement with 200 Marina Boulevard, Berkeley, LLC (“Doubletree Hotel”) to memorialize the terms and amount of Hornblower sublease rent payments and provide the City’s consent to the Hornblower sublease at the Doubletree Hotel at the Berkeley Waterfront.

FISCAL IMPACTS OF RECOMMENDATION

The City will continue to receive 25% of Hornblower sublease revenue from the Doubletree. The Hornblower’s sublease rent will be \$8,800 per month, of which the City’s 25% share would be \$2,200 per month. This will increase annually by 5% or CPI, whichever is higher.

CURRENT SITUATION AND ITS EFFECTS

The Doubletree Hotel ground lease with the City allows the hotel to sublease to the Hornblower Yachts, Inc. to use hotel office space and docks to operate a dinner cruise service at the Berkeley Waterfront. In 2020, the City and the Doubletree Hotel completed a lease renewal of the main [ground lease](#) (Ordinance No. 7,696-N.S.) At that time, the Doubletree had not yet completed renewal negotiations with their existing subtenant, Hornblower Yacht, Inc. and so the Hornblower continued to provide dinner cruise service under the terms of the prior sublease from 2008.

In the spring of 2023, the Doubletree Hotel completed negotiations with Hornblower Yachts, Inc. for a renewal of the sublease. The Doubletree Hotel ground lease of 2020 requires a new side letter agreement between the City, Doubletree and Hornblower in order to memorialize the terms and amount of Hornblower sublease rent payments and provide the City’s consent to the Hornblower sublease at the Doubletree Hotel at the Berkeley Waterfront.

The new Hornblower sublease is substantively similar to the prior sublease from May 2008, which provides for the use of a small office area in the main hotel building, and

the dock, berths and charter yacht facility adjacent to the Doubletree Hotel for the purposes of charter yacht docking, vessel maintenance, food preparation, and office space. The term is for 9 years plus two 5-year options. The side letter continues to provide for the City's 25% share of sublease revenue and provides the City's consent to sublease. The side letter includes a new provision that requires Hornblower to observe and comply with all applicable laws, including the City of Berkeley's labor peace ordinance. Council authorization is required in order for the City to execute the side letter agreement for the new Hornblower sublease.

### BACKGROUND

In April 2020, Council approved a 60-year [lease agreement](#) with the Doubletree Hotel at the Berkeley Waterfront. In addition to the hotel premises, the lease includes a 1,000 ft dock which houses the Hornblower Yacht that provides dinner cruises. The 2020 lease incorporated the existing Hornblower sublease from May 2008, allowing them to use the dock and facilities for docking, vessel maintenance, food preparation and office space

### ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

The sublease contains provisions requiring compliance with all environmental laws and requirements in the ground lease.

### RATIONALE FOR RECOMMENDATION

The proposed side letter agreement and consent to sublease continues the productive use of the dock area adjacent to the Doubletree, providing an amenity to the community and needed revenue to the Marina Fund.

### ALTERNATIVE ACTIONS CONSIDERED

None

### CONTACT PERSON

Scott Ferris, Parks, Recreation & Waterfront, 510-981-6700

Christina Erickson, Parks, Recreation & Waterfront, 510-981-6703

### Attachments:

#### 1. Resolution

Exhibit A: Side Letter: Agreement for Sublease for Dock and Other Facilities by and between the City of Berkeley, 200 Marina Blvd, Berkeley, LLC and Hornblower Yachts, Inc.

Exhibit B: Sublease for Dock and Facilities by and between 200 Marina Blvd, Berkeley, LLC and Hornblower Yachts, Inc.

RESOLUTION NO. -N.S.

SIDE LETTER AGREEMENT FOR HORNBLOWER SUBLEASE

WHEREAS, in April 2020, the City Council approved a 60-year lease agreement with 200 Marina Blvd, Berkeley LLC, the owner/ground lessee of the Doubletree Hotel at the Berkeley Waterfront; and

WHEREAS, the leased premises includes a 1,000 ft dock which houses the Hornblower Yacht, a dinner cruise yacht operator; and

WHEREAS, Hornblower, Inc. has operated under sublease to the Doubletree since 2008, and recently negotiated a new sublease in 2023, including a term of 9 years plus two 5-year options; and

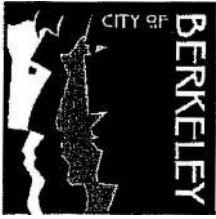
WHEREAS, a new side letter agreement between the City, Doubletree and Hornblower is required in order to provide the City's consent to sublease and to memorialize that the City will continue to receive a 25% share of sublease revenue.

NOW THEREFORE, BE IT RESOLVED that the Council of the City of Berkeley authorizes the City Manager to execute a side letter agreement with 200 Marina Boulevard, Berkeley, LLC to memorialize the terms and amount of Hornblower sublease rent payments and the City's consent to the Hornblower sublease at the Doubletree Hotel at the Berkeley Waterfront. The side letter and sublease shall be substantially in the form attached hereto as Exhibits "A" and "B".

Exhibits:

A: Side Letter: Agreement for Sublease for Dock and Other Facilities by and between the City of Berkeley, 200 Marina Blvd, Berkeley, LLC and Hornblower Yachts, Inc.

B: Sublease for Dock and Facilities by and between 200 Marina Blvd, Berkeley, LLC and Hornblower Yachts, Inc.



Office of the City Manager

\_\_\_\_\_, 2023

200 Marina Boulevard, Berkeley, LLC  
c/o Junson Assets Management LLC  
140 East 45<sup>th</sup> Street, 29<sup>th</sup> Fl  
New York, New York 10017

HORNBLOWER YACHTS, INC  
Pier 3, The Embarcadero  
San Francisco, California 94111

Re: Agreement for Sublease for Dock and Other Facilities by and between 200 Marina Boulevard, Berkeley, LLC, a Delaware limited liability company (“Owner”), and Hornblower Yachts, Inc., a California corporation (“Hornblower”) dated \_\_\_\_\_, 2023 (“Sublease”)

Dear Ladies/Gentlemen:

This letter agreement (“Letter Agreement”) memorializes (a) the terms and amount of City’s share of Hornblower sublease rent payments, and (b) City’s consent to the Sublease pursuant to Section 13.2 of that certain Ground Lease dated May 28, 2020 (“Lease”) between the City of Berkeley, a municipal corporation (“City” or “Lessor”) as Lessor, and Owner. An executed copy of the Sublease is attached as Exhibit A, and an executed copy of the Lease is attached to the Sublease as Exhibit B.

1. City’s Hornblower Share.

A. Notwithstanding Section 13.2 of the Lease, twenty-five percent (25%) of the Monthly Base Rent<sup>1</sup> (including any annual or other increases thereof, and any holdover rent amounts as described in Section 8.2 of Sublease) shall be payable by Owner to City (“City’s Hornblower Share”). The City hereby acknowledges that Owner has paid such City’s Hornblower Share with respect to the Sublease and all prior agreements with Hornblower.

---

<sup>1</sup> “Monthly Base Payment” is as referenced in Sections 2.1 and 2.2 of the Sublease.

Page 2

B. City's Hornblower Share shall be paid by Owner to City in the same manner as Percentage Rent as set forth in Section 2.4(C) of the Lease, and shall be paid in lieu of that portion of Percentage Rent that would otherwise be attributable to Hornblower sublease rent, as a component of Hotel Gross Receipts, pursuant to Section 2.4(A) of the Lease.

C. Notwithstanding anything in the Lease to the contrary, the obligations and objectives identified in Section 13.2 of the Lease are intended to apply not only to the Sublease, but to all extensions, renewals, and reiterations thereof, and all similar agreements (whether now or in the future, and whether with Hornblower, its successors, other charter yacht operator, or similar provider) related to charter yacht operations or other use or occupancy of Charter Yacht Facility.

2. City's Consent to Sublease. Subject to the terms and conditions contained within this Letter Agreement, City consents to the Sublease:

A. City shall not be bound by any of the terms and conditions of the Sublease, nor shall this Letter Agreement, or City's Consent to Sublease as set forth in this Section 2, be construed to (i) constitute a consent by City to a term in the Sublease beyond the term of the Lease; (ii) require City to recognize Hornblower in the event of a default under the Lease by any party; (iii) enlarge or in any manner increase City's obligations or duties under the Lease; (iv) create obligations or costs to City with regards to the Sublease; or (v) require that City first exhaust its remedies against Owner before proceeding against Hornblower, or first exhaust its remedies against Hornblower before proceeding against Owner, in any action under the Lease.

B. Except for the provision above entitled "City's Hornblower Share," nothing herein shall be deemed to amend any provision of the Lease, all of the rights of City under the Lease are hereby expressly reserved, and the Lease shall control in the event of any conflict between the Lease and the Sublease.

C. Nothing herein or in the Sublease shall be deemed to waive any of City's rights under the Lease or relieve Owner of any of its obligations under the Lease, nor shall this Letter Agreement or the Sublease waive or render unnecessary City's consent to or approval of any subsequent act or agreement by Owner (including City's consent to any other sublease or similar agreement).

D. In addition to other Sublease requirements, (i) Hornblower shall observe and comply with all applicable Laws as that term is defined in Section 5.8 of the Lease, and any labor peace policy ordinance of City of Berkeley Ordinance that is effective as of the date of this Side Letter and that is applicable to Sublessor; (ii) copies of notices of default and other material changes to the terms or conditions of the Sublease (including changes to any Payments as defined therein) given under the Sublease shall be provided to City concurrently by the noticing party at the addresses set forth in the Basic Lease Information of the Lease; (iii) the defined term "Indemnitees" under Sublease Section 3.2 of the Sublease shall include Lessor and each of its officers, officials, agents, volunteers and employees; (iv) Hornblower shall indemnify City in the same manner as Hornblower is required to indemnify Owner under the Sublease, except that such indemnity shall not apply to the extent damages or losses are caused by City's sole or active negligence or willful misconduct and except that in any action in which counsel is chosen by Hornblower to represent City under Sublease Sections 3.2 or 11.2, the Berkeley City Attorney's Office shall have the right to participate in the City's defense at the City's sole cost and

Page 3

expense; (v) Hornblower shall expressly name City as an additional insured under each insurance policy required under the Sublease (except Worker's Compensation and Employer's Liability Insurance, as used in Section 10.1 of the Sublease); and (vi) Hornblower assumes and agrees to perform and be bound by all covenants, conditions and obligations binding upon Owner as Lessee under the Lease with regard to the Subleased Premises; provided, however, that Hornblower does not assume and shall not be obligated to perform Owner's obligations as Lessee under the Lease to pay Rent (as defined in the Lease) except to the extent set forth in the Sublease.

E. The Sublease is expressly subject and subordinate to the Lease and all amendments thereto, that certain statutory grant from the State of California to the City of Berkley, as set forth in Statutes 1913, Chapter 347, as amended, and any other encumbrances, restrictions, or mortgages on City's interest in the Premises. The Lease is incorporated into the Sublease and made a part thereof by its attachment to the Sublease as Exhibit B thereto.

3. Miscellaneous Provisions. Each exhibit referred to in this Letter Agreement is attached hereto and incorporated by reference, as though fully restated herein. This Letter Agreement constitutes the entire understanding and agreement among City, Owner, and Hornblower with respect to City's consent to the Sublease, and supersedes all prior agreements and understandings, written or oral, between lessor, Owner, and Hornblower with respect to such consent. Each of the parties has read this Letter Agreement and any waivers and releases contained herein and on advice of counsel each party has freely and voluntarily entered into this Letter Agreement. Capitalized terms not otherwise defined herein have the meaning set forth in the Lease, captions and headings are for convenience only, "may" is permissive, "shall" is mandatory, "or" is inclusive, and variations of the words "include" shall be interpreted as though followed by the words "without limitation." This Letter Agreement shall not and cannot be modified or amended, nor any term or provision be waived or discharged, except as expressly stated in a writing signed by City, Owner and Hornblower as to sections 2 and 3 hereof (City's Consent to Sublease, Miscellaneous), and by City and Owner only as to section 1 hereof (City's Hornblower Share). This Letter Agreement shall be construed in accordance with, and be governed by, the laws of the State of California without regard to conflict of law principles. If any party commences litigation or similar proceeding against any other party in connection with this Letter Agreement, each party waives any right to a trial by jury and the prevailing party shall be entitled to an award of reasonable attorney's fees and costs incurred. This Letter Agreement shall be binding upon the parties to it and their respective heirs, representatives, successors and assigns. If any provision hereof or the application of any such provision shall be held by a court of competent jurisdiction to be invalid, void or unenforceable to any extent, the remaining provisions hereof and the application thereof shall remain in full force and effect and shall not be affected, impaired or invalidated.

*[Signatures follow on next page]*



Page 4

**CITY OF BERKELEY,**  
a municipal corporation

By: \_\_\_\_\_

Name:

Title:

Acknowledged and Agreed:

**200 MARINA BOULEVARD, BERKELEY, LLC,**  
a Delaware limited liability company

By: Junson Assets Management LLC,  
a Delaware limited liability company, its Manager

By: \_\_\_\_\_

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

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

Acknowledged and Agreed:

**HORNBLOWER YACHTS, INC.,**  
a California corporation

By: \_\_\_\_\_

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

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

*Execution Version*

**SUBLEASE FOR DOCK AND OTHER FACILITIES**

**BETWEEN**

**200 MARINA BOULEVARD, BERKELEY, LLC  
(SUBLESSOR)**

**AND**

**HORNBLOWER YACHTS, INC.  
(HORNBLOWER)**

## **SUBLEASE FOR DOCK AND OTHER FACILITIES**

This Sublease for Dock and Other Facilities (“Agreement”) is entered into as of \_\_\_\_\_, 2023 (the “Effective Date”), by and between 200 Marina Boulevard, Berkeley, LLC, a Delaware limited liability company (“Sublessor”), as sublessor, and HORNBLOWER YACHTS, INC., a California corporation (“Hornblower”), as sublessee.

### **RECITALS**

A. Pursuant to that certain Ground Lease dated as of January 18, 2008 (the “Ground Lease”) by and between the City of Berkeley, a municipal corporation, and Sublessor, as successor-in-interest to Boykin Berkeley, LLC, a Delaware limited liability company (“Boykin”), Sublessor leases certain land owned by the City of Berkeley and operates a hotel and restaurant facility that has been constructed thereon (the “Facility”), which Facility is currently known as the DoubleTree by Hilton Berkeley Marina.

B. Pursuant to that certain Agreement for Use of Dock and Other Facilities dated as of May 28, 2008 (the “Prior Agreement”), by and between Boykin and Hornblower, Hornblower has the right to occupy and use of a portion of the Facility for docking, vessel maintenance, food preparation and office space.

C. Sublessor, as the successor-in-interest to Boykin under the Prior Agreement, and Hornblower now desire to amend and restate the Prior Agreement in its entirety and enter into this Agreement, which establishes the terms and conditions for Hornblower's sublease and continuing occupancy and use of such portions of the Facility.

### **AGREEMENT**

NOW, THEREFORE, for valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Sublessor and Hornblower hereby agree as follows:

#### **Article 1 PREMISES, TERM**

1.1 AMENDMENT AND RESTATEMENT OF PRIOR AGREEMENT. The Prior Agreement, to the extent that it is still in effect, is hereby amended and restated in its entirety as of the Commencement Date of this Agreement.

1.2 SUBLEASE OF THE PREMISES. Sublessor hereby subleases to Hornblower, and Hornblower hereby subleases from Sublessor, the Premises (as defined below) for the Term (as defined below) of this Agreement. The “Premises” include the following four (4) portions of the Facility:

(a) the berths and associated marginal float described in Section 5.16.E of the Ground Lease (the “Berth Area”), which is located on the western-most portion of the Facility as shown on Exhibit A attached hereto;

(b) the Charter Yacht Facility, as described in Section 5.16.G of the Ground Lease (the “Charter Yacht Facility”);

(c) office space consisting of approximately 250 square feet commonly known as the Restaurant Alcove, located dockside of the restaurant portion of the Facility (the “Restaurant Alcove Office Area”, together the “Office Area”) as shown on Exhibit A attached hereto.

All such portions of the Facility comprising the Premises are depicted on the plan attached hereto as Exhibit A. A copy of the Ground Lease is attached hereto as Exhibit B.

In addition, during the Term, Hornblower shall have the non-exclusive right to use the common areas of the Facility, including but not limited to the parking areas, drive aisles and driveways, and sidewalks, as well as the public and other common areas located in and around the Hotel and Restaurant portions of the Facility, including but not limited to entryways, lobbies, and hallways in each case, for the purpose of ingress and egress to and from the Premises.

1.3 CONTINUED USE OF PREMISES AND COMMON AREAS. Pursuant to this Agreement, as of the Commencement Date (defined below), Hornblower shall have the continued right to the use and occupancy of the Premises, access to the Premises, and use of the common areas of the Facility, subject to Sublessor’s obligations hereunder.

1.4 TERM. The Commencement Date shall be the date upon which Sublessor obtains written consent to enter into this Agreement from the City Manager of the City of Berkeley pursuant to the Ground Lease. Sublessor shall use commercially reasonable efforts to obtain the consent of the City Manager of the City of Berkeley to this Agreement within thirty (30) days after the date of execution of this Agreement by both Sublessor and Hornblower. As part of the request for consent to this Agreement, Sublessor shall use commercially reasonable efforts to obtain a non-disturbance agreement from the City of Berkeley (in a form reasonably acceptable to Hornblower) for the benefit of Hornblower so that in the event the Ground Lease is terminated, the City of Berkeley will recognize and not disturb Hornblower’s rights under this Agreement; provided that, the failure to obtain a non-disturbance agreement by the City of Berkeley shall not be a default hereunder or permit Hornblower the right to terminate this Agreement. If the Commencement Date has not occurred within thirty (30) days of the execution of this Agreement by both Sublessor and Hornblower, Hornblower shall have the right, at any time thereafter, to terminate this Agreement by delivering written notice of termination to Sublessor. The term of this Agreement shall expire (unless sooner terminated pursuant to the terms of this Agreement or unless extended pursuant to Section 1.6 below) [one hundred eight (108) months] after the Commencement Date (the “Term”)<sup>1</sup>. Sublessor and Hornblower shall confirm in writing the Commencement Date and the termination date of this Agreement. Notwithstanding the foregoing, in the event the Ground Lease is terminated for any reason, this Agreement shall immediately terminate and be of no further force and effect.

---

<sup>1</sup> Note: To update month count upon final execution date to account for the lapsed time from last lease signing.

- 1.5 **CONDITION OF PREMISES.** The Parties acknowledge that Hornblower presently uses the Berth Area, the Office Area and the Charter Yacht Facility pursuant to the terms of the Prior Agreement. Hornblower shall be conclusively deemed to have accepted the Berth Area, the Office Area and the Charter Yacht Facility “AS IS” in the condition existing on the Commencement Date and to have waived all claims relating to the condition of the Berth Area, the Office Area and the Charter Yacht Facility. Sublessor makes no representation or warranty, express or implied, with respect to the condition of the Premises or the suitability thereof for use by Hornblower.
- 1.6 **OPTION TO EXTEND.** Sublessor hereby grants Hornblower an option to extend the Term for two additional periods of five (5) years each (each an “Extension Term” and together the “Extension Terms”), commencing immediately after the expiration of the initial Term and the first Extension Term, as applicable, upon the same material terms and conditions contained herein, including the annual increases in the Monthly Base Rent provided for in Section 2.2 hereof, except that there shall be no further options to extend the Term following Hornblower’s exercise of the second Extension Term granted by this Section 1.6. Notice of Hornblower's election to exercise the options to extend granted herein must be delivered to Sublessor in writing upon 180 days prior to expiration of the initial Term and the first Extension Term, as applicable. If Hornblower properly exercises the options granted herein, references in the Agreement to the “Term” shall be deemed to include the first Extension Term or second Extension Term, as applicable, unless the context clearly provides otherwise. Notwithstanding anything to the contrary contained herein, all option rights of Hornblower pursuant to this Section 1.6 shall automatically terminate without notice and shall be of no further force and effect, whether or not Hornblower has timely exercised the options granted herein, if a Default exists at the time of exercise of the options or at the time of commencement of the first Extension Term or Second Extension Term, as applicable.
- 1.7 **EARLY TERMINATION.** During the Initial Term, Hornblower shall have the right to terminate this Agreement upon one hundred eighty (180) days advance written notice, provided that, Hornblower pay to Sublessor on the effective date of such termination an amount equal to the sum of the Monthly Base Rent that would have been payable for the twenty-four (24) months following the date of such termination if the Lease had not been terminated.

## **Article 2 PAYMENTS**

- 2.1 **MONTHLY BASE RENT.** Hornblower agrees to pay to Sublessor without any prior notice or demand in immediately available funds and without any deduction or offset whatsoever, Monthly Base Rent (as defined below) and all other charges, payments, late fees or other amounts required to be paid by Hornblower under this Agreement (collectively, “Payments”). Monthly Base Rent shall be paid monthly in advance on the first day of each month of the Term. Monthly Base Rent shall be prorated for partial calendar months within the Term. Unpaid Payments shall bear interest at two (2) percentage points above the rate from time to time announced by Wells Fargo, N.A. at its San Francisco office as its prime rate, but in no event higher than the maximum rate permitted by Law (“Default Rate”) from

the date due until paid; provided, however, the Default Rate shall not commence to accrue until Hornblower is given three (3) business days notice and opportunity to cure. Hornblower's covenant to pay Payments shall be independent of every other covenant in this Agreement.

- 2.2 MONTHLY BASE RENT: ANNUAL INCREASE. During the first year of the Term, the “Monthly Base Rent” shall be \$8,800. Commencing with the anniversary of the Commencement Date occurring in 2024 and on each subsequent anniversary of the Commencement Date thereafter (each, an “Adjustment Date”), including the commencement of any Extension Term and each year thereafter during any Extension Term, the Monthly Base Rent shall be increased to the greater of (A) 105% of the Monthly Base Rent in effect during the year preceding such Adjustment Date, or (B) the Monthly Base Rent in effect during the year preceding such Adjustment Date increased by the percentage increase, if any, in the CPI (as defined below) during such immediately preceding year (such CPI increase in the Monthly Base Rent shall be calculated by multiplying the Monthly Base Rent in effect immediately prior to such Adjustment Date by a fraction, the numerator of which is the CPI most recently published and in effect prior to the Adjustment Date and the denominator of which is the CPI most recently published and in effect one year prior to the Adjustment Date). Sublessor shall provide written notice to Hornblower of each annual increase in Monthly Base Rent, and the calculations supporting the same, at least thirty (30) days prior to each Adjustment Date.

2.2.1 As used herein, the term “CPI” shall mean the Consumer Price Index for All Urban Consumers (1982 - 1984 = 100), San Francisco-Oakland-San Jose, California All Items, published by the United States Department of Labor, Bureau of Labor Statistics (the “Bureau”). In the event that the Bureau ceases to use the 1982-84, base of 100 as the basis of calculation and the Bureau does not recalculate the then applicable CPI number for all years including 1982-84, or the CPI shall be discontinued for any reason, then the parties shall thereafter accept and use such other CPI or comparable statistics on the cost of living for the United States as shall be computed and published by an agency of the United States or by a responsible financial periodical of recognized authority selected by Sublessor and reasonably approved by Hornblower.

- 2.3 TAX PAYMENTS. Promptly upon request by Sublessor, Hornblower shall pay to Sublessor or to the applicable taxing authority any and all taxes payable by Sublessor levied or assessed upon the value of Hornblower's personal property located in the Premises, the amounts payable under this Agreement, or resulting from any alterations to the Premises undertaken by Hornblower. Such tax payments shall constitute Payments, pursuant to this Agreement. Hornblower shall be solely responsible for, and shall pay directly to the applicable taxing authority, all personal property taxes on any and all equipment or vehicles used by Hornblower on the Premises.
- 2.4 OTHER FINANCIAL REQUIREMENTS. Hornblower shall provide, promptly following the request of either Sublessor or the City of Berkeley, statements of receipts of and business transacted by Hornblower, as set forth in Section 2.5.A.3 of the Ground Lease. Hornblower shall also comply with the requirements applicable to “Concessionaire Agreement” set forth in Section 2.5.C of the Ground Lease.

- 2.5 SECURITY DEPOSIT. Hornblower shall not be required to pay or post any type of security deposit or financial assurance in connection with Hornblower's obligations under this Agreement.

### **Article 3**

#### **HORNBLOWER'S USE OF THE BERTH AREA AND CHARTER YACHT FACILITY**

- 3.1 USE LIMITATIONS. Hornblower shall use the Berth Area only for charter yacht docking and loading and unloading of supplies and passengers and other uses permitted under Section 5.16.E of the Ground Lease. From time to time upon Sublessor's request on no less than 72 hours' notice, Hornblower shall relocate its vessels for up to 4 hours at a time (taking into consideration loading/unloading of Hornblower events, weather, and safety conditions) from (x) the "Deck Area" or (y) such other portion of the Berth Area reasonably requested by Sublessor; provided that, in the event of a request described in the preceding clause (y), Sublessor shall pay to Hornblower \$275 per hour for such relocation. Hornblower acknowledges that its use of the Berth Area and Charter Yacht Facility is subject to the Ground Lease. Further, Hornblower hereby acknowledges and agrees that, pursuant to the Ground Lease, its use of the Charter Yacht Facility is strictly limited to food preparation, administrative and minor vessel maintenance activities aboard its charter yacht vessels. Hornblower shall not occupy or use the Berth Area or the Charter Yacht Facility for any purpose or in any manner which: (i) is unlawful or in violation of any Law or Environmental Law; (ii) may be dangerous to persons or property or which may increase the cost of, or invalidate, any policy of insurance carried on the Facility; or (iii) is contrary to or prohibited by the terms and conditions of this Agreement or the Ground Lease. Hornblower shall at all times keep the Berth Area and the Charter Yacht Facility in good condition and repair, and in a neat and orderly condition, free of trash and rubbish, ordinary wear and tear and damage due to casualty and condemnation excepted. Hornblower may not make any improvements or alterations to the Berth Area or the Charter Yacht Facility without Sublessor's prior written consent, not to be unreasonably withheld, conditioned, or delayed. <sup>2</sup>As part of Hornblower's use of the Berth Area, Charter Yacht Facility, and Office Area Hornblower and its employees and invitees shall have the right to reasonably use the publicly accessible restroom facilities in the Hotel and Restaurant portions of the Facility; provided such use does not interfere with the use of such facilities by Sublessor, its guests, employees or invitees.
- 3.2 ENVIRONMENTAL RESTRICTIONS. Hornblower shall comply with all Environmental Laws governing the use, storage, disposal or generation of any Hazardous Materials in connection with Hornblower's operations at and use of the Premises. Except for Hazardous Materials used by Hornblower in its operation and use of the Premises (which operation and use shall be in compliance with applicable Environmental Laws and the Ground Lease), Hornblower shall not generate, store, handle or dispose of any Hazardous Materials in, on, or about the Premises without the prior written consent of Sublessor, which may be withheld in Sublessor's sole discretion. In the event that Hornblower is notified of any investigation or violation of any Environmental Law arising from Hornblower's activities

---

<sup>2</sup> NTD: Sublessor cannot agree to restrict itself for alterations and improvements. Hornblower is already protected from interference per general protections of quiet enjoyment.

at the Premises, Hornblower shall immediately deliver to Sublessor a copy of such notice. Sublessor may conduct such tests and studies relating to compliance by Hornblower with Environmental Laws at the Premises as Sublessor reasonably deems desirable, all of which shall be completed at Hornblower's expense. Hornblower hereby indemnifies, and agrees to defend, protect and hold harmless, Sublessor, the City of Berkeley, the operator, property manager and/or general manager for the Facility, the ground lessor under the Ground Lease, any mortgagee of the Facility, and their respective partners, members, managers, directors, officers, agents and employees (collectively, the "Indemnitees") from any and all loss, claim, demand, action, expense, liability and cost (including reasonable attorneys' fees and expenses) to the extent arising out of Hornblower's violation of applicable Environmental Laws in its activities on or about the Premises during the Term. In case of any action or proceeding brought against any Indemnitee arising from Hornblower's breach of its covenants in this Section, Hornblower covenants to defend such action or proceeding by competent counsel selected by Hornblower and approved by Sublessor, in Sublessor's reasonable discretion. Sublessor reserves the right to settle, compromise or dispose of any and all actions, claims and demands related to the foregoing indemnity subject to Hornblower's reasonable consent. As used herein, "Hazardous Materials" means any substances, materials or wastes which are or become regulated under any Environmental Law or which are classified as hazardous or toxic under any Environmental Law, including but not limited to explosives, firearms, radioactive materials, asbestos, polychlorinated biphenyls, and petroleum products. As used herein, "Environmental Law" means any federal, state, or local law regulating Hazardous Materials, including, without limitation, the Comprehensive Environmental Response Compensation and Liability Act of 1980, as amended, the Resource Conservation and Recovery Act of 1976, as amended, the Federal Water Pollution Control Act, as amended, and the Oil Pollution Act of 1970.

- 3.3 PARKING. Sublessor shall provide Hornblower with twenty-five (25) parking access cards for use by Hornblower and its employees, who shall have the right to use the parking areas at the Facility depicted on Exhibit C for vehicular parking during the Term, at no additional charge or cost to Hornblower, subject to Sublessor's generally applicable parking regulations. Hornblower's guests and customers may park in the parking areas at the Facility at Sublessor's standard parking rates or park off-site. Except for customary and usual service and delivery vehicles used in Hornblower's operations, Hornblower acknowledges and agrees that Hornblower shall not use parking spaces for vehicles larger than the striped size of the parking spaces. With the exception of one (1) work truck for crew usage, Hornblower's parking rights set forth in this Agreement are limited to the use of parking spaces for short-term parking, of up to twenty-four (24) hours. If any vehicle is improperly using the parking areas, Sublessor shall have the right, in addition to all other rights and remedies of Sublessor, to tow away the vehicle without prior notice to Hornblower or any other party, and the cost thereof shall be paid to Sublessor by Hornblower within ten (10) days after notice from Sublessor to Hornblower.
- 3.4 SERVICES FOR THE BERTH AREA AND CHARTER YACHT FACILITY. Sublessor shall provide fresh water service, sewer service, electrical service, garbage service (including access to and use of sufficient garbage receptacles), and access to telecommunication lines for the Berth Area and Charter Yacht Facility, in each case, sufficient for and consistent with Hornblower's current use and enjoyment of the Berth



Area and Charter Yacht Facility, the cost for which is included in the Monthly Base Rent; provided, however, that upon Sublessor's installation of a separate meter or submeter for the electrical service for the Berth Area (which installation shall be at Sublessor's sole cost and expense), then Hornblower shall be responsible for the payment of the electricity used by Hornblower at the Berth Area and Hornblower shall promptly pay to the utility supplier (in the event Hornblower is directly billed by the utility supplier) or to Sublessor (in the event the Berth Area is submetered and Sublessor is directly billed by the utility supplier) for the charges for the electricity used by Hornblower at the Berth Area and such charges shall not be included in Monthly Base Rent. Sublessor shall not be liable for any interruption of the foregoing services, whether caused by conditions beyond the control of Sublessor or by accident, repairs, or strikes, or otherwise, nor shall such interruption constitute a breach of the terms of this Agreement on the part of Sublessor, except, in each case, to the extent caused by the gross negligence or willful misconduct of Sublessor. In the event of any stoppage or interruption of services or utilities, Sublessor shall diligently attempt to resume such services or utilities as promptly as practicable.

- 3.5 **SIGNAGE:** Subject to Sublessor's prior written approval, which approval may not be unreasonably withheld, Hornblower's compliance with the Berkeley Municipal Code, the "General Design Requirements" pertaining to signs attached as Exhibit B to the Ground Lease, and applicable law, Hornblower shall have the right to install minimally invasive signage in and around the Berth Area, the Charter Yacht Facility, and on Hornblower's vessels, including but not limited to, wayfinding signage outside of the boundaries of the Premises in key locations in order to assist Hornblower's invitees in finding their way to the Berth Area, the Charter Yacht Facility, and the Office Area.

#### **Article 4**

#### **HORNBLOWER'S USE OF THE OFFICE AREA**

- 4.1 **USE LIMITATIONS.** Hornblower shall have the right to occupy and use the Office Area for office and administration uses subject to such reasonable rules and regulations as Sublessor may impose from time to time (provided, however, that such rules and regulations do not materially adversely interfere with or impede Hornblower's rights under this Agreement). Hornblower shall not occupy or use the Office Area for any purpose or in any manner which: (1) is unlawful or in violation of any Law, Environmental Law or the Ground Lease; (2) may be dangerous to persons or property or which may increase the cost of, or invalidate, any policy of insurance carried on the Facility; or (3) is contrary to or prohibited by the terms and conditions of this Agreement. Hornblower shall at all times keep the Office Area in good condition and repair, and in a neat and orderly condition, free of trash and rubbish, ordinary wear and tear and damage due to casualty and condemnation excepted. Hornblower may not make any improvements or alterations to the Office Area without Sublessor's prior written consent, which consent shall not be unreasonably withheld. As part of Hornblower's use of the Premises, Hornblower and its employees and invitees shall have the right to reasonably use the publicly accessible restroom facilities in the Hotel and Restaurant portions of the Facility; provided such use does not interfere with the use of such facilities by Sublessor, its guests, employees or invitees.

- 4.2 **SERVICES IN THE OFFICE AREA.** Sublessor shall furnish to the Office Area electricity, heat and air conditioning, lighting, water, and sewer services sufficient for Hornblower's comfortable use and enjoyment of the Office Area, the cost for which is included in the Monthly Base Rent. In the event Hornblower obtains telecommunication services from a shared account with Sublessor, Hornblower shall be responsible for the payment of any such services used by Hornblower and Hornblower shall promptly pay to the telecommunications provider (in the event Hornblower is directly billed by the telecommunications provider) or to Sublessor for the charges for the telecommunications used by Hornblower and such charges shall not be included in Monthly Base Rent. Sublessor shall not be liable for any interruption of the foregoing services, whether caused by conditions beyond the control of Sublessor or by accident, repairs, or strikes, or otherwise, nor shall such interruption constitute a breach of the terms of this Agreement on the part of Sublessor, except, in each case, to the extent caused by the gross negligence or willful misconduct of Sublessor. In the event of any stoppage or interruption of services or utilities, Sublessor shall diligently attempt to resume such services or utilities as promptly as practicable.
- 4.3 **SIGNAGE:** Subject to Sublessor's prior written approval, which approval may not be unreasonably withheld, Hornblower shall have the right to install minimally invasive signage (i) in the Hotel portion of the Facility on or next to the door of each of the Tiburon Room Office Area and the Restaurant Alcove Office Area and (ii) outside of the boundaries of the Premises in key locations in order to assist Hornblower's invitees in finding their way to the Tiburon Room Office Area and the Restaurant Alcove Office Area.

## **Article 5 REPRESENTATIONS AND WARRANTIES**

Hornblower represents and warrants that, as of the Effective Date, it has obtained the licenses, approvals, and/or other permits and otherwise complied with all requirements of all federal, state and local laws necessary for Hornblower's operations at the Berkeley marina as a charter yacht service. Without limiting the generality of the foregoing, as of the Effective Date, Hornblower has obtained all required approvals, licenses and permits for operations as a full-service charter yacht service including the service of food and liquor contemplated hereby. Hornblower shall be responsible for maintaining and keeping in force and effect all such licenses, approvals and permits for operation the charter yacht service in compliance with all federal state and local laws during the term hereof.

Sublessor represents and warrants to Hornblower that, as of the Effective Date, a true and complete copy of the Ground Lease is attached hereto as Exhibit B. Sublessor also represents and warrants to Hornblower that, as of the Effective Date, the Ground Lease is in full force and effect, that the Ground Lease has not been amended, modified, or assigned except as previously disclosed to Hornblower, and that, to Sublessor's knowledge, no default exists on the part of either Sublessor or the City of Berkeley under the Ground Lease and no event exists that would with the passing of time or the giving of notice or both could reasonably be expected to constitute a default under the Ground Lease.

Hornblower is responsible for, and shall have sole and absolute discretion over, selecting and providing all crew and other personnel necessary in order to offer the charter yacht service and for payment of all wages, salaries or other compensation in connection therewith.

## **Article 6 MAINTENANCE**

Hornblower, at Hornblower's sole cost and expense, shall be responsible for maintenance and repair of the following in connection with its use of the Berth Area and the Charter Yacht Facilities:

(i) All normal and routine maintenance, upkeep, repair and regular cleaning of the entire Berth Area and Charter Yacht Facility as reasonably necessary during the Term or applicable Extension Term; provided, however, repairs or replacements which are a result of Sublessor's damage to the Berth Area or Charter Yacht Facility shall be the responsibility of Sublessor.

(ii) The major repair and replacement of the components of the Berth Area and Charter Yacht Facility ("Major Repair/Replacement Work") as follows:

(a) Replacement of the wood piling with appropriate pilings as needed, to maintain the dock facility in a sound and safe condition (as determined by Sublessor in its reasonable discretion or as required by the Ground Lease or any applicable law, regulation or other legal requirement).

(b) Replacement of the dock surface and structure (including ramp from shore to dock facility), and the replacement of the existing flotation, dock substructure and/or surface materials as necessary to maintain a safe, dry dock facility for normal customer load capacity of present and contemplated additional vessels (as determined by Sublessor in its reasonable discretion or as required by the Ground Lease or any applicable law, regulation or other legal requirement).

Notwithstanding the foregoing, to the extent that any Major Repair/Replacement Work is required during the last two (2) years of the Term or applicable Extension Term of this Agreement, then Sublessor shall be responsible for the performance of such Major Repair/Replacement Work and the cost of the Major Repair/Replacement Work shall be amortized over the useful life of such Major Repair/Replacement Work. Hornblower shall be responsible for payment of the portion of the amortized cost falling within the remaining Term of this Agreement, and Sublessor shall be responsible payment of the portion of the amortized cost following outside the Term of this Agreement. If Hornblower extends the Term pursuant to Section 1.6 above, Hornblower shall reimburse Sublessor for any portion of amortized cost of such Major Repair/Replacement Work falling falling within the applicable Extension Term.

(iii) Maintenance, repair, and replacement of the water, sewer lines, lighting and outlets, and electrical lines and meters to the extent that they service the Berth Area and Charter Yacht Facility (complying with applicable federal, state and local codes). All electrical outlets installed or maintained by Hornblower shall become permanent fixtures of the dock facility and may not be removed at the termination of this Agreement.

Hornblower shall provide a schedule of all maintenance and repair activities performed by Hornblower on the Berth Area and Charter Yacht Facilities during each calendar quarter to Sublessor within twenty (20) days after the close of each calendar quarter (i.e., March 31, June 30, September 30 and December 31). Hornblower shall not permit any lien of any mechanic, laborer or supplier or any other lien to be filed against the Premises or the Facility as a consequence of any work performed by or on behalf of Hornblower. If any such lien or claim for lien is filed, Hornblower shall within ten (10) days of receiving notice thereof (a) release such lien or claim of record or (b) deliver a bond in form and amount, and issued by surety, reasonably satisfactory to Sublessor. If Sublessor pays or discharges any such lien or claim of lien, Hornblower shall reimburse Sublessor for such amount, including expenses and attorneys' fees.

Sublessor shall, at its sole cost and expense, keep and maintain in good repair the common areas, parking areas, drive aisles, sidewalks, and paths through and across the Facility used by Hornblower and/or its guests and employees as permitted pursuant to this Agreement; unless the need for such maintenance or repairs is caused by or arises from the actions or omissions of Hornblower, its guests or employees, in which case Hornblower shall be responsible for such maintenance, repair, or replacement work. In the event that Hornblower notifies Sublessor of any required maintenance, repair or replacement of Facilities that is Sublessor's obligation hereunder, then Sublessor shall use commercially reasonable efforts cause such work to be completed, unless the condition presents an immediate hazard to public health or safety, in which case Sublessor shall immediately cause such work to be completed.

## **Article 7 DEFAULT AND REMEDIES**

7.1 EVENTS OF DEFAULT. The occurrence or existence of any one or more of the following shall constitute a "Default" by Hornblower under this Agreement: (i) Hornblower fails to pay any Monthly Base Rent or other Payment provided for hereunder when due and such failure continues for three (3) business days after written notice from Sublessor to Hornblower that such Monthly Base Rent or other Payment due hereunder is due and unpaid; (ii) Hornblower fails to observe or perform any of the other covenants, conditions or provisions of this Agreement and fails to cure such default within thirty (30) days after written notice thereof to Hornblower provided if such non-monetary default cannot reasonably be cured within 30 days Hornblower shall not be in default if it commences to cure within such 30 day period and thereafter diligently proceeds to cure; or (iii) Hornblower is dissolved, declared insolvent or an assignment is made for the benefit of creditors or a petition is filed by or against Hornblower to declare Hornblower bankrupt or seeking a plan of reorganization or arrangement under the Bankruptcy Act, or any amendment or substitution therefore, or to delay payment of, reduce or modify Hornblower's debts, which in the case of an involuntary action is not discharged within thirty (30) days.

7.2 SUBLESSOR'S REMEDIES

(a) A Default shall entitle Sublessor to exercise the rights and remedies set forth in this Section and all other rights and remedies set forth in this Agreement or now or

hereafter allowed by Law, whether legal or equitable, and all rights and remedies of Sublessor shall be cumulative and none shall exclude any other right or remedy.

(b) With respect to a Default, at any time Sublessor may terminate Hornblower's right to use the Premises by three (3) days' prior written notice to Hornblower stating such election. Upon the expiration of the period stated in Sublessor's written notice of termination (and unless such notice provides an option to cure within such period and Hornblower cures the Default within such period), Hornblower's right of use and possession shall terminate and this Agreement shall terminate. Upon such termination in writing of this Agreement and Hornblower's right to use the Premises, Sublessor shall have the right, subject to applicable Law, to re-enter the Premises and dispossess Hornblower and the legal representatives of Hornblower and all other users or occupants of the Premises by unlawful detainer or other summary proceedings, or otherwise as permitted by Law, regain possession of the Premises and remove their property (including their trade fixtures and personal property), but Sublessor shall not be obligated to effect such removal, and such property may, at Sublessor's option, be stored elsewhere, sold or otherwise dealt with as permitted by Law, at the risk of, expense of and for the account of Hornblower, and the proceeds of any sale shall be applied pursuant to Law. Sublessor shall in no event be responsible for the value, preservation or safekeeping of any such property. Hornblower hereby waives all claims for damages that may be caused by Sublessor's removing or storing Hornblower's personal property pursuant to this Section, and Hornblower hereby indemnifies, and agrees to defend, protect and hold harmless, the Indemnitees from any and all loss, claims, demands, actions, expenses, liability and cost (including reasonable attorneys' fees and expenses) arising out of or in any way related to such removal or storage. Upon such written termination of this Agreement and Hornblower's right to use of the Premises under this Agreement, Sublessor shall have the right to recover damages for Hornblower's Default as provided for by California Civil Code Section 1951.2, including past due Payments. In addition, Sublessor shall have the right to cure any such Default, in which case Hornblower shall be liable for all reasonable costs and expenses incurred by Sublessor in curing such Default, which costs and expenses shall be due immediately upon demand and shall constitute Payments under this Agreement.

(c) No delay or omission in the exercise of any right of Sublessor, and no exercise by Sublessor of its rights to perform any duty which Hornblower fails timely to perform, shall be construed as a waiver. No provision of this Agreement shall be deemed waived unless signed by Sublessor and any waiver shall not be deemed a waiver of any subsequent breach of the Agreement.

7.3 ATTORNEY'S FEES. In the event any party brings any suit or other proceeding with respect to the subject matter or enforcement of this Agreement, the prevailing party (as determined by the court, agency or other authority before which such suit or proceeding is commenced) shall, in addition to such other relief as may be awarded, be entitled to recover reasonable attorneys' fees, expenses and costs of investigation as actually incurred, including court costs, expert witness fees, costs and expenses of investigation, and all reasonable attorneys' fees, costs and expenses in any such suit or proceeding (including in any action or participation in or in connection with any case or proceeding under the Bankruptcy Code, 11 United States Code Sections 101 et seq., or any successor statutes, in

establishing or enforcing the right to indemnification, in appellate proceedings, or in connection with the enforcement or collection of any judgment obtained in any such suit or proceeding).

- 7.4 **BANKRUPTCY.** Any election to assume this Agreement under Chapter 11 or 13 of the Bankruptcy Code by Hornblower as debtor-in-possession or by Hornblower's trustee (the "Electing Party") must provide for: (i) the Electing Party to cure or provide to Sublessor adequate assurance that it will cure all monetary defaults under this Agreement within fifteen (15) days from the date of assumption and it will cure all nonmonetary defaults under this Agreement within thirty (30) days from the date of assumption. Sublessor and Hornblower acknowledge such condition to be commercially reasonable; and (ii) if the Electing Party has assumed this Agreement or elects to assign Hornblower's interest under this Agreement to any other person, such interest may be assigned only if the intended assignee has provided adequate assurance of future performance (as herein defined), of all of the obligations imposed on Hornblower under this Agreement. For the purposes hereof, "adequate assurance of future performance" means that the assignee has submitted to Sublessor a current financial statement, certified by its chief financial officer, which shows to Sublessor's reasonable satisfaction a net worth and working capital in amounts sufficient to assure the future performance by the assignee of Hornblower's obligations under this Agreement.

## **Article 8 SURRENDER OF PREMISES; HOLDING OVER**

- 8.1 **IN GENERAL.** Upon the date this Agreement expires or terminates (such date, the "Termination Date"), Hornblower shall surrender and vacate the Premises immediately and deliver possession thereof to Sublessor in a neat, clean and orderly condition, casualty and ordinary wear and tear excepted. Hornblower shall deliver to Sublessor all keys to any portions of the Premises. All improvements in and to the Premises shall remain upon the Premises at the end of the Term without compensation to Hornblower. If Hornblower fails to perform its obligations in a timely manner, Sublessor may perform such work at Hornblower's expense.
- 8.2 **HOLDING OVER.** In the event that Hornblower holds over in possession of the Premises after the Termination Date with the written consent of Sublessor, such occupancy shall be a month-to-month tenancy subject to all the terms and provisions of this Agreement, and Hornblower shall pay Monthly Base Rent to Sublessor in an amount equal to one hundred percent (100%) of the Monthly Base Rent payable for the month immediately preceding the holding over, subject to adjustment as provided in Section 2.2. In the event that Hornblower holds over in possession of the Premises after the Termination Date without the written consent of Sublessor, such occupancy shall be a month-to-month tenancy subject to all the terms and provisions of this Agreement, and Hornblower shall pay Monthly Base Rent to Sublessor in an amount equal to one hundred fifty percent (150%) of the Monthly Base Rent payable for the month immediately preceding the holding over, subject to adjustment as provided in Section 2.2. Hornblower shall also pay all damages sustained by Sublessor by reason of such retention of possession without Sublessor's written consent.

**Article 9**  
**DAMAGE BY FIRE OR OTHER CASUALTY; CONDEMNATION**

- 9.1 CASUALTY. If any fire or other casualty (whether insured or uninsured) renders all or substantially all of the Premises untenable for use by Hornblower, then Hornblower shall have the right, to be exercised in Hornblower's sole discretion, to terminate this Agreement by delivering written notice of termination to Sublessor within thirty (30) days of the fire or casualty and Hornblower shall assign any insurance proceeds received by Hornblower to Sublessor in connection with such fire or casualty; provided that, Hornblower shall have no option to terminate this Agreement in the event the fire or casualty results from a cause required to be insured against by Hornblower pursuant to this Agreement. In the event that Hornblower does not elect to terminate this Agreement pursuant to this Section 9.1, including to the extent Hornblower does not have the option to terminate this Agreement, then (1) Hornblower shall, at Hornblower's sole cost and expense, rebuild, repair or restore the Berth Area and/or Charter Yacht Facility to the extent damaged or destroyed, (2) Sublessor shall rebuild, repair, or restore the Office Area to the extent damaged or destroyed, and (3) Monthly Base Rent shall abate during the period of reconstruction and restoration in the same proportion to the total Monthly Base Rent as the portion of the Premises rendered untenable bears to the entire Premises. The provisions of this Agreement constitute an express agreement with respect to any and all damage to, or destruction of, the Premises or the Facility, and any Law, including Sections 1932(2), 1933(4), 1941 and 1942 of the California Civil Code, with respect to any rights or obligations concerning damage or destruction shall have no application to this Agreement or to any damage to or destruction of the Premises or the Facility and are hereby waived.
- 9.2 TAKING OR CONDEMNATION. Subject to Sublessor's rights pursuant to Article 12 of the Ground Lease, in the event that all or substantially all of the Premises is taken or condemned for any public use or purpose (including a deed given in lieu of condemnation), then Hornblower shall have the right, to be exercised in Hornblower's sole discretion, to terminate this Agreement effective as of the date of such taking or condemnation by delivering written notice of termination to Sublessor within fifteen (15) days of such taking or condemnation; provided, that, if Hornblower does not elect to terminate this Agreement pursuant to this Section 9.2, Monthly Base Rent shall be reduced in the same proportion to the total Monthly Base Rent as the portion of the Premises so taken or condemned as to the entire Premises.

**Article 10**  
**INSURANCE**

- 10.1 HORNBLOWER'S INSURANCE. Hornblower, at Hornblower's expense, agrees to maintain in force, with a company or companies acceptable to Sublessor, during the Term: (a) Commercial General Liability Insurance on a primary basis and without any right of contribution from any insurance carried by Sublessor covering the Premises on an occurrence basis against all claims for products and completed operations, personal injury/advertising injury, bodily injury, death and property damage, including contractual liability covering the indemnification provisions in this Agreement, and such insurance shall be for such limits that are reasonably required by Sublessor from time to time but not

less than a combined single limit of \$10,000,000 per occurrence and \$10,000,000 in the aggregate; (b) Workers' Compensation and Employers' Liability Insurance to the extent required by and in accordance with the Laws of the State of California; (c) "All Risk" (i.e., "special causes of loss"), including Earthquake, property insurance in an amount adequate to cover the full replacement cost of all equipment, installations, fixtures, docks, piers (specifically including the Berth Area and Charter Yacht Facility) and contents of the Premises, but excluding the Office Area which Sublessor shall be responsible for insuring in the event of loss; (d) maritime and marine liability insurance covering the charter yachts used by or on behalf of or by authority of Hornblower with limits of not less than Ten Million and No/100 Dollars (\$10,000,000.00); (e) in the event a motor vehicle is to be used by Hornblower in connection with its business operation from the Premises, Comprehensive Automobile Liability Insurance coverage with limits of not less than Ten Million and No/100 Dollars (\$10,000,000.00) combined single limit coverage against bodily injury liability and property damage liability arising out of the use by or on behalf of Hornblower, its agents and employees in connection with this Agreement, of any owned, non-owned or hired motor vehicles; (f) liquor liability insurance covering Hornblower's serving or selling of alcoholic beverages with limits of not less than Ten Million and No/100 Dollars (\$10,000,000) combined single limit coverage. Each policy shall (i) name Sublessor and the Indemnitees as additional insureds (except Workers' Compensation and Employers' Liability Insurance), (ii) be issued by one or more responsible insurance companies licensed to do business in the State of California with a Best's insurance rating of A-/VII or better, (iii) where applicable, provide for deductible amounts reasonably satisfactory to Sublessor and not permit co-insurance, (iv) shall provide that such insurance may not be canceled or amended without thirty (30) days' prior written notice to Sublessor, and (v) each policy of "All-Risks" property insurance shall provide that the policy shall not be invalidated should the insured waive in writing prior to a loss, any or all rights of recovery against any other party for losses covered by such policies. Hornblower shall deliver to Sublessor, certificates of insurance and at Sublessor's request, copies of all policies and renewals thereof to be maintained by Hornblower hereunder, upon the Effective Date and not less than ten (10) days prior to the expiration date of each policy. If Hornblower doesn't carry the insurance required hereunder or provide certificates of renewal as and when required hereunder, Sublessor may but shall not be obligated to acquire such insurance on Hornblower's behalf at Hornblower's sole cost and expense.

- 10.2 WAIVER OF SUBROGATION. Any policy or policies of fire, extended coverage or similar casualty insurance which either party obtains in connection with the Facility, the Premises, or Hornblower's personal property shall include a clause or endorsement denying the insurer any rights of subrogation against the other party (and the other parties named as additional insureds pursuant to this Article). Sublessor and Hornblower each waives any rights of recovery against the other (and the other parties named as additional insureds) for injury or loss due to hazards insurable by policies of fire, extended coverage or similar casualty insurance, regardless of whether such insurance policies or coverage shall actually have been obtained by the party granting such waiver, and regardless of the cause of such fire or casualty, including the negligence of the party benefiting from such waiver. Because this Section will preclude the assignment of any claim mentioned in it by way of subrogation or otherwise to an insurance company or any other person, each party to this Agreement agrees immediately to give to each of its insurance companies written notice of



the terms of the mutual waivers contained in this Section and to have the insurance policies properly endorsed, if necessary, to prevent the invalidation of the insurance coverages by reason of the mutual waivers contained herein.

**Article 11**  
**WAIVER OF CLAIMS AND INDEMNITY**

- 11.1 To the extent permitted by Law, Hornblower releases Sublessor and the other Indemnitees from, and waives all claims for, damage or injury to person or property sustained by Hornblower or any invitee, employee or occupant of the Premises or the Facility resulting directly or indirectly from any existing or future condition, defect, matter or thing in and about the Premises or the Facility or any part of either or any equipment or appurtenance therein, or resulting from any accident in or about the Premises or the Facility, or resulting directly or indirectly from any act or neglect of any invitee, employee or occupant of the Facility or of any other person, including Sublessor's agents and servants, except to the extent caused by the gross negligence or willful misconduct of any such Indemnitees. Notwithstanding any provision of this Agreement to the contrary, to the maximum extent permitted by Law, each party hereby waives, and neither party shall be liable to the other party for, any consequential damages, special damages, incidental damages, or compensation or claims for inconvenience or loss of business, rents, or profits as a result of any injury, damage, or any matter arising under this Agreement, whether or not caused by the negligence or willful and wrongful act of any of the other party.
- 11.2 To the extent permitted by Law, Hornblower hereby indemnifies, and agrees to protect, defend and hold the Indemnitees harmless, against any and all actions, claims, demands, liability, costs and expenses, including reasonable attorneys' fees and expenses for the defense thereof, arising from or out of (i) Hornblower's occupancy of the Premises, (ii) the conduct of Hornblower's business on the Premises, (iii) any breach or default on the part of Hornblower in the performance of any covenant to be performed by Hornblower pursuant to this Agreement, and (iv) any negligence or willful misconduct of Hornblower, its agents, contractors, employees, or invitees, in or about the Premises or the Facility. Hornblower covenants to defend such action by competent counsel chosen by Hornblower and reasonably approved by Sublessor. Sublessor reserves the right to settle, compromise or dispose of any and all actions, claims and demands related to the foregoing indemnity subject to the reasonable consent of Hornblower. The foregoing indemnity shall not operate to relieve Indemnitees of liability to the extent such liability is caused by the negligence or willful and wrongful act of Indemnitees.
- 11.3 To the extent permitted by Law, Sublessor hereby indemnifies, and agrees to protect, defend and hold Hornblower and its shareholders, partners, affiliates, managers, members, directors, officers, employees, agents, contractors, and invitees (collectively, the "Hornblower Indemnitees") harmless, against any and all actions, losses, damages, claims, demands, liability, costs and expenses, including reasonable attorneys' fees and expenses for the defense thereof, arising from (i) the conduct of Sublessor's business at the Facility, (ii) from any gross negligence or willful misconduct of Sublessor, its agents, contractors, employees, or invitees, in or about the Premises or the Facility, or (iii) any breach or default on the part of Sublessor in the performance of any covenant to be performed by Sublessor

pursuant to this Agreement except, in each case, to the extent Hornblower is obligated to indemnify the Indemnitees for such actions, losses, damages, claims, demands, liability, costs and expenses, including reasonable attorneys' fees and expenses pursuant to Section 11.2. Sublessor covenants to defend such action by competent counsel chosen by Sublessor and reasonably approved by Hornblower. Hornblower reserves the right to settle, compromise or dispose of any and all actions, claims and demands related to the foregoing indemnity subject to the reasonable consent of Sublessor. The foregoing indemnity shall not operate to relieve Hornblower Indemnitees of liability to the extent such liability is caused by the negligence or willful and wrongful act of Hornblower Indemnitees.

## **Article 12 NOTICES**

All notices provided for or permitted to be given pursuant to this Agreement must be in writing and shall be personally delivered, sent by Federal Express or other reputable overnight courier service, or by registered or certified mail, return receipt requested, in each case, with a copy by email. Notice given in the foregoing manner shall be deemed given (i) when actually received or refused by the party to whom sent if personally served or delivered by overnight courier service, or (ii) if mailed, on the day of actual delivery or refusal as shown by the certified mail return receipt. All notices shall be deemed to have been properly served by sending the same in accordance with this Section, addressed to the parties hereto at their respective addresses listed below:

If to Sublessor:           200 Marina Boulevard, Berkeley, LLC  
                                   c/o Junson Assets Management LLC  
                                   140 East 45<sup>th</sup> Street, 29<sup>th</sup> Fl.  
                                   New York, NY 10017  
                                   Attn: Asset Management & Legal  
                                   Email: [jam\\_list@junsoncapital.com](mailto:jam_list@junsoncapital.com); [legal.list@junsoncapital.com](mailto:legal.list@junsoncapital.com)

If to Hornblower:       HORNBLOWER YACHTS, INC.  
                                   Pier 3, The Embarcadero  
                                   San Francisco, California 94111  
                                   Email: [jill.benson@cityexperiences.com](mailto:jill.benson@cityexperiences.com);  
                                   mitch.randall@hornblower.com

The time period in which a response to any notice must be given shall commence to run from the date of acceptance of delivery by Sublessor or Hornblower. Rejection or other refusal to accept or the inability to deliver because of changed address of which no notice was given, shall be deemed to be receipt of notice. By giving to the other party at least thirty (30) days written notice thereof, either party shall have the right to change their respective addresses for notices.

## **Article 13 MISCELLANEOUS**

- 13.1 **LATE CHARGES: DEFAULT INTEREST.** All payments required hereunder (other than the Monthly Base Rent, which shall be due as hereinbefore provided) shall be paid within fifteen (15) days after Sublessor's written demand. All such amounts (including Monthly Base Rent) not paid within three (3) business days of Hornblower's receipt of written notice that such amounts are overdue shall bear interest from the date due until the date paid at the Default Rate. In the event Hornblower is more than five (5) days late after notice in paying any installment of Payments due under this Agreement, Hornblower shall pay Sublessor a late charge equal to ten percent (10%) of the delinquent installment of Payments. Hornblower agrees such delinquency will cause Sublessor to incur costs not contemplated herein, the exact amount of which will be difficult to calculate, including the cost and expense that will be incurred by Sublessor in processing delinquent payments, the amount of such late charge represents a reasonable estimate of such costs and expenses and that such late charge shall be paid to Sublessor for each delinquent payment in addition to all Payments otherwise due hereunder. The parties further agree that the payment of late charges and the payment of interest provided for above are distinct and separate from one another. Payment of interest at the Default Rate and/or of late charges shall not excuse or cure any default by Hornblower under this Agreement, nor shall any such payments prevent Sublessor from exercising any right or remedy available to Sublessor upon Hornblower's failure to pay Payments when due, including the right to terminate this Agreement.
- 13.2 **SUBJECT TO GROUND LEASE.** This Agreement and all provisions hereof are subject and subordinate to the Ground Lease and the City of Berkeley's rights as ground lessor thereunder, all to the extent exclusively relating to the Premises. Hornblower acknowledges that with respect to any provision of this Agreement that requires the consent of Sublessor, Sublessor may be required to obtain the consent of the City of Berkeley pursuant to the Ground Lease and that Sublessor may not give its consent in any case where the City of Berkeley fails to give its consent. Except to the extent of Hornblower's obligations under this Agreement exclusively relating to the Premises, Hornblower shall have no liabilities or obligations of Sublessor under the Ground Lease, for which Sublessor shall be solely responsible (e.g., Sublessor shall be solely responsible for any obligations to pay rent or other amounts under the Ground Lease and any obligations with respect to the operation of the Hotel or the Restaurant).
- 13.3 **DISCOUNT RATE FOR SUBLESSOR CHARTERS.** Subject to availability, Sublessor shall have the right to charter Hornblower cruises from the Premises at a discounted rate of twenty-five percent (25%) off of standard yacht rental rates during the Term of this Agreement. In order to book a discounted charter pursuant to this Section 13.3, Sublessor shall submit a written request to Hornblower no more than sixty (60) days prior to the planned event specifying the date of the event, the type of cruise, and the number of planned attendees. Subject to availability and compliance with Hornblower's applicable rules and regulations, Hornblower shall make a charter vessel available to Sublessor to charter at the discounted rate, and food and beverages aboard the chartered vessel shall be offered to Sublessor and its attendees at a discounted rate of five percent (5%) off of standard food and beverage rates.
- 13.4 **MARKETING.** Sublessor and Hornblower shall use good faith efforts to explore whether there are opportunities for cross-marketing each other's business (e.g., Hornblower will

explore marketing Sublessor's hotel and restaurant businesses to Hornblower's customers, and Sublessor will explore marketing Hornblower's charter yacht cruises to Sublessor's guests and customers); provided that, in no event shall either party engage in such marketing without the prior written consent of the other party.

- 13.5 NO JURY TRIAL; VENUE; JURISDICTION. To the fullest extent permitted by law, including laws enacted after the Commencement Date, each party hereto shall not seek a jury trial, hereby waives trial by jury, and agrees and consents to personal jurisdiction of the courts of the State of California, in any action or proceeding or counterclaim brought by any party hereto against the other on any matter whatsoever arising out of or connected with this Agreement, or any claim of injury, whether based on this Agreement or on tort law.
- 13.6 AUTHORITY. Each party represents and warrants to the other that it has full authority and power to enter into and perform its obligations hereunder, that the person executing this Agreement is fully empowered to do so, and that (other than approval by the City of Berkeley as specified in Section 1.4 herein) no consent or authorization is necessary from any third party.
- 13.7 ENTIRE AGREEMENT; SURVIVAL; BINDING EFFECT. This Agreement contains the entire agreement between the parties and there are no other agreements, either oral or written. The exhibits are incorporated into this Agreement and made a part hereof. This Agreement shall only be modified by a writing executed by Sublessor and Hornblower. Neither this Agreement, nor any notice nor memorandum thereof shall be recorded by Hornblower. All provisions which by their terms survive expiration or termination of the Agreement and the waivers of the right of jury trial, and the releases and the indemnities shall survive the expiration or termination of this Agreement. Hornblower may not without the prior written consent of Sublessor, which consent shall not be unreasonably withheld, assign this Agreement or otherwise transfer its rights hereunder to use or occupy the Premises or any portion thereof, and any attempt by Hornblower to make any such transfer without such consent shall be void; provided, however, that notwithstanding the foregoing, Hornblower shall have the right to assign this Agreement or otherwise transfer its rights hereunder with notice to Sublessor but without Sublessor's consent to (a) a successor corporation to Hornblower by merger or consolidation, (b) a purchaser of all or substantially all of Hornblower's equity interests, assets, or business as a going concern, or (c) to any entity controlled by, controlling or under common control with Hornblower. Subject to the foregoing restriction on transfer, this Agreement shall be binding upon and inure to the benefit of Sublessor and Hornblower and their respective heirs, legal representatives, successors and permitted assigns.
- 13.8 EXCULPATION. Hornblower agrees, on its behalf and on behalf of its successors and assigns, that any liability or obligation under this Agreement shall only be enforced against Sublessor's leasehold interest in the Facility (including rents, insurance, sales and condemnation proceeds) and in no event against any other assets of the Sublessor, or Sublessor's officers or members and Hornblower shall not be entitled to any judgment in excess of such amount. Sublessor agrees that no agent, advisor, representative, affiliate, employee, director, officer, partner, member, beneficiary, investor, servant, shareholder,

trustee or other person or entity acting on Hornblower's behalf or otherwise related to or affiliated with Hornblower shall have any personal liability, directly or indirectly, under or in connection with this Agreement, and Sublessor shall look solely to Hornblower's assets for the payment of any claim or for any performance, and Sublessor, on behalf of itself and its successors and assigns, hereby waives any and all such personal liability.

- 13.9 **ACCORD AND SATISFACTION.** No payment by Hornblower or receipt by Sublessor of a lesser amount than any installment or payment of Payments due shall be deemed to be other than on account of the amount due, and no endorsement or statement on any check or any letter accompanying any payment of Payments shall be deemed an accord and satisfaction, and acceptance shall be without prejudice to Sublessor's right to pursue all remedies available to Sublessor. No receipt of money by Sublessor from Hornblower after the termination of this Agreement or Hornblower's right of possession of the Premises shall reinstate, continue or extend the Term. Receipt of payment from anyone other than Hornblower, is not a waiver of any breach of this Agreement, and Sublessor may accept such payment on account of the amount due without prejudice to Sublessor's right to pursue any remedies available to Sublessor.
- 13.10 **TIME; APPLICABLE LAW; CONSTRUCTION.** Time is of the essence of this Agreement and each and all of its provisions. This Agreement shall be construed in accordance with the Laws of the State of California. If more than one person or entity signs this Agreement on behalf of Hornblower, the obligations hereunder shall be joint and several. If any term shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such term to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby and this Agreement shall be valid and be enforced to the fullest extent permitted by Law.
- 13.11 **SUCCESSORS AND ASSIGNS.** This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns in accordance with the terms of this Agreement.
- 13.12 **QUIET ENJOYMENT.** Upon Hornblower paying Monthly Rent Payments hereunder and fully and faithfully observing and performing all of the terms, covenants and conditions on Hornblower's part to be observed or performed, Hornblower may peaceably and quietly enjoy the Premises, subject, nevertheless, to the terms and conditions of this Agreement and the terms and conditions of the Ground Lease that exclusively relate to the Premises.
- 13.13 **NO BROKERS.** Each of Sublessor and Hornblower represents and warrants to the other that it has dealt with no real estate agent, broker or finder in connection with the negotiation and execution of this Agreement, and insofar as they know, no agent, broker or other person is entitled to any commission, finder's fee or other compensation in connection with the negotiation and execution of this Agreement. Sublessor and Hornblower each agree to indemnify and hold harmless the other against any and all claims, demands, damages, debts, liabilities, actions, accounts, obligations, claims of legal or equitable ownership interests, whether in law or equity, costs, expenses, liens, agreements, rights, causes and causes of action of any nature whatsoever incurred by reason of any brokerage fee,

commission or finder's fee that is payable or alleged to be payable to any agent, broker or finder because of any agreement, act, omission or statement of the indemnifying party.

- 13.14 ESTOPPEL CERTIFICATES. Within fifteen (15) days after written request from one party hereto (the "Requesting Party"), the other party hereto (the "Responding Party") shall execute and deliver to the Requesting Party, in a form reasonably requested by the Requesting Party, or any potential mortgagee, lender, assignee, or purchaser, an estoppel certificate certifying that this Agreement is unmodified and in full force and effect (or, if modified, stating the nature of the modification), that there are no defaults hereunder and no events or circumstances that with the passing of time or giving of notice or both would constitute a default under this Agreement (or noting any such defaults, events, or circumstances), that all rents and any other sums due under this Agreement have been timely paid (or noting any that have not been paid when due), and to such other matters as may be reasonably requested by the Requesting Party.
- 13.15 COUNTERPARTS. This Agreement may be executed in any number of counterparts, each of which shall constitute an original but all of which together shall constitute but one and the same instrument. Transmission of an executed counterpart of this Agreement by electronic mail or facsimile (e.g., a PDF copy of an executed counterpart) shall have the same effect as delivery of an original signature page.
- 13.16 BERKELEY REQUIREMENTS.

13.16.1 Living Wage Ordinance (LWO). Hornblower agrees to pay wages in accordance with Berkeley Municipal Code Chapter 13.27, the Berkeley Living Wage Ordinance unless otherwise agreed to in a collective bargaining agreement. If Hornblower employs six or more part-time or full-time employees, and generates \$350,000 or more in annual gross receipts, Hornblower will be required to provide all eligible employees with City mandated minimum compensation during the Term, as defined in B.M.C. Chapter 13.27, and well as comply with the terms enumerated herein.

13.16.2 Hornblower shall be required to maintain all reasonable records and documents that would establish whether Tenant is subject to Berkeley's Living Wage Ordinance ("LWO"). If Hornblower is subject to the LWO, as defined therein, Hornblower shall be further required to maintain monthly records of those employees located on the leased Premises. These records shall include the total number of hours worked, the number of hours spent providing service on the leased Premises, the hourly rate paid, and the amount paid by Hornblower for health benefits, if any, for each of its employees providing services under the lease. The records described in this Section shall be made available upon the Tenant's request subject to the Ground Lease. The refusal to produce these records upon reasonable demand shall be considered a default, subject to the provisions contained in ARTICLE 7 above.

13.16.3 If Hornblower is subject to the LWO, Hornblower shall include the requirements of the ordinance, as defined in B.M.C. Chapter 13.27, in any and all subleases in which Tenant enters with regard to the subject Premises. Hornblower shall be required

to comply with this ordinance with regard to any employees who spend 25% or more of their compensated time on the leased Premises.

[SIGNATURES FOLLOW ON NEXT PAGE]

IN WITNESS WHEREOF, the parties have entered into this Agreement as of the date first written above.

**SUBLESSOR:**

200 Marina Boulevard, Berkeley, LLC, \_\_\_\_\_,  
a Delaware limited liability company

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title \_\_\_\_\_

**HORNBLOWER:**

HORNBLOWER YACHTS, INC.,  
a California corporation

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title \_\_\_\_\_



Exhibit A

**PLAN OF PREMISES**

[SEE FOLLOWING PAGES]

Exhibit B

**GROUND LEASE**

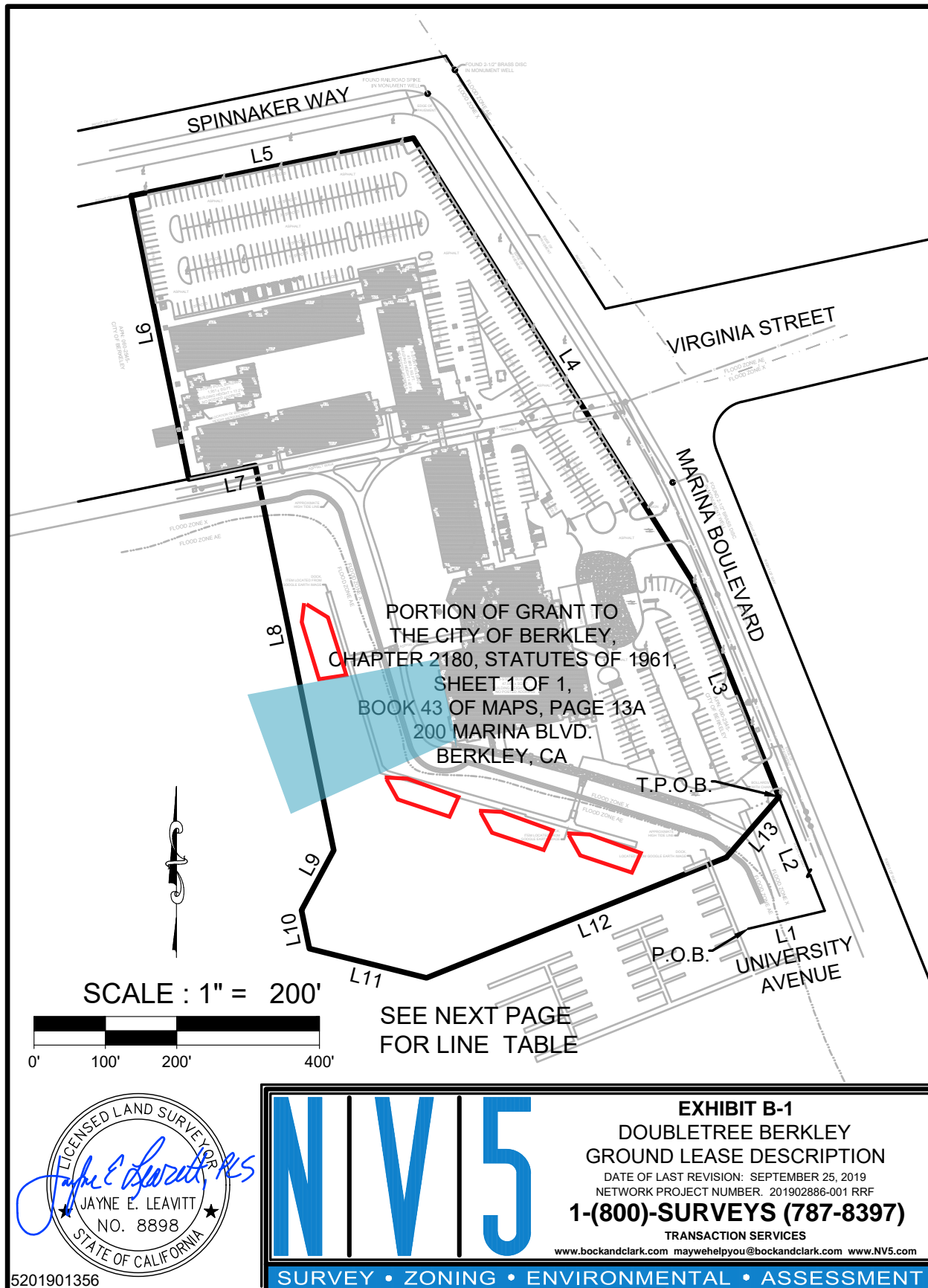
[SEE ATTACHED]

Exhibit C

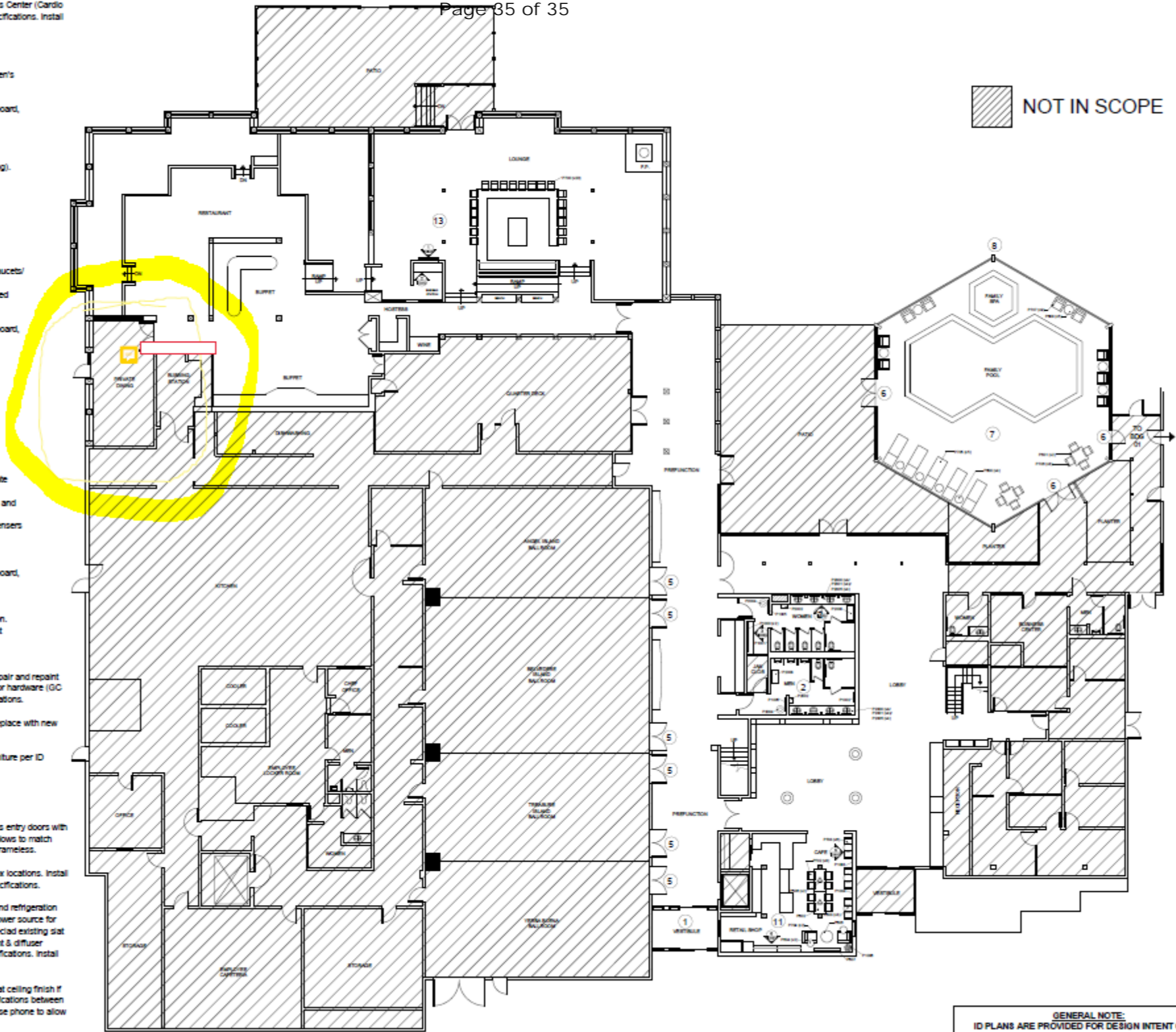
**DEPICTION OF PARKING AREAS**

[SEE ATTACHED]

# Berth Area



- Demo existing egg-crate light & diffuser at Ballroom/ Restaurant entrance vestibule, Fitness Center (Cardio & Weight Room), and Fitness Pool. Finish out soffits with smooth gyboard, paint per ID specifications. Install new mini recessed cans per ID specifications.
- Ballroom Public Restrooms:**
  - Repair and repaint entry doors per ID specifications to restore to like-new condition.
  - Demo existing vanities/ sinks/ faucets/ soap dispensers (to include dry vanity in women's restroom). Install new vanities/ sinks/ faucets/ soap dispensers per ID specifications.
  - Install new motion-activated paper towel dispensers per ID specifications.
  - Demo existing egg-crate light & diffuser at vanities. Finish out soffits with smooth gyboard, paint per ID specifications. Install new mini recessed cans per ID specifications.
  - Install new decorative, freestanding trash cans per ID specifications.
  - Demo existing partitions. Install new laminate partitions with metal base trim per ID specifications.
  - Install second coat hook in women's accessible stall (GC to provide - to match existing).
  - Install automatic flush valves at all toilets and urinals (GC to provide).
  - Install baby changing stations per ID specifications.
  - Install artwork and full-length mirrors per ID specifications.
  - Install 2 new vanity mirrors at women's dry vanity.
- Executive Meeting Center Restrooms:**
  - Remove popcorn ceiling texture and replace with smooth gyboard finish. Paint per ID specifications.
  - Demo existing vanities/ sinks/ faucets/ soap dispensers. Install new vanities/ sinks/ faucets/ soap dispensers per ID specifications.
  - Demo existing recessed paper towel dispensers and replace with new motion-activated paper towel dispensers per ID specifications.
  - Install new decorative, freestanding trash cans per ID specifications.
  - Demo existing egg-crate light & diffuser at vanities. Finish out soffits with smooth gyboard, paint per ID specifications. Install new mini recessed cans per ID specifications.
  - Demo existing surface mount light fixtures. Install new surface mount, decorative light fixtures per ID specifications.
  - Demo existing partitions. Install new laminate partitions with metal base trim per ID specifications.
  - Repair damaged window sills and repaint per ID specifications to restore to like-new condition.
  - Install automatic flush valves at all toilets and urinals (GC to provide).
  - Install baby changing stations per ID specifications.
  - Install artwork and full-length mirrors per ID specifications.
- Fitness/ Pool Restrooms:**
  - Install new ADA compliant laminate apron at vanities to conceal all plumbing. Laminate apron to match new laminate toilet partitions.
  - Repair damaged wall below women's restroom vanity, repaint per Wall Finishes Plan and ID specifications.
  - Demo existing vanity faucets/ soap dispensers. Install new vanity faucets/ soap dispensers per ID specifications.
  - Install new motion-activated paper towel dispensers per ID specifications.
  - Install new decorative, freestanding trash cans per ID specifications.
  - Demo existing egg-crate light & diffuser at vanities. Finish out soffits with smooth gyboard, paint per ID specifications. Install new mini recessed cans per ID specifications.
  - Install automatic flush valves at all toilets and urinals (GC to provide).
  - Install baby changing stations per ID specifications.
  - Repair and repaint wood benches per ID specifications to restore to like-new condition.
  - Demo existing surface mount light fixtures. Install new surface mount, decorative light fixtures per ID specifications.
  - Install artwork and full-length mirrors per ID specifications.
- Re-laminate all Ballroom/ Meeting Room entry and service doors per ID specifications. Repair and repaint door frames per ID specifications. Replace all Ballroom/ Meeting Room entry and service door hardware (GC to Provide). Install new stone threshold at all Ballroom/ Meeting Room entries per ID specifications.
- Restore entry doors at Fitness Center (Cardio) and Family Pool to like-new condition, or replace with new doors if existing doors cannot be restored.
- Remove all existing pool furniture from Family Pool and Fitness Pool. Install new pool furniture per ID specifications.
- Repair and repaint all rusted soffit vents around the exterior of the Family Pool per ID specifications.
- Build new smooth gyboard finish wall with clerestory window in one bay and metal & glass entry doors with side lights in other bay to create new Fitness Center (Weight Room). New entry doors & windows to match existing windows and doors throughout the Fitness Pool area. New clerestory window to be frameless.
- Remove existing corridor scances throughout Building 01 through 04. Retain existing j-box locations. Install new corridor scances at existing j-box locations throughout Buildings 01 through 04 per ID specifications.
- Remove dining tables and chairs from Retail Shop/ Cafe. Reconfigure existing shelving and refrigeration units, install new tables and seating per ID Specifications, and relocate TV. GC to provide power source for new community table within existing columns, and ensure power cable available for TV. Re-clad existing slat wall behind transaction counter with P308 per ID Specifications. Demo existing egg-crate light & diffuser behind transaction counter. Add new dropped soffit with smooth gyboard, paint per ID specifications. Install new mini recessed cans per ID specifications. Refer to ID300 for RCP of this area.
- Install HVAC ducting and vents in the new Fitness Center (Weight Room), demo wood slat ceiling finish if necessary. Install suspended ACT system with integrated recessed can lighting per ID specifications between the perimeter hardid soffits in this area to conceal new HVAC ducting. Relocate existing house phone to allow for installation of new wall mirror.
- Construct new full height walls to create new Bussing Station. Install new laminate base cabinet with laminate top per ID specifications. Install TV on guest side of new wall. GC to ensure power and cable available for TV. Replace all barstools at Bar per ID specifications.



NOT IN SCOPE

**GENERAL NOTE:**  
 ID PLANS ARE PROVIDED FOR DESIGN INTENT ONLY,  
 AND DIMENSIONS HAVE NOT BEEN VIF. IT IS THE  
 RESPONSIBILITY OF GC/ SUBCONTRACTORS TO VERIFY  
 ALL DIMENSIONS AS NEEDED PRIOR TO CONSTRUCTION.

**Dwellings**  
 INTERIORS & ARCHITECTURE

Denver Colorado Office  
 6740 E. Harvard Ave. #200  
 Denver, CO 80224  
 P: 303-733-9334  
 F: 303-733-9337

Scale: 3/32" = 1'-0"

Issue Date: 09-03-2015

The professional services of the interior designer are limited to the work shown on the drawings. The contractor shall be responsible for the proper design of the work shown on the drawings and for the proper installation of the work shown on the drawings.

PROJECT NAME: DOUBLE TREE BY HILTON  
 200 MARINA BOULEVARD, BERKELEY, CA 94710

CONTRACT NO.: PUBLIC SPACE & CORRIDORS RENOVATION  
 BUILDINGS 06, 07 & 08 - 1ST LEVEL  
 NEW CONSTRUCTION & FURNITURE PLAN

DATE: 09-03-2015

Sheet Number: ID  
 050.11

Page 593





Office of the City Manager

CONSENT CALENDAR  
July 25, 2023

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: Scott Ferris, Director, Parks, Recreation & Waterfront  
 Subject: Contract No. 32200183 Amendment: Western Water Features Inc. for Renovations at King Swim Center

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 32200183 with Western Water Features, Inc. for renovations at King Swim Center, increasing the contract amount by \$79,000 for a total not to exceed amount of \$1,179,000.

FISCAL IMPACTS OF RECOMMENDATION

Funding in the amount of \$79,000 for this contract amendment is available in the FY 2023 budget in the CIP Fund (Fund 501). These funds will be carried over and appropriated as part of the First Amendment to the FY 2024 Annual Appropriations Ordinance. No other funding is required, and no other projects will be delayed due to this expenditure.

CURRENT SITUATION AND ITS EFFECTS

In 2022, the original scope of the renovation project at the King and West Campus Swim Center involved replacement of the plaster, tiles, and electrical equipment. This amendment will allow the upgrading of the pool chemical controller and equipment to increase the pool's energy efficiency at the King Swim Center.

BACKGROUND

Specification No 22-11489C for renovation work at King and West Campus pools was competitively bid out in early January 2022. On January 27, 2022, the City received 2 bids, of which Western Water Features was the lowest responsive bidder. On March 8, 2022, Council adopted Resolution No. 70,248-N.S., authorizing the contract in the amount of \$1,010,000. The contract was amended on January 31, 2023 with the addition of \$90,000.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

This project will improve the environmental impact of pool operations by reducing the usage of energy and chemicals.

Contract No.32200183 Amendment: Western Water Features Inc.  
renovations at King Swim Center

Consent Calendar  
July 25, 2023

RATIONALE FOR RECOMMENDATION

Western Water Features, Inc. is highly qualified and responsive. They have successfully worked for the City of Berkeley and many other local municipalities. The City of Berkeley does not have the in-house labor or resources to complete this additional work.

ALTERNATIVE ACTIONS CONSIDERED

None

CONTACT PERSON

Scott Ferris, Director, Parks, Recreation & Waterfront, 510-981-6700

Attachment:

1: Resolution



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

CONTRACT NO. 32200183 AMENDMENT: WESTERN WATER FEATURES INC.  
RENOVATIONS AT KING SWIM CENTER

WHEREAS, in 2022, the original scope of the renovation project at the King and West Campus Swim Center involved replacement of the plaster, tiles, and electrical equipment; and

WHEREAS, specification # No 22-11489C for the plaster, tile, and electrical renovation work at King and West Campus pools was competitively bid out in early January 2022; and

WHEREAS, on January 27, 2022, the City received 2 bids, of which Western Water Features was the lowest responsive bidder. On March 8, 2022, Council adopted Resolution No. 70,248-N.S., authorizing the contract in the amount of \$1,010,000; and

WHEREAS, on January 21, 2023, the not to exceed value of the contract increased from \$1,010,000 to \$1,100,000 by Resolution No. 70,679; and

WHEREAS, this amendment will fund the upgrading of the chemical controller and energy efficiency equipment at the King Swim Center; and

WHEREAS, funding in the amount of \$79,000 for this contract amendment is available in the FY 2023 budget in the CIP Fund (Fund 501). These funds will be carried over and appropriated as part of the First Amendment to the FY 2024 Annual Appropriations Ordinance. .

WHEREAS, the City has neither the labor or resources necessary to undertake this project.

NOW THEREFORE BE IT RESOLVED that the Council of the City of Berkeley authorizes the City Manager to execute a contract amendment to Contract 32200183 with Western Water Features Inc. for the renovations at King Swim Center, increasing the contract amount by \$79,000 for a total amended not to exceed amount of \$1,179,000. A record signature copy of any amendments to be on file in the Office of the City Clerk.





Office of the City Manager

CONSENT CALENDAR  
July 25, 2023

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Scott Ferris, Director, Parks Recreation & Waterfront

Subject: \$5.5M Loan for D and E Dock Replacement Project at the Berkeley Waterfront

RECOMMENDATION

Adopt a resolution authorizing the City Manager to implement one of the following options: (1) execute an Amendment to the existing \$5.5M Loan Agreement with the State Division of Boating and Waterways, based on one of four proposed alternatives described below in CURRENT SITUATION; or (2) adopt a resolution authorizing the City Manager to implement an internal loan of \$5.5M from the Workers Compensation Fund and/or the Stability Reserve Fund and/or Catastrophic Reserve Fund as determined by the City Manager, and repay this loan from the Transient Occupancy Tax revenue and/or the Marina Fund with the terms to be determined by the City Manager.

FISCAL IMPACTS OF RECOMMENDATION

In Options A through D, a loan from the State Division of Boating and Waterways (DBW) will cost the City approximately \$4.5M in interest payments to DBW over a thirty-year period, an additional \$250,000 - \$375,000 in loan processing fees, and could hold \$2 million in City funds in a separate account. An internal City loan as described in Option E will result in some initial loss of some interest earned by City funds, but it will be paid back to the City by the Marina Fund subject to terms determined by the City Manager. Additionally, it will save the Marina Fund up to \$4.5 million in interest payments.

CURRENT SITUATION

Since 1964, the City has obtained four large loans from DBW in order to build and renovate our Waterfront docks, parking lots, utilities, breakwaters, restrooms and complete dredging: 1964 (\$1.8M); 1971 (\$1.5M); 1985 (\$2.0M); and 2001 (\$7.8M). Three of these four loans have been repaid (using the Marina Fund). Currently, the Marina Fund is paying off the \$7.8M loan authorized in 2001 (but not fully spent until 2010) and is scheduled to be paid off in 2040.

The City applied for the latest \$5.5M DBW loan in 2019 to replace the D and E docks. This \$8.26M project is 90% designed and will be funded by the following four sources:

the current DBW loan, Measure T1 (\$684,000), the State Coastal Conservancy (SCC) grant (\$1.5M), and the Marina Fund (\$585,000 – portion from Doubletree Hotel Capital Contribution). After a visit from DBW commissioners and staff in 2020, the \$5.5M loan was granted and executed by the City Council on March 9, 2021 (see Attachment 3).

In the late spring of 2023, DBW staff raised concerns that the language in our City Council resolution does not adequately protect them from default and that the City's Marina Fund did not meet certain loan criteria. In recent years, the cities of Stockton, Martinez and Petaluma encountered problems repaying their DBW loans, and in 2023, based on these and other state budgetary issues, DBW's entire state loan program may be at risk. DBW staff recently noted that the City's Marina Fund has continued to deteriorate since agreeing to the loan in 2020, raising their concerns about the City's ability to pay debt service not just on the new loan, but on the existing loan from 2001. These two loans will result in a combined total of over \$800,000 annual debt service payment from the Marina Fund to DBW. On June 23, 2023, the DBW Commission voted 4-1 to approve the DBW staff recommendation that they allow the City to proceed with the \$5.5M loan as long as the City complies with options A, B, C, or D described below. Attachment 4 includes the detailed report and an executive summary from DBW staff.

### **DBW Option A**

Formalize a City financial process whereby a subaccount within the Marina Fund is established solely for the purpose of repaying all outstanding DBW loans. This subaccount must be fully funded with \$2 million. Funds in this subaccount may only be used for DBW loan repayments and the subaccount must be fully refreshed within 30 days of each loan payment. The subaccount must be fully funded each fiscal year before Marina Fund revenues are used for any other purpose. The subaccount shall remain fully funded until either this loan is fully repaid or until the City demonstrates to DBW for twelve (12) consecutive months that the Marina Fund has achieved the income/expense ratio and the debt service coverage ratio that DBW normally requires. The City would agree to maintain these ratios in the Marina Fund for the life of the loan. In the event of default, the subaccount shall be used to make loan payments and to cure any deficiencies in maintenance or operations.

The General Fund would be required to provide \$2M to the Marina Fund. Benefits of this approach, as opposed to Option C, include: (1) the City has more control over the subaccount as DBW is not a signatory; (2) no cost to create a subaccount; (3) the City would still earn interest on the \$2M in the subaccount. It should be noted that restricting \$2M in City funds to the Marina Fund subaccount until it meets the required DBW ratios will limit the City's ability to use these funds for other City needs.

### **DBW Option B**

Formalize a City financial process whereby non-boating-related waterfront expenses will be paid from a specified source other than the Marina Fund, or establish an alternate revenue source (or sources) within the Marina Fund, not to include boating-related revenues, to off-set all non-boating-related expenses. Loan funds would be made

available after this process is implemented and once the City demonstrates to DBW for twelve (12) consecutive months that the Marina Fund has achieved the income/expense ratio and the debt service coverage ratio that DBW normally requires. The City would agree to maintain these ratios in the Marina Fund for the life of the loan. **Note:** The Loan agreement will not be extended beyond the DBW funding availability, which currently expires June 30, 2026. To meet this deadline, the conditions noted above must be met, and loan funding requested no later than February 1, 2026.

This option requires an influx of General Fund or other revenues to the Marina Fund or the transfer of expenses to other funds. This option could delay the D and E dock replacement project by at least a year because of the 12 months period required to meet DBW ratios. This option helps address the long-standing financial issues related to the Marina fund by using other City funds.

### **DBW Option C**

As a substitute for meeting the loan ratio conditions DBW normally requires, no later than March 31, 2024, the City shall establish an escrow account funded with \$2 million in City funds. The funds in this account shall be held in reserve to ensure payment of debt service on both the DBW loan currently in repayment and this new loan. The escrow account shall remain fully funded until either the loan is fully repaid or when the City demonstrates to DBW for twelve (12) consecutive months that the Marina Fund has achieved the income/expense ratio and the debt service coverage ratio that DBW normally requires. The City would agree to maintain these ratios in the Marina Fund for the life of the loan.

The General Fund would be required to provide \$2M to a third-party escrow account which DBW would be a signatory to and could limit any use of escrow funds. This is the least desirable option since it requires that we establish an escrow account that strictly limits City access to the principal and interest in the account, and the escrow company will charge fees to establish and maintain the account.

### **DBW Option D**

As a substitute for meeting the loan ratio conditions DBW normally requires, no later than March 31, 2024, the City shall obtain a surety bond naming DBW as its beneficiary. The City shall bear all expenses and other obligations associated with obtaining and maintaining the surety bond. The surety bond shall be in the amount of the outstanding principal and shall remain fully funded until either the loan is fully repaid or until the City demonstrates to DBW for twelve (12) consecutive months that the Marina Fund has achieved the income/expense ratio and the debt service coverage ratio that DBW normally requires. The City agrees to maintain these ratios in the Marina Fund for the life of the loan.

Staff estimate that this one-time fee for the surety bond will be an additional \$250,000 to \$375,000. This option would require the least amount of City cash up front and could be the least expensive of the DBW options in the long-term if we are unable to meet the required ratios in Marina Fund over the next several years.

**Option E****City of Berkeley Internal Loan**

On June 22, 2023, the Council Budget and Finance Committee recommended that the City pursue an internal loan from an existing City fund instead of using the California Division of Boating and Waterways loan. This would involve borrowing the \$5.5M from an existing City fund and paying the loan back with either non-Marina Fund sources or Marina Fund generated revenue once the Marina Fund becomes healthy again. A lower than 4.5% rate would save the Marina Fund significant debt service costs as the DBW loan is estimated to cost \$4.5M in interest over the life of the loan (30 years). An additional benefit might be that another City fund would benefit from this interest.

City staff recommends that an internal loan of \$5.5M come from the Workers Compensation Fund and/or the Stability Reserve Fund and/or Catastrophic Reserve Fund and that repayment of this loan come from the Transient Occupancy Tax (TOT) revenue generated in the Waterfront with the length of repayment and associated fees to be determined by the City Manager.

This option is the best option for the Marina Fund because it would allow the City to complete the D & E Dock Project much sooner and at a lower cost (construction costs become drastically more expensive each year), and any interest required by an internal loan would be paid back to the City from revenues generated at the Waterfront instead of to an outside entity (DBW).

**BACKGROUND****Marina Fund History**

In 1964, the Council passed a resolution creating the Marina Fund.<sup>1</sup> The purpose of the Fund was to receive a \$1.8M loan from the State to build the Marina, including a breakwater, dredging, adding 600 new slips to the existing 200-slip marina, slip utilities, lockers, pilings, roads, parking lots, pathways, landscaping, Marina office building, restrooms, bait shop, and chandlery. The loan required that revenue from slips and future hotel and restaurant leases would cover the costs of debt service, maintenance, and operations of the Waterfront.

In 1970, the City took on a second State loan to increase renovated slips to 1,000, complete the upland areas and sailing basin south of University Ave. In the 1970s and 1980s, the City converted the North Dike Landfill into a new park (initially known as North Waterfront Park, later renamed Cesar Chavez Park) using grants and other local funding. However, by the late 1990s, the Marina Fund showed signs of distress. Budget updates and fee reports continually described structural deficits threatening to exhaust Marina Fund reserves. For example, Council minutes from November 9, 1999 note:

---

<sup>1</sup> See Resolution 39,950-N.S. to Establish the Berkeley Marina Fund for Small Craft Harbor Loan, May 12, 1964.

“...The Marina is significantly under-funded and there is no current source of funds to implement core capital projects while maintaining existing Marina operations...Without a commitment by the Council to actively seek additional sources of ongoing funding beyond non-recurring grants, Marina infrastructure will continue to deteriorate...”<sup>2</sup>

### **Marina Fund Structural Issues**

In recent years, the infrastructure at the Waterfront has experienced significant failures such as deteriorating dock systems, the closing of the Berkeley Pier, and crumbling roadways and parking lots. Due to insufficient revenues, a capital replacement fund for this infrastructure was never established. Instead, infrastructure replacement has been funded through a variety of grants, loans, the Marina Fund when possible, and most recently, one-time allocations from the General Fund and the T1 Bond Measure.

Additionally, the Marina Fund – technically an enterprise fund with an expectation that revenues cover expenses – has been expected to cover all aspects of the Waterfront including recreational activities and park expenses at Cesar Chavez Park, Shorebird Nature Center and Park, Adventure Playground, and at the South Cove area.

Until recently, staffing reductions and deferral of capital and maintenance kept the Marina Fund solvent. But over the last several years, as capital infrastructure further deteriorated and staffing levels could not be further reduced, Marina Fund revenue could no longer to cover basic operational costs. This was exacerbated in 2019 with COVID-19, which significantly reduced hotel and restaurant lease revenue at the Waterfront.

Since 2021, General Fund support has been needed to maintain Waterfront operations. The Council authorized transfers to the Marina Fund of \$1.4M in FY22 and \$1.15M in FY23 using American Rescue Plan funding to keep the fund solvent. Earlier in 2023, Council solved the anticipated FY2024 \$800,000 structural deficit by eliminating one year of Workers Compensation fees, funding Waterfront capital expenditures with General Fund, and using Parks Tax to cover parks-related expenses at the Waterfront. In addition, Council allocated \$1.5M from the City’s Capital Improvement Program (CIP) Fund over two years to fund the Marina Piling Replacement project (\$850,000 in FY23; and \$650,000 in FY24).<sup>3</sup> Yearly transfer of City funds to cover the Marina Fund structural gap will still be needed at least through FY2027 in order to maintain operations and complete critical infrastructure projects.

### **Current Marina Fund Projections**

Attachment 5 includes an updated Marina Fund forecast, which reflects several improved conditions.

---

<sup>2</sup> See p.2 of Waterfront / Marina Fund Update, April 12, 2018 for a summary of budget reports from 1999-2017.

<sup>3</sup> This contract has been fully executed and pre-construction has begun.

- Berth slip occupancy is improving. Marina berth occupancy has steadily increased, reaching 85.5% percent in June 2023 – a level not reached since 2015. Table 1 shows the average annual level of occupancy for the last 15 years. With this latest surge in berth rentals, we are projecting the 2023 average occupancy to reach 83%; and 2024 to increase to 86%. Each 1% is worth approx. \$50,000 in Marina Fund annual revenues.

*Table 1 - Berth occupancy rate (average of Jan and July for each year)*

| <b>Years</b> | <b>Occupancy</b> |
|--------------|------------------|
| 2009         | 94%              |
| 2010         | 92%              |
| 2011         | 85%              |
| 2012         | 85%              |
| 2013         | 88%              |
| 2014         | 87%              |
| 2015         | 87%              |
| 2016         | 83%              |
| 2017         | 80%              |
| 2018         | 81%              |
| 2019         | 78%              |
| 2020         | 78%              |
| 2021         | 79%              |
| 2022         | 80%              |

- Capital investments are paying off. Over the past 15 years, there has been a surge of capital investment in the Waterfront with more than \$55M from loans, grants, local funds, and most recently \$15M in a State earmark for Berkeley marina and pier projects.
- New fee increases were approved by Council. For the first time since 2015, the City is increasing slip fees – the largest source of revenue for the Marina. For the past several years, fee increases were not deemed appropriate due to safety, security and infrastructure problems. But safety and security efforts are making a difference, with security cameras in parking lots, increased presence of Waterfront monitor staff, and the Berkeley Police Department Traffic Bureau’s move to the Waterfront office space at 125-127 University last year. In addition, several dock repairs and renovations to slipholder restrooms are addressing longstanding customer concerns. The new fees include 3% increases over each of the next three years; along with larger increases in high occupancy areas like the Dry Storage spaces.
- Lease revenue is improving as the Doubletree and Skates recover from Covid and percentage rent levels increase. If a 199 Seawall lease can be secured in the next year, these figures will grow even more.



- Debt service payments on the new loan are delayed a year. The projected first debt service payment of \$342,000 on the new \$5.5M loan must be made the August following the first disbursement. This was initially planned to occur in August 2023; but is now anticipated to be August 2024. This creates a savings in FY24 of \$342,000.
- Interest income increased. High interest rates in FY23 generated \$110,000 more in new revenue to City funds than the prior year.

Together, these conditions result in improved revenue projections, which reduce the level of deficit in each year. The latest projections show the annual deficit decreasing from \$1.5M in FY25 to \$500,000 in FY27. It should be noted that these projections include approximately \$340,000 each year of additional payments to DBW for the \$5.5M construction loan.

#### ENVIRONMENTAL SUSTAINABILITY AND CLIMATE CHANGE

There are no environmental impacts associated with the recommendation contained in this report.

#### RATIONALE FOR RECOMMENDATION

A loan of \$5.5 million will allow the City to complete the D&E Dock Replacement Project at the Berkeley Waterfront.

#### ALTERNATIVE ACTIONS CONSIDERED

None

#### CONTACT PERSON

Scott Ferris, Parks, Recreation & Waterfront, 510-981-6700

Christina Erickson, Parks, Recreation & Waterfront, 510-981-6703

#### Attachments:

- 1: Resolution
- 2: Resolution
- 3: DBW Loan Council Resolution, March 2021
- 4: DBW Summary Report, June 2023
- 5: Marina Fund Forecast, June 2023

RESOLUTION NO. -N.S.

**\$5.5M LOAN FOR D AND E DOCK REPLACEMENT PROJECT AT THE BERKELEY WATERFRONT**

WHEREAS, in 2019, the City applied for a \$5.5M DBW loan to replace the D and E docks at the Berkeley Waterfront; and

WHEREAS, after a visit from DBW commissioners and staff in 2020, the \$5.5M loan was granted and executed by the City Council on March 9, 2021; and

WHEREAS, in the late spring of 2023, DBW staff raised concerns that the language in our City Council resolution does not adequately protect them from default and that the City's Marina Fund did not meet certain loan criteria. In recent years, the cities of Stockton, Martinez and Petaluma encountered problems repaying their DBW loans, and in 2023, based on these and other state budgetary issues, DBW's entire state loan program may be at risk. DBW staff recently noted that the City's Marina Fund has continued to deteriorate since agreeing to the loan in 2020, raising their concerns about the City's ability to pay debt service not just on the new loan, but on the existing loan from 2001. These two loans will result in a combined total of over \$800,000 annual debt service payment from the Marina Fund to DBW; and

WHEREAS, on June 23, 2023, the DBW Commission voted 4-1 to approve the DBW staff recommendation that they allow the City to proceed with the \$5.5M loan as long as the City complies with one of options A, B, C, or D described in the report above; and

WHEREAS, the current D & E Dock Replacement Project totaling \$8.26M is 90% designed and will be funded by the following four sources: the current DBW loan, Measure T1 (\$684,000), the State Coastal Conservancy (SCC) grant (\$1.5M), and the Marina Fund (\$585,000 – portion from Doubletree Hotel Capital Contribution).

NOW THEREFORE, BE IT RESOLVED that the Council of the City of Berkeley authorizes the City Manager to execute an Amendment to the existing \$5.5M Loan Agreement with the State Division of Boating and Waterways, based on one of four proposed alternatives (A through D) described in the council report as determined by the City Manager.

RESOLUTION NO. -N.S.

**\$5.5M LOAN FOR D AND E DOCK REPLACEMENT PROJECT AT THE BERKELEY WATERFRONT**

WHEREAS, in 2019, the City applied for a \$5.5M DBW loan to replace the D and E docks at the Berkeley Waterfront; and

WHEREAS, after a visit from DBW commissioners and staff in 2020, the \$5.5M loan was granted and executed by the City Council on March 9, 2021; and

WHEREAS, in the late spring of 2023, DBW staff raised concerns that the language in our City Council resolution does not adequately protect them from default and that the City's Marina Fund did not meet certain loan criteria. In recent years, the cities of Stockton, Martinez and Petaluma encountered problems repaying their DBW loans, and in 2023, based on these and other state budgetary issues, DBW's entire state loan program may be at risk. DBW staff recently noted that the City's Marina Fund has continued to deteriorate since agreeing to the loan in 2020, raising their concerns about the City's ability to pay debt service not just on the new loan, but on the existing loan from 2001. These two loans will result in a combined total of over \$800,000 annual debt service payment from the Marina Fund to DBW; and

WHEREAS, on June 23, 2023, the DBW Commission voted 4-1 to approve the DBW staff recommendation that they allow the City to proceed with the \$5.5M loan as long as the City complies with one of options A, B, C, or D described in the report above; and

WHEREAS, the current D & E Dock Replacement Project totaling \$8.26M is 90% designed and will be funded by the following four sources: the current DBW loan, Measure T1 (\$684,000), the State Coastal Conservancy (SCC) grant (\$1.5M), and the Marina Fund (\$585,000 – portion from Doubletree Hotel Capital Contribution).

NOW THEREFORE, BE IT RESOLVED that the Council of the City of Berkeley authorizes the City Manager to implement an internal loan of \$5.5M from the Workers Compensation Fund and/or the Stability Reserve Fund and/or Catastrophic Reserve Fund as determined by the City Manager, and repay this loan from the Transient Occupancy Tax revenue and/or the Marina Fund with the terms to be determined by the City Manager.

RESOLUTION NO. 69,746-N.S.

LOAN AGREEMENT WITH CALIFORNIA DEPARTMENT OF BOATING & WATERWAYS FOR REPLACEMENT OF D & E DOCKS AT THE BERKELEY MARINA

WHEREAS, the State Department of Boating and Waterways provides loans to cities, counties and districts for the development of small craft harbor facilities; and

WHEREAS, the City of Berkeley needs to replace D & E Docks at the Berkeley Marina in order to meet the needs of the boating public in Berkeley and the surrounding area and to make these facilities comply with the access requirements of the Americans with Disabilities Act; and

WHEREAS, the City has conducted a feasibility study which has found the proposed project to be feasible and economically justified; and

WHEREAS, the City of Berkeley has requested, and the State Department of Boating and Waterways has approved a \$5,500,000 loan; and

WHEREAS, the annual debt service payments will be made from the Marina Fund (Fund 608). However, in the event the Marina Fund cannot fulfill its repayment obligation for this loan in any fiscal year, the City shall supplement that year's repayment from any legally available source, for every year until the loan is fully repaid.


NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager or her designee is hereby authorized to sign the loan agreement for \$5,500,000 and accept the loan for the replacement of D & E docks at the Berkeley Marina.

The foregoing Resolution was adopted by the Berkeley City Council on March 9, 2021 by the following vote:

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

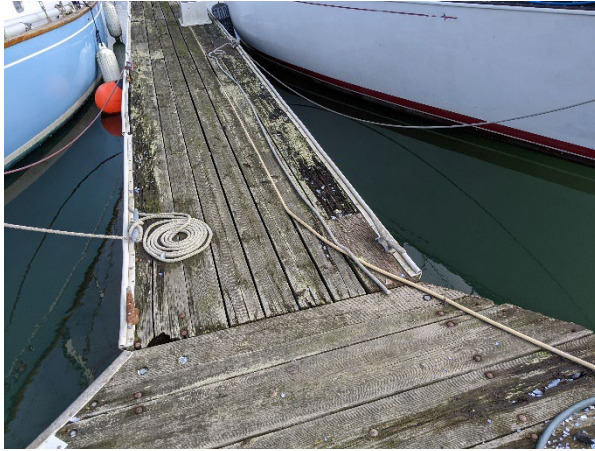
Noes: None.

Absent: None.

  
Jesse Arreguin, Mayor

Attest:   
Mark Numalville, City Clerk

## **BERKELEY MARINA LOAN FEASIBILITY REPORT UPDATE SUMMARY**



*Dock D*



*Dock E*

**City of Berkeley**

**\$5,500,000 Loan**

---

### **SUMMARY**

The Department of Parks and Recreation, Division of Boating and Waterways (DBW) asks the Boating and Waterways Commission (Commission) to provide advice and comment on amending conditions that the Commission previously advised DBW to require for a \$5.5 million loan from the Harbors and Watercraft Revolving Fund (HWRF) to the City of Berkeley (City) for demolition and replacement of Docks D and E at Berkeley Marina. DBW previously presented this project to the Commission for advice and comment on February 14, 2020. Since then, the City has not met three of the four conditions that the Commission advised DBW to include in the loan agreement. These conditions can be found in the full Feasibility Report Update.

The subject loan would fund design and construction of new docks, concrete piles, utilities, and necessary related infrastructure for these two docks.

There are no engineering, permitting, stakeholder or public access issues associated with this project. However, the Marina Fund, responsible for repaying the proposed loan, has a structural deficit which the City has annually supplemented with the City's General Fund.

Since DBW made its last loan to the City for the Marina in 2005, expenses have outpaced revenues. Although boating-specific revenues appear to be sufficient to offset boating expenses, overall waterfront revenues are consistently below overall waterfront expenses and are not projected to improve under the current framework.

DBW seeks Commission advice and comment on this existing \$5,500,000 loan to the City of Berkeley in light of the ongoing issues described in the June 23, 2023 Feasibility Report Update to the February 14, 2020 Feasibility Report.



### Cost Estimate

Based on the March 2023 engineer's cost estimate, the estimated total project cost has increased from \$5.9 million in 2020 to \$7.9 million today. This total project cost includes construction, escalation, construction contingency, engineering, construction management, and inspection. The City believes it has identified additional funding sources to pay for this funding gap.

### The Marina Fund

Over the years, the Marina Fund's resources have become strained as land adjacent to the marina has been developed for parks, other non-boating recreation, and special events. Marina Fund resources have been used to bear these expenses, which cities typically pay for with general funds or special assessments. Marina Fund revenues have not kept up with the added expenses and a significant proportion of the Marina Fund's revenues support non-revenue-generating activities. This is not how enterprise funds are typically used. Generally accepted accounting principles require state and local governments to use enterprise funds to account for "business-type activities" – activities similar to those found in the private sector. Business-type activities include services primarily funded through user fees.

### Recent Support from General Fund

The City's General Fund has historically been financially stable, and in recent years it has transferred funds to the Marina Fund to offset annual structural imbalances. However, these transfers are discretionary. The City recently transferred American Rescue Plan funds to the Marina Fund in 2022 (amount of \$1.45 million) and 2023 (amount of \$1.1 million) to address operating deficits in that fund.

Because this practice is discretionary and not guaranteed for future years, DBW's financial analysis cannot assume the City will continue to provide General Fund resources to the Marina Fund. According to City staff, General Fund transfers and other one-time solutions have been providing similar support to the Marina Fund for the last several years. The City is not legally obligated to do this, and if other budgetary priorities were to become higher, the Marina Fund could fall further into deficit, putting loan repayments and marina maintenance in jeopardy.

### Existing Conditions to the Loan

In February 2020, the Commission advised DBW to include the four conditions of the original loan agreement. Three of the four conditions have not been met. Two of the three conditions included the Marina Fund reaching financial ratios that proved its solvency. The third condition related to permitting which has been delayed, in part, because of the ongoing financial issues. Condition Four (4) in the existing loan agreement states:

- The Berkeley City Council shall adopt a resolution accepting the loan funds. The language of the resolution shall acknowledge the Marina Fund does not currently meet the income/expense ratio required by DBW and is not forecasted to do so, and the language of the resolution must further state that in the event the Marina Fund cannot fulfill its repayment obligation for this loan in any fiscal year, the City shall supplement that year's repayment from any legally available source, for every year until the loan is fully repaid. This condition may be withdrawn if and when the City demonstrates meeting the required income/expense ratio and debt service coverage ratio for five consecutive years.

This condition has been met. However, the available source that would be used to repay the loan has not been disclosed.

### Revenue

DBW forecasts Marina Fund revenues of \$7.3 million in 2026, the first full year after construction of the new docks, if the City raises slip fees now and if occupancy rates for the new slips meet DBW's expectations.

### Expenses

DBW estimates the Marina Fund's operational expenses in 2026 will be \$7.7 million, before debt service is factored in.

DBW estimates that the annual debt service for the proposed \$5.5 million loan will be approximately \$342,000. The interest rate will be 4.5%, compounded continuously. The final payment on a prior DBW loan is expected to be due on August 1, 2044. Total debt service each year, including both this loan and a prior DBW loan, to the Marina will be \$828,000.

Together, using DBW's adjustments to the City's original forecast, operating expenses and debt service are projected to be \$8.6 million in 2026, which is \$1.2 million more than operating revenues.

## FINANCIAL MEASURES

### Income Expense Ratio

Since 2009, in consultation with and upon recommendation of the Boating and Waterways Commission, it has been DBW's practice to require a 1.2:1 income to expense ratio. Income/expense ratio is the operating revenue divided by operating expenses. In 2020, the Commission advised DBW to waive this requirement if the conditions noted earlier were met. To date, those conditions have not been met.

This project would have an income/expense ratio of 0.95 in 2026, the first year after construction is complete. This ratio stays throughout the loan repayment period, based on the assumption that total operating revenues and expenses will grow at approximately the same rate (which the City's original projections included).

Because the income expense ratio is below 1.2, it does not meet the Commission's minimum requirement.

### Debt Service Coverage Ratio

The debt service coverage ratio (DSCR) is a measure of an entity's capacity to not only maintain operations, but also to afford debt. DSCR is the net operating income divided by total debt service. The minimum DSCR established by the Commission at its May 2009 meeting was 1.25 for public marina loans. The DSCR for this loan is negative.

### Alternative analysis: Separating Boating Activities from Non-Boating Activities

During preparation of this report, the City gave DBW a list of current year Marina Fund expenses, and estimated the percentage of each expense category that is related to boating operations at the Marina. Based on DBW's analysis, operating expenses specific to boating represent about 45% of all operating expenses coming out of the Marina Fund this year. Other

operating expenses go to various activities like park maintenance, building maintenance, and non-boating-related personnel expenses.

After receiving this data, DBW conducted a second financial analysis that excluded all non-boating revenue (such as waterfront leases and special event fees) and all non-boating expenses. Using this approach, the income/expense ratio is above 1.2 throughout the loan payback period, and the DSCR goes above 1.25 in 2025 and continues to increase throughout the payback period.

While this analysis is more encouraging, it also highlights the magnitude of the City's reliance on the Marina Fund to support non-boating activities. The boating/non-boating expense breakdown the City shared was an informal report prepared at DBW's request, which the City Council has not had an opportunity to review and potentially shift non-boating expenses to strengthen the Marina Fund. Classifications of the expenses are imprecise since some expenses are not strictly boating or non-boating. For example, some City staff work on both boating and non-boating activities, while some staff work on site at the Marina and others elsewhere, so personnel expenses and their related overhead can only be allocated between boating and non-boating activities by using estimated workloads.

Based on the expense breakdown the City reported, and with DBW staff's historic experience with marinas and borrowers across the state, DBW believes the Berkeley Marina generates more than sufficient revenue from boating activities to cover the projected debt service for this loan. However, because the City uses a significant proportion of Marina Fund resources for non-boating activities throughout the waterfront, there would be a perpetual and sustained liability on the Marina Fund, and potential liability on the City's General Fund or other applicable special funds. As DBW has seen in previous loans that had developed similar imbalances, this could degrade investments in marina maintenance and operations, which may cause the marina loan repayments to be subject to a delinquent status.

## CONCLUSION

DBW's analysis indicates that this project is feasible from engineering, permitting, stakeholder, and public access perspectives. However, the Marina Fund responsible for repaying this loan cannot sustain repayment as currently structured. Further, the City has not restructured revenues and expenses to ensure the Fund is sustainable for the term of this loan.

## ADVICE AND COMMENT

DBW seeks Commission's advice and comment on the potential alternatives for addressing the current challenges associated with this loan. Prior to loan disbursement:

- A. Formalize a City financial process whereby a subaccount within the Marina Fund is established solely for the purpose of repaying all outstanding DBW loans. This subaccount must be fully funded with \$2 million. Funding within the subaccount must only be used by the City for DBW loan repayments and the subaccount must be fully refreshed within 30 days of each loan payment. The subaccount must be fully funded each fiscal year before Marina Fund revenues are used for any other purpose. The subaccount shall remain fully funded until either this loan is fully repaid or until the City demonstrates to DBW for twelve (12) consecutive months that the Marina Fund has achieved the income/expense ratio and the debt service coverage ratio that DBW normally requires. The City agrees to maintain these ratios in the Marina Fund for the life of the loan. In the event of default, the subaccount may be utilized by DBW for loan payments and to cure any deficiencies in maintenance or operation.



- B. Formalize a City financial process whereby non-boating-related waterfront expenses will be paid from a specified source other than the Marina Fund, or establish an alternate revenue source (or sources) within the Marina Fund, not to include boating related revenues, to off-set all non-boating-related expenses. Loan funds would be made available after this process is implemented and once the City demonstrates to DBW for twelve (12) consecutive months that the Marina Fund has achieved the income/expense ratio and the debt service coverage ratio that DBW normally require. The City agrees to maintain these ratios in the Marina Fund for the life of the loan. **Note:** The Loan agreement will not be extended beyond the funding availability, which currently expires June 30, 2026. To meet this deadline, the conditions noted above must be met, and loan funding requested no later than February 1, 2026.
- C. As a substitute for meeting the loan ratio conditions DBW normally requires, no later than March 31, 2024, the City shall establish an escrow account funded with \$2 million in City funds. The funds in this account shall be held in reserve to ensure payment of debt service on both the DBW loan currently in repayment and this new loan. The escrow account shall remain fully funded until either the loan is fully repaid or when the City demonstrates to DBW for twelve (12) consecutive months that the Marina Fund has achieved the income/expense ratio and the debt service coverage ratio that DBW normally requires. The City agrees to maintain these ratios in the Marina Fund for the life of the loan.
- D. As a substitute for meeting the loan ratio conditions DBW normally requires, no later than March 31, 2024, the City shall obtain a surety bond naming DBW as its beneficiary. The City shall bear all expenses and other obligations associated with obtaining and maintaining the surety bond. The surety bond shall be in the amount of the outstanding principal and shall remain fully funded until either the loan is fully repaid or until the City demonstrates to DBW for twelve (12) consecutive months that the Marina Fund has achieved the income/expense ratio and the debt service coverage ratio that DBW normally requires. The City agrees to maintain these ratios in the Marina Fund for the life of the loan.
- E. Cancel existing loan due to the City's inability to meet previous conditions.

Before any alternative listed above can be incorporated into the loan agreement, City staff must seek approval from the City Council. City staff has expressed a desire to give the Council multiple alternatives from the above list to consider. All of the alternatives above would protect State interests, and providing flexibility would help the City identify an effective solution that it would be likely to implement.

DBW recommends that the loan be approved to move forward using any solution from alternatives A, B, C, and D listed above.

### **COMMISSION ADVICE AND COMMENT**

DBW seeks Commission advice and comment on this existing \$5,500,000 loan to the City of Berkeley in light of the ongoing issues described in the June 23, 2023 Feasibility Report Update to the February 14, 2020 Feasibility Report.

**Department of Parks, Recreation & Waterfront**  
**5-Year Financial Plan - Marina Fund (825) - With Fee Increases**

06/14/23

| Description / Account                              | 2018             | 2019             | 2020             | 2021             | 2022             | 2023 Adopted     | 2023 Revised       | 2023 Projected     | 2024 Projected     | 2025               | 2026               | 2027               |
|----------------------------------------------------|------------------|------------------|------------------|------------------|------------------|------------------|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|
| <b>Beginning Fund Balance (825-9701-399.99-01)</b> | <b>3,998,848</b> | <b>3,058,152</b> | <b>3,503,847</b> | <b>3,151,380</b> | <b>5,461,419</b> | <b>4,411,407</b> | <b>4,520,961</b>   | <b>4,520,155</b>   | <b>723,877</b>     | <b>(771,687)</b>   | <b>(2,300,391)</b> | <b>(3,259,460)</b> |
| <b>Revenues</b>                                    |                  |                  |                  |                  |                  |                  |                    |                    |                    |                    |                    |                    |
| Dmg to Cty                                         |                  |                  | 396              | 18               |                  |                  |                    |                    |                    |                    |                    |                    |
| Short and Over (825-3302-360.05-01)                | 0                | (25)             | (1,078)          | (112)            | (20)             | 0                | 0                  |                    | 0                  | 0                  | 0                  | 0                  |
| Interest Invest Pool (825-3302-361.30-01)          | 45,562           | 73,621           | 42,706           | 802              | 9,266            | 2,000            | 2,000              | 120,000            | 25,000             | 25,000             | 25,000             | 25,000             |
| Marina Benches / Trees (825-5902-368.20-01)        | 10,200           | 20,400           | 3,400            | 0                | 27,200           | 6,800            | 6,800              | 13,600             | 6,800              | 6,800              | 6,800              | 6,800              |
| Sewer Service/Marina (825-5903-344.20-41)          | 3,975            | 3,748            | 3,750            | 3,850            | 3,974            | 4,045            | 4,045              | 4,045              | 4,146              | 4,250              | 4,356              |                    |
| Live Aboard Fees (825-5903-347.41-38)              | 250,924          | 261,215          | 259,664          | 256,143          | 266,631          | 262,547          | 262,547            | 244,215            | 269,111            | 273,690            | 280,533            | 280,533            |
| Launch Ramp (825-5903-347.60-02)                   | 76,671           | 102,724          | 129,657          | 121,220          | 95,360           | 80,000           | 80,000             | 80,000             | 84,000             | 82,000             | 84,050             | 86,151             |
| Dry Storage (825-5903-347.60-07)                   | 87,596           | 104,421          | 105,928          | 105,671          | 109,737          | 108,313          | 108,313            | 108,313            | 169,513            | 169,513            | 173,751            | 173,751            |
| Charter Boat Fees (825-5903-347.60-11)             | 137,057          | 111,993          | 113,012          | 66,935           | 98,469           | 82,000           | 82,000             | 89,229             | 84,050             | 86,151             | 88,305             | 90,513             |
| Locker Rentals (825-5903-347.60-03)                | 16,369           | 17,879           | 9,523            | 20,773           | 24,609           | 21,292           | 21,292             | 21,292             | 21,824             | 22,370             | 22,929             | 23,502             |
| EV Charging Stations (825-5903-347.60-05)          | 2,839            | 3,268            | 2,380            | 1,946            | 3,686            | 3,280            | 3,280              | 3,280              | 3,362              | 3,446              | 3,618              | 3,799              |
| Miscellaneous (825-5903-347.60-99)                 | 24,857           | 49,855           | 37,304           | 105,389          | 29,916           | 30,922           | 30,922             | 36,369             | 40,507             | 41,317             | 41,317             | 43,383             |
| Fines & Penalties (825-5903-353.47-01)             | 78,524           | 71,087           | 76,835           | 64,319           | 66,758           | 64,319           | 64,319             | 64,319             | 64,319             | 64,319             | 64,319             | 64,319             |
| Marina Leases                                      | 1,990,306        | 2,478,754        | 1,806,344        | 1,186,077        | 1,583,795        | 2,129,170        | 2,129,170          | 2,097,074          | 2,118,045          | 2,332,766          | 2,731,077          | 3,028,388          |
| Berth Rentals (825-5903-347.60-01)                 | 3,470,525        | 3,426,173        | 3,420,177        | 3,443,688        | 3,493,497        | 3,443,688        | 3,443,688          | 3,500,000          | 3,622,831          | 3,801,977          | 4,100,034          | 4,364,472          |
| Special Event Parking (825-5903-368.99-99)         | 55,126           | 82,325           | 101,626          | 0                | 0                | 75,000           | 75,000             |                    | 0                  | 0                  | 0                  | 0                  |
| Special Event / Filming Fees (825-5901-347.60-99)  |                  |                  |                  |                  |                  |                  |                    | 7,000              | 25,000             | 75,000             | 75,000             | 75,000             |
| Playground Svc Fees (825-5904-347.30-04)           | 30,398           | 30,136           | 8,848            | (605)            | 105              | 35,000           | 35,000             | 25,000             | 35,000             | 35,000             | 35,000             | 40,000             |
| Nature Center Fees (825-5904-347.39-12)            | 14,737           | 13,565           | 9,240            | 0                | 0                | 15,000           | 15,000             | 13,000             | 15,000             | 15,000             | 15,000             | 20,000             |
| Donations (825-5904-368.20-99)                     | 867              | 352              | 284              | 0                | 0                | 1,500            | 1,500              |                    |                    |                    |                    |                    |
| Insurance Claims (825-5903-360.99-25)              |                  |                  |                  |                  |                  |                  |                    | 15,977             |                    |                    |                    |                    |
| Other Revenue (825-5904-368.22-99)                 | 0                | 0                | 1,830            | 0                | 0                | 0                | 0                  |                    | 0                  | 0                  | 0                  | 0                  |
| Misc Fees (Doubletree Capital Payment)             |                  |                  |                  | 3,000,000        |                  |                  |                    |                    |                    |                    |                    |                    |
| Transfer from ARPA Fund                            |                  |                  |                  |                  | 1,400,000        | 1,150,000        | 1,150,000          | 1,150,000          |                    |                    |                    |                    |
| <b>Subtotal, Revenues</b>                          | <b>6,296,532</b> | <b>6,851,491</b> | <b>6,131,825</b> | <b>8,376,115</b> | <b>7,212,983</b> | <b>7,514,876</b> | <b>7,514,877</b>   | <b>7,592,713</b>   | <b>6,588,507</b>   | <b>7,038,600</b>   | <b>7,751,089</b>   | <b>8,325,611</b>   |
|                                                    | -                |                  |                  |                  |                  |                  |                    |                    |                    |                    |                    |                    |
| <b>Expenditures</b>                                |                  |                  |                  |                  |                  |                  |                    |                    |                    |                    |                    |                    |
| Personnel                                          | 3,619,415        | 3,579,940        | 3,142,775        | 3,220,688        | 3,352,407        | 4,262,025        | 4,262,025          | 3,916,530          | 4,253,438          | 4,338,506          | 4,425,277          | 4,513,782          |
| Non-Personnel (excludes debt svc & capital)        | 1,982,484        | 2,111,462        | 1,930,250        | 1,841,572        | 2,120,261        | 2,509,625        | 2,480,109          | 2,590,109          | 2,744,915          | 2,801,078          | 2,857,163          | 2,914,309          |
| Capital Projects                                   | 1,149,602        | 228,675          | 782,038          | 345,016          | 2,038,295        | 650,000          | 4,020,853          | 4,020,853          | 350,000            | 350,000            | 350,000            | 350,000            |
| Minor Maintenance                                  |                  |                  | 143,510          | 173,082          | 156,760          | 250,000          | 375,781            | 375,781            | 250,000            | 250,000            | 250,000            | 250,000            |
| Principal Payment (825-5903-450.82-10)             | 165,036          | 172,633          | 180,579          | 188,059          | 197,546          | 305,391          | 305,391            | 197,546            | 216,150            | 319,871            | 335,225            | 350,553            |
| Interest Payment (825-5903-450.82-25)              | 320,683          | 313,086          | 305,140          | 297,660          | 288,173          | 522,328          | 522,328            | 288,173            | 269,569            | 507,848            | 492,494            | 477,166            |
| <b>Subtotal, Expenditures</b>                      | <b>7,237,220</b> | <b>6,405,796</b> | <b>6,484,292</b> | <b>6,066,076</b> | <b>8,153,441</b> | <b>8,499,369</b> | <b>11,966,487</b>  | <b>11,388,992</b>  | <b>8,084,071</b>   | <b>8,567,303</b>   | <b>8,710,158</b>   | <b>8,855,810</b>   |
|                                                    |                  |                  |                  |                  |                  |                  |                    |                    |                    |                    |                    |                    |
| <b>Operating Income / (Loss)</b>                   | <b>(940,687)</b> | <b>445,695</b>   | <b>(352,467)</b> | <b>2,310,039</b> | <b>(940,458)</b> | <b>(984,493)</b> | <b>(4,451,610)</b> | <b>(3,796,278)</b> | <b>(1,495,564)</b> | <b>(1,528,704)</b> | <b>(959,069)</b>   | <b>(530,199)</b>   |
|                                                    |                  |                  |                  |                  |                  |                  |                    |                    |                    |                    |                    |                    |
| <b>Ending Fund Balance</b>                         | <b>3,058,161</b> | <b>3,503,847</b> | <b>3,151,381</b> | <b>5,461,419</b> | <b>4,520,961</b> | <b>3,426,914</b> | <b>69,351</b>      | <b>723,877</b>     | <b>(771,687)</b>   | <b>(2,300,391)</b> | <b>(3,259,460)</b> | <b>(3,789,659)</b> |



Office of the City Manager

CONSENT CALENDAR  
July 25, 2023

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Jordan Klein, Director, Planning and Development Department

Subject: Accept Grant Funds from the Governor's Office of Planning and Research to Create a New Environmental Justice Element, Update the General Plan Disaster Preparedness & Safety Element, and Develop Community-Driven Climate and Resilience Metrics

RECOMMENDATION

Adopt a Resolution authorizing the City Manager or their designee to accept the California Governor's Office of Planning and Research (OPR) Adaptation Planning Grant Program (APGP) grant in the amount of \$497,042, and to execute any resulting grant agreement, for the duration of August 31, 2023 through January 31, 2026.

FISCAL IMPACTS OF RECOMMENDATION

There is no match requirement and/or leveraging of funds required to receive these funds. The total funding available for this project is \$497,042, which will be deposited into Fund 336 (One-Time-Grant). The grant will fund consultant fees for technical studies and report development, costs for partner organization(s) to staff the community engagement and partnership with the Berkeley Climate Equity Collaborative, and other eligible expenses.

CURRENT SITUATION AND ITS EFFECTS

The funding from this OPR APGP grant will allow the City to update its General Plan with a new Environmental Justice (EJ) Element and an updated Disaster Preparedness and Safety Element. As part of this work, the team will conduct additional technical analyses that will also assess environmental justice impacts, which will guide strategies, goals and policies of the Disaster Preparedness and Safety Element, Environmental Justice Element, and other future General Plan Element updates.

One such technical analysis needed is to take the recent [study](#)<sup>1</sup> of five Bay Area counties mapping the flood risks for sea level rise combined with groundwater rise, and expand it to understand the impacts on hazardous materials stored underground in Berkeley. This study will help the City better understand who is at risk of exposure to these hazardous materials when groundwater rises and moves, and how to mitigate

<sup>1</sup> <https://www.sfei.org/projects/shallow-groundwater-response-sea-level-rise>

these risks. Another critical information gap is to better understand and prepare for the impacts of a railway disaster involving hazardous materials.

This project will also allow the City to co-create metrics with the community that incorporate equitable outcomes to monitor and evaluate progress towards meeting the City's climate and resilience goals. This work will be done in partnership with the Climate Equity Collaborative, which is being convened by the Ecology Center.

This project has been developed collaboratively through several departments and divisions within the City, including Land Use Planning, the Office of Energy & Sustainable Development, the Office of Emergency Services, and the Toxics Management Division, and this collaboration will continue. The City is in the process of updating the Local Hazard Mitigation Plan (LHMP), which is anticipated to be adopted as an appendix to the Disaster Preparedness and Safety Element at the end of 2024. The work from this grant will be aligned and coordinated with the LHMP update.

The work that will be completed under this grant is a Strategic Plan Priority Project, advancing our goals to:

- Create a resilient, safe, connected, and prepared city
- Champion and demonstrate social and racial equity
- Be a global leader in addressing climate change, advancing environmental justice, and protecting the environment

### BACKGROUND

The California Governor's OPR APGP is providing \$25 million to help fill local, regional, and tribal planning needs, provide communities the resources to identify climate resilience priorities, and support the development of a pipeline of climate resilient infrastructure projects across the state. On March 31, 2023 the City of Berkeley, in partnership with the Ecology Center, submitted a proposal in response to the APGP Round 1 opportunity to fund the creation of a new General Plan Environmental Justice Element, update to the existing General Plan Disaster Preparedness and Safety Element, and development of community-driven climate and resilience metrics. OPR's grant program provided an opportunity to propose more robust and coordinated climate resilience work across multiple City Departments and community partners.

The APGP received 108 applications. A total of 69 eligible projects were passed on to the interagency review panel, representing a diverse range of geographic and organizational backgrounds. On June 1, 2023, OPR announced 14 winners of Round 1 of the APGP grant, including the City of Berkeley's proposal.

In 2021, the Berkeley City Council established a Pilot Climate Equity Fund to provide climate and resilience benefits to low-income residents in Berkeley through programs that support building and transportation electrification. This pilot has three program areas, one of which is being led by the Ecology Center to create a Climate Equity

Collaborative (Collaborative) to meaningfully engage low-income community members in Berkeley, as well as organizations that represent disadvantaged communities, to amplify their voices, elevate their experiences and build their capacity to collaborate as partners in developing and implementing climate change and resilience solutions.

The Ecology Center has been working with organizations representing disadvantaged communities to create the Collaborative, and the work proposed for the APGP funding would build upon these efforts to cultivate this group and build an ecosystem of community leaders and organizations that the City can partner with to co-create climate policies and programs.

Prior to the Pilot Climate Equity Fund, the Ecology Center partnered with the City to develop the Berkeley Existing Buildings Electrification Strategy, conducting equity-centered community engagement and providing equity consulting. As part of this effort, and as a result of deep community engagement with disadvantaged communities, the team developed “Equity Guardrails”, which serve as the foundation of the strategy and are a set of minimum equity requirements that must be met before any of the electrification policies can be implemented. This tool has helped the City to institutionalize equity in its work and ensure that equity and the priorities of our most vulnerable communities are put first. The Equity Guardrails are:

- Maximize access to health, safety and mobility benefits
- Maximize access to economic benefits
- Maximize ease of installation
- Promote housing affordability and anti-displacement

#### ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

The creation of an EJ Element of the General Plan will elevate and prioritize the Environmental Justice needs of these frontline communities who are disproportionately impacted by climate change, and identify opportunities to advance equity and health with environmental policies. The update to the existing Disaster Preparedness and Safety Element will also include climate change impacts and associated climate adaptation actions. Finally, development of community-driven climate and resilience metrics will provide a methodology for the City to hold itself accountable in ways that are meaningful to our frontline communities, and could include workforce and just transition aspects, if desired by community.

#### RATIONALE FOR RECOMMENDATION

Accepting this grant funding would allow the City to advance necessary work to update its General Plan. This grant funding will also provide longer term funding to support the Climate Equity Collaborative, building capacity of this group and providing the opportunity to co-create equity-focused climate and resilience metrics.

#### ALTERNATIVE ACTIONS CONSIDERED

None.

CONTACT PERSON

Jordan Klein, Director, Planning and Development Department, (510) 981-7534

Attachments:

1: Resolution

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

RESOLUTION TO ACCEPT GRANT FROM CALIFORNIA OFFICE OF PLANNING  
AND RESEARCH (OPR) ADAPTATION PLANING GRANT PROGRAM (APGP)

WHEREAS, California Government Code Section 65300 et seq. requires every city and county in California to adopt a General Plan for its long-range development, and further, to periodically update that plan to reflect current conditions and issues; and

WHEREAS, Senate Bill 1000 (Leyva, 2016) amended Government Code Section 65302 to require that both cities and counties that have disadvantaged communities incorporate Environmental Justice (EJ) policies into their general plans, either in a separate EJ element or by integrating related goals, policies, and objectives throughout the other elements upon the adoption or next revision of two or more elements concurrently; and

WHEREAS, on March 31, 2023, the City of Berkeley, in partnership with the Ecology Center as a co-applicant, submitted a proposal in response to the APGP Round 1 opportunity to fund the creation of a new General Plan Environmental Justice Element, update to the existing General Plan Disaster Preparedness and Safety Element, and develop community-driven climate and resilience metrics; and

WHEREAS, on June 1, 2023, OPR announced that the City of Berkeley proposal was one of fourteen winners of the APGP Round 1 funding.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager or their designee is authorized to accept the California Governor's Office of Planning and Research (OPR) Adaptation Planning Grant Program (APGP) grant in the amount of \$497,042, and to execute any resulting grant agreement, for the duration of August 31, 2023 through January 31, 2026.







Office of the City Manager

CONSENT CALENDAR  
July 25, 2023

To: Honorable Mayor and Members of the City Council  
From: Dee Williams-Ridley, City Manager  
Submitted by: Liam Garland, Director, Public Works  
Subject: Authorize an Agreement with AC Transit to Provide Funding for Transit Shelter Maintenance

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to enter into a funding agreement between the City of Berkeley and the Alameda-Contra Costa Transit District (AC Transit) to provide an amount not to exceed \$110,000 over five years to support transit shelter and bench maintenance.

FISCAL IMPACTS OF RECOMMENDATION

The City will contribute approximately \$22,000 per year, or a total not to exceed \$110,000 over five years, to help defray AC Transit’s costs related to maintenance of transit shelters within the City. Funding in the amount of \$110,000 is available from the Alameda County Transportation Commission Measure BB Local Streets and Roads fund.

CURRENT SITUATION AND ITS EFFECTS

On March 31, 2023, AC Transit took over ownership of 276 existing transit shelters in their service area after a maintenance and capital contract with a contractor expired.

AC Transit is now identifying ways to bridge the funding gap between maintenance and advertising contracts, which is approximately \$151,020 annually for five years (\$851,020 [total annual maintenance cost] - \$700,000 [minimum annual advertising revenue guarantee]= \$151,020).<sup>1</sup> AC Transit has asked jurisdictions to pay their “fair share” determined by dividing total annual maintenance costs by the number of transit shelters within each jurisdiction.<sup>2</sup> AC Transit owns a total of 276 transit shelters in 11 jurisdictions. There are 51 transit shelters located in the City Berkeley, of which 46

<sup>1</sup> AC Transit, “Transit Shelter Maintenance Annual Cost Per Jurisdiction”, March 29, 2023. This document is included as Attachment 2.

<sup>2</sup> The “fair share” calculations consider the number of transit shelters that contain advertising (and thereby revenue) as a credit against a jurisdiction’s share of maintenance costs. Because the City has a relatively high proportion of advertising shelters compared to other jurisdictions, the City’s maintenance costs are lower per shelter than other jurisdictions that generate less revenue per shelter from advertising.

generate advertising revenue. If the City approves the recommendations herein, the City would share maintenance costs with AC Transit for only the 51 shelters within the City. Each jurisdiction's share of annual maintenance costs is shown in Attachment 2.

### BACKGROUND

Before the COVID-19 pandemic, AC Transit ran 158 bus lines across its 364-square-mile service area in Alameda and Contra Costa counties and unincorporated areas. In Berkeley, AC Transit operates 24 lines with frequencies of between 12 and 45 minutes. Some bus stops have transit shelters, which can include bus shelters, benches/seating, wayfinding, fare vending machines, trash cans, lighting, and other amenities. Since 1999, AC Transit has been under contract with Clear Channel Outdoor Advertising (Clear Channel) to provide maintenance and capital work in exchange for advertising revenue from transit shelters. Historically, the revenue earned from advertising covered all maintenance and capital costs. However, in recent years, revenue from transit shelter advertisements has decreased partially due to a shift to online advertising, while maintenance costs have increased. Therefore, AC Transit is transitioning to a new model with separate entities to provide maintenance and advertising services. Clear Channel's contract with AC Transit expired on March 31, 2023, after which AC Transit took over ownership of all transit shelters previously owned by Clear Channel.

### ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

The funding agreement would result in continued maintenance of transit shelters to provide a dignified bus stop waiting experience, potentially encouraging more people to use public transportation instead of driving.

### RATIONALE FOR RECOMMENDATION

Approving this recommendation will allow for continued improvements to existing and future bus stop amenities helping Berkeley to implement its existing Transit-First Policy (Berkeley General Plan Policy T-4) and the Transit-First Policy Implementation Plan, approved by Council on March 21, 2023.<sup>3</sup> These amenities can help attract customers by increasing passenger comfort; improve operational efficiencies through incorporation of ADA standards, fare vending machines, and wayfinding/schedule information; foster local civic pride; and increase economic development. Furthermore, approval of this funding agreement would be consistent with the City's Climate Action Plan by supporting the use of public transit as an alternative to single-occupant vehicles, resulting in lower carbon emissions per capita. As stated above, funding in the amount of \$110,000 is available from the Alameda County Transportation Commission Measure BB Local Streets and Roads fund.

---

<sup>3</sup> Berkeley City Council Meeting Item 27, "Berkeley Transit-First Policy Implementation Plan", March 21, 2023, <https://berkeleyca.gov/sites/default/files/city-council-meetings/2023-03-21%20Revised%20Agenda%20Packet%20-%20Council%20-%20WEB.pdf>.

ALTERNATIVE ACTIONS CONSIDERED

Council could choose to not adopt the recommendation. Not adopting the recommendation would lead to non-compliance with the City's existing Transit-First Policy (Berkeley General Plan Policy T-4) and the approved Transit-First Policy Implementation Plan by not supporting the use of public transit as an alternative to single-occupant vehicles.

CONTACT PERSON

Hamid Mostowfi, Acting Transportation Manager (510) 981-6403  
Elliott Schwimmer, Associate Transportation Planner (510) 981-7066

Attachment:

- 1: Resolution
- 2: AC Transit Estimated Maintenance Costs for Each Jurisdiction

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

AUTHORIZE THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH AC TRANSIT TO PROVIDE FUNDING FOR TRANSIT SHELTER MAINTENANCE

WHEREAS, Alameda-Contra Costa Transit District (AC Transit) has taken ownership of bus shelters located within the City of Berkeley (City), after a previous contract with a maintenance and advertising firm ended; and

WHEREAS, AC Transit has entered into contracts with firms to provide advertising and maintenance services on transit shelters throughout their service area, including 51 shelters located in the City; and

WHEREAS, AC Transit has requested that each jurisdiction where bus service is provided pay the annual costs of maintenance services proportional to the number of transit shelters in each jurisdiction; and

WHEREAS, in support of the Transit-First Policy (Berkeley General Plan Policy T-4), the City seeks to enter into an agreement to provide funding to AC Transit annually to support ongoing transit shelter maintenance efforts; and

WHEREAS, the City of Berkeley has identified \$22,000 per year, or a total not to exceed \$110,000 over five years, to fund maintenance of transit shelters within the City, available from the Alameda County Transportation Commission Measure BB Local Streets and Roads fund.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to negotiate and sign an agreement with AC Transit to provide annual funding for the upkeep and repair of existing transit shelters.

**Transit Shelter Maintenance Annual Cost Per Jurisdiction**

Last Update: 3/29/2023

**READ FIRST:**

- \* Total costs are highlighted in orange
- \* Maintenance costs may change depending on shelters added, removed, and unscheduled cleanings
- \* Costs do not include map replacements or AC Transit staff costs
- \* Share of maintenance costs can reduce if 65% ad revenue share comes higher than MAG
- \* 276 Total Transit shelters. However, costs do not include 6 shelters owned by AC Transit along 20th St/Thomas L. Berkeley Way in Downtown Oakland.

| Jurisdiction           | Ad Kiosk | Ad Shelter | Non Ad Kiosk | Non Ad Shelter | Grand Total | Percent Total (Maintenance) | Percent Total (Advertising Panels) | Annual Maintenance Cost per Jurisdiction (Scheduled + Unscheduled) | Annual Maintenance Cost per Jurisdiction (after MAG) |
|------------------------|----------|------------|--------------|----------------|-------------|-----------------------------|------------------------------------|--------------------------------------------------------------------|------------------------------------------------------|
| AC Transit             |          |            |              | 6              | 6           | 2.17%                       | 0.00%                              | \$ 18,500.43                                                       | \$ 18,500.43                                         |
| Alameda Unincorporated |          | 21         |              |                | 21          | 7.61%                       | 8.94%                              | \$ 64,751.52                                                       | \$ 2,198.33                                          |
| Albany                 |          | 9          |              |                | 9           | 3.26%                       | 3.83%                              | \$ 27,750.65                                                       | \$ 942.14                                            |
| Berkeley               |          | 46         |              | 5              | 51          | 18.48%                      | 19.57%                             | \$ 157,253.70                                                      | \$ 20,232.42                                         |
| El Cerrito             |          |            | 1            | 5              | 6           | 2.17%                       | 0.00%                              | \$ 18,500.43                                                       | \$ 18,500.43                                         |
| Fremont                |          | 49         |              |                | 49          | 17.75%                      | 20.85%                             | \$ 151,086.88                                                      | \$ 5,129.44                                          |
| Hayward                |          | 52         |              | 11             | 63          | 22.83%                      | 22.13%                             | \$ 194,254.57                                                      | \$ 39,360.95                                         |
| Newark                 |          | 13         |              | 2              | 15          | 5.43%                       | 5.53%                              | \$ 46,251.09                                                       | \$ 7,527.68                                          |
| Richmond               | 2        | 4          |              | 3              | 9           | 3.26%                       | 2.55%                              | \$ 27,750.65                                                       | \$ 9,878.31                                          |
| San Leandro            |          | 30         | 2            | 5              | 37          | 13.41%                      | 12.77%                             | \$ 114,086.01                                                      | \$ 24,724.31                                         |
| San Pablo              |          | 9          |              | 1              | 10          | 3.62%                       | 3.83%                              | \$ 30,834.06                                                       | \$ 4,025.55                                          |
|                        | 2        | 233        | 3            | 38             | 276         | 100.00%                     | 100.00%                            | \$ 851,020.00                                                      | \$ 151,020.00                                        |

| Annual Maintenance Cost        |                      |
|--------------------------------|----------------------|
| Scheduled                      | \$ 816,960.00        |
| Unscheduled                    | \$ 34,060.00         |
| <b>Total</b>                   | <b>\$ 851,020.00</b> |
| Minimum Annual Guarantee (MAG) |                      |
| Advertising MAG                | \$ 700,000.00        |

**Calculation Breakdowns:**

**Percent Total (Maintenance)** = Grand Total / Total Transit Shelters

**Percent Total (Advertising Panels)** = (# Kiosks + # Advertising Shelters) / Total Advertising Shelters

**Annual Maintenance Cost per Jurisdiction (Scheduled + Unscheduled)** = (Annual Maintenance Cost Scheduled \* Percent Total Maintenance) + (Annual Maintenance Total Unscheduled \* Percent Total Maintenance)

**Annual Maintenance Cost per Jurisdiction (after MAG)** = (Annual Maintenance Cost per Jurisdiction Scheduled/Unscheduled) - (% Total Ad Panels \* MAG Total)





Office of the City Manager

CONSENT CALENDAR  
July 25, 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: Contract No. 32100127 Amendment: Benefit Resource, Inc. for Third-Party Administrator of the Employee Commute Benefit Program

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to execute a contract amendment with Benefit Resource, Inc., (BRI) to provide third-party administrator services for the City of Berkeley's Employee Commute Benefit Program for a new amount not to exceed \$50,000 with a total contract not to exceed of \$100,000 and extending the term through February 28, 2025.

FISCAL IMPACTS OF RECOMMENDATION

Funding for the Commute Benefit Program is budgeted annually in the Payroll Deduction Fund (Fund 013). Annual program administration costs of \$18,650 were incurred in FY 2023. This annual amount has increased since the original estimate of approximately \$14,000 per year when the original agreement was established. The increase is driven by the number of employees participating in the commute benefit program. In addition, the monthly rate charged by BRI per participant increased in April 2023 from \$3.00 to \$3.25 and was noticed in January per terms of the agreement with BRI. The recommended amount reflected in Amendment 2 reflects continued anticipated growth in the program usage by City employees as well as the April 2023 monthly rate increase applied over the remaining contract term.

|                                                                         |                 |
|-------------------------------------------------------------------------|-----------------|
| Agreement Amount (Contract 32100127).....                               | \$28,974        |
| Amendment 1 (through February 2024).....                                | \$21,026        |
| <u>Current Recommended Amendment 2 (through February 28, 2025).....</u> | <u>\$50,000</u> |
| New not to exceed Total                                                 | \$100,000       |

CURRENT SITUATION AND ITS EFFECTS

The City received five responses to a Request for Proposals for a Third-Party Administrator for Commute Benefits issued in September 2020 (Specification No. 20-11404-C). The City received strong applications in a very competitive process from many vendors experienced in the provision of third-party administration services for Transit Accounts. Proposals were reviewed by a staff committee drawn from

Department of Public Works Administration and Transportation Divisions; Human Resources Department; and Finance Department Payroll Audit Division. The panel evaluated the proposals, vendor qualifications, and submittal packages. BRI's scores and interview ultimately proved it the most responsive and responsible proposer. Thus, staff selected BRI for a professional services contract to help the City meet a pivotal business need, and provide a key service to our employees. City Council authorized the initial contract with BRI on December 15, 2020 (69,664-N.S.), executed on March 24, 2021, in the amount of \$28,974, with an initial contract term of April 1, 2021 through March 30, 2023.

On November 3, 2022, staff executed a first amendment to extend the term of the agreement with BRI through February 28, 2024 and increase the authorization to \$50,000, to continue the Commute Benefit service for City employees.

In January 2023, a notice was received from BRI stating that the per participant monthly rate for services would be increasing in April 2023. By June 2023, the amended \$50,000 not to exceed limit has been reached earlier than anticipated. This occurred before the amendment extension date of February 2024 because the amendment increase did not account for employee participation growth. Additionally, some pending invoices from BRI for commute benefit services were immediately applied to the new contract authorization limit, decreasing available funds through the rest of the contract term. A new amendment is needed to continue uninterrupted commuter benefit services for employees.

The attached resolution authorizes a new amendment to increase the contract in the amount of \$50,000 for a total contract not to exceed \$100,000 and extends the term through February 28, 2025. The authorized amount addresses the vendor's appropriately noticed increase in costs and current employee participations levels in the program and allows for some projected growth in employee participation over the new contract term.

The current proposed amendment with BRI to continue the Commute Benefits contract supports the City's Strategic Plan Priorities by encouraging employee use of mass transit, which advances the City's goals of becoming a global leader in addressing climate change and protecting the environment, and also supports our goal of attracting and retaining a talented and diverse City government workforce.

#### BACKGROUND

The City of Berkeley's Employee Commute Benefit Program has been extant since its establishment in 1993. It incentivizes eligible City of Berkeley employees' use of mass transit and bicycles to commute to work. This program is consistent with the City's General Plan: Transportation Element Policy T-10, which calls for increased transit use and alternative travel modes.



In October 2009, the Berkeley City Council adopted Ordinance No. 7,113-N.S.1, Tax Relief Action to Cut Commuter Carbon (TRACCC), which added BMC Chapter 9.88 mandating an employer-provided Commuter Benefit Program. This regulation requires employers in the City of Berkeley with a total of 10 or more employees in all their locations, including those outside of Berkeley, to offer commuter benefits to their employees.

Benefited employees may opt to deduct pre-tax dollars from each paycheck in any amount up to a monthly maximum of \$270, as allowed by the Internal Revenue Code Section 132(f). Employees may also receive a \$20 monthly post-tax bicycle benefit subsidy.

### ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

The Commute Benefit program encourages use of mass transit, shared ride vehicles, and bicycles for City employees commuting to and from work locations. It directly contributes to reductions in the use of single occupancy vehicles for work and recreational travel. This in turn, reduces carbon emissions, and especially greenhouse gasses, which is a goal of the Berkeley Climate Action Plan. Use of mass transit also reduces vehicle traffic, parking demand and congestion near City offices and work sites.

### RATIONALE FOR RECOMMENDATION

Benefit Resource (BRI) provides administration of tax-free benefits programs including Commuter Benefit Plans. The company was founded in 1993, and is headquartered in Rochester, New York with additional offices and dedicated support throughout the country. Most importantly, BRI provides the City a dedicated Bay Area customer service team that includes an account manager, implementation specialist and dedicated client services specialist to provide employees with one-on-one client care through a dedicated, and robust customer support system.

BRI is well positioned to provide the City of Berkeley comprehensive specialized participant, and backroom operations support for enrollments, education and program design. The company also offers made-to-order marketing materials for more effective participant outreach, and customized reports on demand for more agile program management, participant enrollment and increased digital platform accessibility.

BRI has its own proprietary technology and can accommodate design changes and improvements as requested by clients. The company pioneered multi-purse Beniversal® Prepaid Mastercard® technology in 1999, and today offers compatibility with the following digital wallets: Apple Pay®, Google Pay®, Samsung Pay®. BRI offers City of Berkeley employees continued Commute Benefit program excellence, and a more user-friendly digital platform. Employees shall continue to have access to their accounts online, by telephone, and through a mobile application. Participants are able on demand to view account balances, transactions, and claims information; submit claims/receipts; update login info, contact information, direct deposit, card activation;

sign-up for real-time text or email alerts regarding account balance or activity; download forms, plan documents; enroll in the plan; or change their elections.

ALTERNATIVE ACTIONS CONSIDERED

The City Council may decline to authorize a contract amendment with BRI. This would require staff to modify and reissue an RFP for Third-Party Administrator of the Employee Commute Benefit Program and cause a gap in commuter benefit services for employees.

CONTACT PERSON

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

Attachments:

1: Resolution

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

CONTRACT NO. 32100127 AMENDMENT: BENEFIT RESOURCE, INC. FOR THIRD-PARTY ADMINISTRATOR OF THE EMPLOYEE COMMUTE BENEFIT PROGRAM

CONTRACT AMENDMENT: BENEFIT RESOURCE, INC. FOR THIRD-PARTY ADMINISTRATOR OF THE EMPLOYEE COMMUTE BENEFIT PROGRAM

WHEREAS, the City issued a Request for Proposals for a Third-Party Administrator for Commute Benefits issued in September 2020 (Specification No. 20-11404-C) to meet a pivotal business need, and provide a key service to our employees; and

WHEREAS, the City received five very competitive applications from vendors experienced in the provision of third-party administration services for Transit Accounts, and Benefit Resource, Inc.'s scores and interview proved it the most responsive and responsible proposer; and

WHEREAS, the City's Employee Commute Benefit Program has been extant since its establishment in 1993, incentivizing eligible City of Berkeley employees use of mass transit, and bicycles to commute to work; and

WHEREAS, reductions in the use of single occupancy vehicles for work and recreational travel reduces carbon emissions, and especially greenhouse gasses, which is a goal of the Berkeley Climate Action Plan; and

WHEREAS, by Resolution No. 69,664-N.S., the Berkeley City Council authorized the City and Contractor to enter into Contract Number 32100127, dated March 21, 2021, in the amount of \$28,974; and

WHEREAS, Contract No. 32100127 was amended by \$21,026, for a new not to exceed total of \$50,000 and a contract term of February 28, 2024; and

WHEREAS, annual program administration costs are based upon monthly fees of \$3.25 per pretax participant and these dollar amounts are not anticipated to increase for the period of August 1, 2023 through February 28, 2025; and

WHEREAS, staff recommends authorization of a new amendment to increase the contract in the amount of \$50,000 for a total contract not to exceed total of \$100,000 and extending the term through February 28, 2025; and

WHEREAS, sufficient funds for the Commute Benefit Program for are available in the Payroll Deduction Trust Fund for the period of August 1, 2023 through February 28, 2025; and

July 25, 2023

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to execute a contract and an amendment to Contract No. 32100127 with Benefit Resource, Inc. for provision of third-party administrator services for the City of Berkeley's Employee Commute Benefit Program increasing the contract in the amount of \$50,000 for an amount not to exceed \$100,000 and extending the contract through February 28, 2025.



Office of the City Manager

CONSENT CALENDAR  
July 25, 2023

To: Honorable Mayor and Members of the City Council  
From: Dee Williams-Ridley, City Manager  
Submitted by: Liam Garland, Director, Public Works  
Subject: Contract No. 32000128 Amendment: WSP USA Environment & Infrastructure Inc. (formerly Wood Environment & Infrastructure Solutions, Inc.) for On-Call Environmental Consulting Services

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 32000128 with WSP USA Environment & Infrastructure Inc. (formerly Wood Environment & Infrastructure Solutions, Inc.) to increase the contract for on-call environmental consulting services by \$500,000 for a new not to exceed amount of \$1,200,000 and extend the contract term through December 30, 2026.

FISCAL IMPACTS OF RECOMMENDATION

Funding for this contract amendment will be supported by multiple departments.

Funding as outlined below is currently available in the FY 2024 budget:

| Department / Fund                                  | Amount    |
|----------------------------------------------------|-----------|
| Public Works – Capital Improvement Fund (Fund 501) | \$100,000 |
| Public Works – Zero Waste Fund (Fund 601)          | \$300,000 |
| Public Waste – Storm Water Fund (Fund 616)         | \$44,000  |
| HHCS – Environmental Health Fund (Fund 011)        | \$66,000  |

Additional funding is subject to appropriation as needed for services during the contract term.

CURRENT SITUATION AND ITS EFFECTS

WSP USA Environment & Infrastructure Inc. (WSP) aids the Public Works Department’s Zero Waste Division with stormwater management and environmental consulting services which are needed to comply with the requirements of the City’s Solid Waste Management Center and Transfer Station’s (Transfer Station) Statewide General Permit for Stormwater Discharges Associated with Industrial Activities, Order 2014-0057-DWQ (Storm Water Permit). This Storm Water Permit also includes areas occupied by the Ecology Center and Community Conservation Centers, Inc. Additionally, WSP will be

providing additional support as Engineering staff augmentation to support construction management of the removal of the single walled underground storage tank in 2024 at the Transfer Station.

WSP performs sampling and testing of soils, groundwater, and surface water; and provides guidance and planning (including best management practices) to ensure the City remains in compliance with the Storm Water Permit.

In addition, WSP provides on-call services to the Environmental Health Division of the Health, Housing, and Community Services Department including technical assistance with monitoring and compliance with the state maximum contaminant levels and with troubleshooting of water quality issues at the Aquatic Park Lagoon. The Engineering Division will also require consultation to support compliance with the California Regional Water Quality Control Board San Francisco Bay Region Municipal Regional Stormwater NPDES Permit.

This contract amendment supports the Strategic Plan Priority of providing state-of-the-art, well-maintained infrastructure, amenities, and facilities as well as being a global leader in addressing climate change, advancing environmental justice, and protecting the environment.

#### BACKGROUND

In November 2019, City Council authorized the City Manager by Resolution No. 69,172-N.S. to enter into a contract with WSP (formerly Wood Environment & Infrastructure Solutions, Inc.) for on-call environmental consulting services in an amount not to exceed \$300,000 through December 31, 2022. On July 26, 2022 City Council authorized a contract amendment through Resolution No. 70,486-N.S. increasing the not to exceed amount to \$700,000 and extending the contract to November 30, 2025.

This is a Citywide contract supporting multiple departments as needed to assist with ongoing environmental compliance, consulting needs for planned or ongoing projects, and for unanticipated environmental consulting needs. Wood has consistently provided high-quality, timely, and professional services to the City.

#### ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

The services WSP provides improves stormwater quality and helps minimize the effects of stormwater runoff at the City's Transfer Station that could otherwise negatively impact the water quality of the San Francisco Bay. In addition, services also support and improve the health of the Aquatic Park Lagoon. There are no identified climate impacts.

#### RATIONALE FOR RECOMMENDATION

This is a Citywide contract supporting the crucial work of multiple departments, as needed, to assist with ongoing environmental compliance, consulting needs for planned or ongoing projects, and for unanticipated environmental consulting needs. WSP has consistently provided high-quality, timely, and professional services to the City.

ALTERNATIVE ACTIONS CONSIDERED

No alternative actions were considered. The City currently contracts with two other on-call environmental firms to meet service needs.

CONTACT PERSON

Joy Brown, Operations Manager, Public Works, 510-981-6629

Robert Hernandez, Environmental Compliance Specialist, Public Works, 510-981-6644

Leticia Jauregui, Acting Solid Waste and Recycling Manager, Public Works, 510-981-6362

Ronald Torres, Manager of Environmental Health, Health, Housing and Community Services, (510) 981-5261

Attachment:

1. Resolution

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

CONTRACT NO. 32000128 AMENDMENT: WSP USA ENVIRONMENT & INFRASTRUCTURE INC. FOR ON-CALL ENVIRONMENTAL CONSULTING SERVICES

WHEREAS, on July 24, 2019 the City released a Request for Qualifications (Specification No. 19-11329-C) seeking firms or individuals to provide on-call environmental consulting services; and

WHEREAS, on November 12, 2019, by Resolution No. 69,172-N.S., City Council authorized the City Manager to enter into a contract with WSP USA Environment & Infrastructure Inc. in an amount not to exceed \$300,000 through December 31, 2022; and

WHEREAS, on July 26, 2022 City Council authorized a contract amendment through Resolution No.70,486-N.S., increasing the not to exceed amount to \$700,000 and extending the contract to November 30, 2025.

WHEREAS, multiple City Departments need the assistance of an on-call environmental consulting services; and

WHEREAS, funding is available in the FY 2024 budget in the Clean Storm Fund 616, Zero Waste Fund 601, General Fund 011 and Capital Improvements Fund 501. Additional funding is subject to appropriation as needed for services during the contract term.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to execute an amendment to Contract No. 32000128 with WSP USA Environment & Infrastructure Inc. for on-call environmental consulting services increasing the contract by \$500,000 for a new not to exceed amount of \$1,200,000 and extend the contract through December 30, 2026. A record signature copy of said contract and any amendments to be on file in the Office of the City Clerk.





Office of the City Manager

CONSENT CALENDAR  
July 25, 2023

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: Liam Garland, Director, Public Works  
 Subject: Contract No. 32000145 Amendment: Zonar Systems, Inc. for Global Positioning System Telematics Program

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 32000145 with Zonar Systems, Inc. for global positioning system telematics program, increasing the amount by \$200,000 for a total amount not to exceed \$478,698 and extending the term through June 30, 2026.

FISCAL IMPACTS OF RECOMMENDATION

Funds to cover the cost of this recommendation will come from the Equipment Maintenance Fund 672. Funding in the amount of \$100,000 will be recommended for appropriation through the first amendment to the appropriations ordinance of FY 2024. The remaining contract amount in future fiscal years FY 2025 and FY 2026 is subject to Council approval of the proposed City-wide budget and annual appropriation ordinances. Vehicles and equipment included in the program will be billed to the corresponding departments.

CURRENT SITUATION AND ITS EFFECTS

The City is utilizing Zonar Systems, Inc. (Zonar) for Global Positioning System Telematics Program (GPS) to support staff, equipment, budget and operations. Since implementation of Zonar, the GPS system has provided the City:

- Access real-time data for decision support of operating crews and equipment, especially during disasters.
- Elimination of paper reporting. Departments have started to move from paper-based inspections to verifiable and regulatory compliant electronic reports that results in increased vehicle uptime and lower maintenance costs.
- Monitoring of vehicle idling, speeding and hard braking that may eliminate nonproductive driving behaviors that result in immediate fuel efficiency and savings, improve operator safety and build in greater protection and confidence for members of the public.

- Improved vehicle/driver and equipment maintenance communication to allow data driven real-time vehicle servicing, diagnostics reporting which leads to more efficient and effective maintenance, repair planning and staff time allocation.
- The ability to respond to customer needs with historical or real time information which improves customer service.

The contract amendment with Zonar for global positioning system and telematics program advances the City's Strategic Plan goal to provide state-of-the-art, well-maintained infrastructure, amenities, and facilities.

### BACKGROUND

The City maintains a large portfolio of over 700 vehicles and pieces of equipment. The Equipment Maintenance Division is also in the process of implementing a new Fleet Management Software solution - AssetWorks. Integrations of this new fleet software systems and the GPS system will allow for seamless real-time information to be sent to the Equipment Maintenance Division.

The meet and confer process with Service Employees International Union Local 1021 was concluded in November 2018. The City agreed to not utilize GPS devices on City Fleet Vehicles as a means to track employee day to day locations for the purpose of monitoring an individual employee's performance. Only as part of a complaint that warrants management review and is triggered by something other than the GPS device may the GPS data be used to support an adverse employment action. Further, any reasonable use of the GPS data specifically for disciplinary or performance related purposes will be consistent with the existing disciplinary procedures. GPS will be utilized for enhancing efficient routing of vehicles and supporting operational logistics.

On November 29, 2018, the City issued Request for Proposals (RFP) #19-11266-C for a Global Positioning System – Telematics Program. The City received seven (7) responses to the GPS RFP by the December 20, 2018 deadline. A committee of Public Works and Information Technology staff conducted a comprehensive evaluation process that included proposal reviews, vendor demonstrations, and reference checks. Staff selected Zonar Systems, Inc. (Zonar) as presenting the most comprehensive, user-responsive, and effective solution for the City's current and future global positioning system and telematics needs.

### ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

GPS, when coordinated with new routing systems, will provide for improved routing of vehicles which will reduce greenhouse gas emissions associated with travel time. This supports the reduction of carbon footprint and the goals of the City's Climate Action Plan. Further, the mobile vehicle inspection application will eliminate the use of paper currently being used by field staff.

RATIONALE FOR RECOMMENDATION

Staff recommends the contract amendment for Zonar, as they have been an excellent partner through the initial roll out of the telematics program on City vehicles, and additional vehicles need the benefit of GPS and paperless inspections. Zonar's features and functionalities are able to integrate with the City's new fleet management system AssetWorks, providing real time diagnostics reporting on the state of the vehicles.

ALTERNATIVE ACTIONS CONSIDERED

None. Zonar was selected through a competitive process and installing GPS on additional vehicles supports the safety of City staff and maintenance of the City's equipment.

CONTACT PERSON

Joy Brown, Operations Manager, Public Works, 510-981-6629

Greg Ellington, Equipment Maintenance Superintendent, Public Works, 510-981-6469

Attachment:

1: Resolution

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

CONTRACT AMENDMENT NO. 32000145: ZONAR SYSTEMS, INC. FOR GLOBAL POSITIONING TELEMATICS PROGRAM

WHEREAS, the City of Berkeley has been successfully using Zonar Systems, Inc. for global positioning system telematics program since 2019; and

WHEREAS, additional vehicles and equipment need to utilize the global positioning system and paperless inspection process; and

WHEREAS, funding for FY 2024 in the amount of \$100,000 will be recommended for appropriation in the first amendment to the appropriations ordinance in the Equipment Maintenance Fund (Fund 672); and

WHEREAS, individual departments will be billed through the Fleet management software for actual expenditures incurred; and

WHEREAS, funding for future years FY 2025 and FY 2026 will be subject to appropriation in the Equipment Maintenance Fund (Fund 672).

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that City Manager is authorized to execute an amendment to Contract No. 32000145 with Zonar Systems, Inc. for global positioning telematics program and paperless inspections to increase the amount by \$200,000, for a total not to exceed \$478,698 and extending the term through June 30, 2026. A record signature copy of said contract and any amendments to be on file in the Office of the City Clerk.



Office of the City Manager

CONSENT CALENDAR  
July 25, 2023

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: Liam Garland, Director, Public Works  
 Subject: Contract No. 32100070 Amendment: Urban Ore, Inc. for Salvage Operations at the City of Berkeley Transfer Station

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 32100070 with Urban Ore, Inc. for salvage operations of reusable materials at the City's Transfer Station increasing the not to exceed amount by \$75,272 for a new not to exceed amount of \$189,848 and extending the term through June 30, 2025.

FISCAL IMPACTS OF RECOMMENDATION

Funding for this contract is available in Zero Waste Fund (601) in the FY 2024 budget.

CURRENT SITUATION AND ITS EFFECTS

For the past 20 years, Urban Ore has salvaged more than 800 tons annually of reusable materials from the City of Berkeley's Transfer Station. Those items are resold at their retail store located at the intersection of Ashby Avenue and 7th Street in West Berkeley. This contract extension will allow the City to continue to reduce materials to be landfilled, supporting the City's Zero Waste Goal.

This is the first amendment to the existing contract, effective July 1, 2020 and approved by City Council through Resolution No. 69,434-N.S. The amendment will increase the not-to-exceed amount to cover regular operations and extend existing service levels until June 30, 2025.

The Urban Ore salvage program is a Strategic Plan Priority Project that advances our goal to be a global leader in addressing climate change, advancing environmental justice, and protecting the environment.

### BACKGROUND

Since 2000, the Urban Ore Salvage and Recycling operation has stationed a box truck and its own trained staff at the City's Transfer Station during tipping floor hours of operation to salvage reusable household goods and building materials from discarded objects that would otherwise be transported to landfill. Urban Ore staff identify items of value from loads delivered to the Transfer Station by Zero Waste employees. In many cases, discarded materials are salvaged, then rendered usable by staff intervention (such as removing embedded nails), which allows those materials to be placed for sale, and thus diverted from waste streams.

For more than a decade, Urban Ore has been the only local salvage operation able to provide a suitable diversion service on-site at the Transfer Station, while maintaining a local retail outlet for salvaged goods and materials. Their proven safety record, environmental commitment, and quality customer service have made them an important zero waste partner.

### ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

The Urban Ore mission statement, "our purpose is to end the age of waste by advocating and developing total recycling," demonstrates a committed environmental vision with recycling as a key component to all aspects of their operation. Urban Ore has annually reclaimed more than 800 tons from the City tipping floor, which increases the City's diversion rate, and reduces greenhouse gas emissions.

### RATIONALE FOR RECOMMENDATION

This salvage and reuse/recycling program supports increased diversion of materials from landfills, and helps move the City toward its Zero Waste Goal. In addition, the Transfer Station's operational expenses associated with long-haul transportation and landfill use are also reduced.

### ALTERNATIVE ACTIONS CONSIDERED

None. Opting to discontinue this salvageable waste removal and diversion program will increase City use of area landfills, increase greenhouse gas emissions from long-haul transportation of waste materials, and will negatively impact the Zero Waste Division budget.

### CONTACT PERSON

Leticia Jauregui, Zero Waste Operations Manager, Public Works, (510) 981-6362  
Keith Morin, Senior Management Analyst, Public Works, (510) 981-6354

Attachments:

1: Resolution

..

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

CONTRACT NO. 3210070 AMENDMENT: URBAN ORE, INC. FOR SALVAGE OPERATIONS AT THE CITY OF BERKELEY TRANSFER STATION

WHEREAS, Urban Ore is the only local salvage operation able to provide a suitable diversion service on-site at the Transfer Station, which reduces landfill-bound waste by 800 tons each year by returning useable materials to the community; and

WHEREAS, this salvage and reuse/recycling program helps move the City toward its zero waste goals, while reducing the Transfer Station's operational expenses associated with increased landfill use, and reducing greenhouse gas emissions caused by long-haul trucks; and

WHEREAS, Urban Ore's proven safety record, environmental commitment, and quality customer service have made them an important zero waste partner; and

WHEREAS, this is the first amendment to the existing contract, number 3210070, effective July 1, 2020 and adopted by council with Resolution 69,434--N.S. and needed to increase the not to exceed amount to cover regular operations and extend existing service levels until June 30, 2025; and

WHEREAS, funding for this contract amendment and term extension is available in Zero Waste Division in Fund 601 in FY 2024; and

WHEREAS, the Urban Ore salvage program is a Strategic Plan Priority Project that advances our goal to be a global leader in addressing climate change, advancing environmental justice, and protecting the environment; and

WHEREAS, opting to discontinue this salvageable waste removal and diversion program will increase City use of area landfills, and negatively impact the Zero Waste Division budget.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley authorizes the City Manager to execute a contract amendment with Urban Ore, Inc. for salvage operations at the City's Transfer Station increasing the contract amount by \$75,272 for a new not to exceed amount of \$189,848, and extending the contract term by 2 years through June 30, 2025. A record signature copy of said contract and any amendments to be on file in the Office of the City Clerk.







Office of the City Manager

CONSENT CALENDAR  
July 25, 2023

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Liam Garland, Director, Public Works

Subject: Contract: R & S Erection of Richmond, Inc. for On-Call Roll Up Door and Gate Maintenance and Replacement

RECOMMENDATION

Adopt a Resolution authorizing the City Manager or their designee to award a contract and execute any amendments and extensions, with R & S Erection of Richmond, Inc. for the ongoing maintenance, urgent repairs and replacement of roll up doors in an amount not to exceed \$300,000 for the period of August 1, 2023 through July 31, 2026.

FISCAL IMPACTS OF RECOMMENDATION

Funding is available in the FY 2024 budget in the amount of \$104,000 in the Capital Improvement Fund (501). Annual routine maintenance expenses are anticipated to be between \$25,000 and \$50,000. Funding in the amount of \$50,000 is available in Building Maintenance Fund (673) and an additional \$1,000 in Parks Tax Fund 138. Funding for subsequent years is subject to appropriation. Unanticipated expenses due to damage to roll up doors will be billed to the impacted department.

CURRENT SITUATION AND ITS EFFECTS

R&S Erection of Richmond (R&S Erection) was the sole responsive bidder to a Request for Proposal (RFP) Spec #22-11500 issued by the City on May 2, 2023. The City operates numerous roll-up doors and standard rolling gates at multiple different facilities: Fire Stations 1, 2, 3, 5, and 6; the Public Safety Building; the Transfer Station; the Corporation Yard; the Aircro building; 2 specialized gates; a custom circular rolling gate at Fire Station 4; and an articulated rolling gate at Fire Station 7. It is essential that these critical points of exit and entry function reliably at all times to ensure facility security and that the City's emergency response and critical support vehicles can swiftly exit their respective facilities when needed.

In addition, R & S Erection will be replacing the roll up doors at the Equipment Maintenance Building and adding automatic openers to improve the functionality of the building.

This contract supports the Strategic Plan Priority of advancing our goal to provide state-of-the-art, well-maintained infrastructure, amenities, and facilities.

BACKGROUND

Since 2008, Public Works has been using R&S Erection to provide inspection, preventative maintenance, and on-call and emergency repair services for the City's rolling gates and roll-up doors at multiple City locations. R&S Erection has a history of providing reliable, timely, and consistent service to the City.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

This contract has no environmental effects or climate impacts.

RATIONALE FOR RECOMMENDATION

Authorizing the contract to will ensure continued contract authority to utilize R&S Erection's services without interruption. R&S Erection is a valued contractor who has provided timely, quality service to the City since 2008. They are knowledgeable about and familiar with the City's equipment including the custom and specialized rolling gates at Fire Stations 4 and 7. Their preventative maintenance has been essential to sustaining the City's aging rolling gates and roll-up doors. Their immediate on-call response times have been crucial in ensuring that points of vehicle exit and entry at City safety and critical support facilities are functional.

ALTERNATIVE ACTIONS CONSIDERED

None. Contractor was the sole responsive bidder.

CONTACT PERSON

Joy Brown, Operations Manager, Public Works, 510-981-6629  
Aaron Baker, Facilities Maintenance Superintendent, Public Works, 510-981-6452  
Bruce Pratt, Parks Superintendent, Parks, Recreation & Waterfront, 510-981-6632

Attachment:  
1: Resolution

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

CONTRACT: R & S ERECTION OF RICHMOND, INC. FOR ON-CALL ROLL UP DOOR  
AND GATE MAINTENANCE AND REPLACEMENT

WHEREAS, the City operates numerous rolling gates and roll-up doors at multiple locations; and the rolling gates and roll-up doors at the City's Corporation Yard, Fire Stations, and Public Safety Building are considered essential to City emergency response and critical support operations; and

WHEREAS, R&S Erection of Richmond, Inc. was the sole responsive bidder on Spec# 22-11500; and

WHEREAS, R&S Erection of Richmond, Inc. is a valued contractor who has been providing consistently reliable, timely, quality service for the City since 2008; and

WHEREAS, one-time funding in the amount of \$104,000 is available for this contract in Capital Improvement Fund 501 in the FY 2024 budget; and

WHEREAS, annual maintenance funding in the amount of \$50,000 is available in Building Maintenance Fund (673) and an additional \$1,000 in Parks Tax Fund 138. Funding for subsequent years is subject to appropriation.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager or her designee is authorized to execute a contract with R & S Erection through June 30, 2026 in an amount not to exceed \$300,000. A record signature copy of said contract and any amendments shall be on file in the Office of the City Clerk.





Office of the City Manager

CONSENT CALENDAR  
July 25, 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: Contract: Wood Rodgers, Inc. for Stormwater Master Plan

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to execute a professional services contract with Wood Rodgers, Inc. in an amount not to exceed \$1,900,000 for the development of a comprehensive Stormwater Master Plan (SWMP). A comprehensive SWMP would identify key deficiencies in the stormwater system, prioritize capital improvement projects, identify funding needs, develop City specific drainage design standards, and update maintenance and inspection plan for stormwater facilities.

FISCAL IMPACTS OF RECOMMENDATION

Funding for the SWMP in the amount of \$1,000,000 is available in the FY 2023 – FY 2026 budget in the Clean Storm Water Fund (616). Funding currently budgeted for the SWMP in FY 2023 will be rolled over to FY 2024. An additional \$400,000 in funding will be recommended for appropriation in the FY 2025 and FY 2026 budget adoption in the Capital Improvement Fund (501). This additional funding will cover evaluation of creeks, creek culverts, Aquatic Park, and other project elements not eligible for funding from the Clean Stormwater Fund (616).

A breakdown of funding needs for the SWMP is included in **Table 1**.

**Table 1: SWMP Funding Sources**

| Fund                           | FY 2024            | FY 2025          | FY 2026          | Total              |
|--------------------------------|--------------------|------------------|------------------|--------------------|
| Clean Stormwater Fund (616)    | \$1,000,000        | \$500,000        | -                | \$1,500,000        |
| Capital Improvement Fund (501) | -                  | \$200,000        | \$200,000        | \$400,000          |
| <b>Total Funding</b>           | <b>\$1,000,000</b> | <b>\$800,000</b> | <b>\$300,000</b> | <b>\$1,900,000</b> |

CURRENT SITUATION AND ITS EFFECTS

A Request for Proposal (RFP) was issued on February 24, 2023 (Specification No. 22-11505-C) seeking firms qualified to develop comprehensive stormwater master plans.

On April 13, 2023, the City received a proposal from one firm, Wood Rodgers. A panel of City staff reviewed the proposal and held an interview with Wood Rodgers' team.

Following an evaluation of the proposer's team experience in completing similar projects and a thorough check of client references which include several local agencies for which Wood Rodgers has provided stormwater master planning services, City staff found Wood Rodgers to be highly qualified to prepare the City's Stormwater Master Plan.

### BACKGROUND

The City maintains approximately 93 miles of storm drain pipelines and appurtenant structures in the public right-of-way and in easements. In addition, the City is responsible for the maintenance of approximately 0.5 miles of open creeks and nearly 4 miles of creek culverts running in the right of way or in City owned properties. A majority of the City's stormwater assets are nearing or past their expected useful life and others require an evaluation of hydraulic capacity.

In addition to maintaining its aging stormwater system, the City implements programs to comply with water quality regulations and requirement established by the Municipal Regional Stormwater NPDES Permit (MRP). The most current MRP expands on previous permits and establishes requirements for the control and reduction of non-stormwater and polluted stormwater discharges to storm drains and watercourses. Permit provisions include requirements for the implementation of stormwater treatment measures for regulated development and redevelopment projects including road reconstruction projects; stormwater inspection programs for industrial and commercial facilities; construction site controls; community outreach and education programs on the impacts of stormwater pollution; and trash controls needed to meet mandated trash load reduction targets.

The development of a comprehensive stormwater master plan would provide the City an updated inventory of system-wide deficiencies and establish a capital stormwater improvement plan to address these deficiencies based on an equity and risk-based prioritization model. The master plan would also provide updated maintenance and inspection plans for the City's stormwater assets and identify green infrastructure implementation opportunities to allow the City to meet its MRP stormwater treatment targets. The SWMP would also analyze potential funding mechanisms to supplement current funding levels for the program as needed to support enhanced operations, regulatory compliance implementation, and capital improvements identified in master plan. If approved, the project will begin in September of 2023 and is expected to be completed in the first half of FY 2026.

Development of the SWMP supports the Strategic Plan goals of providing state-of-the-art, well-maintained infrastructure, amenities, and facilities, and of creating a resilient, safe, connected, and prepared City.

### ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

The SWMP will incorporate a long-range planning horizon which would incorporate projected sea level rise, increased precipitation intensities, and associated impacts to the City's storm drain infrastructure. The SWMP will also build on the City's Green Infrastructure Plan by identifying multi-benefit green infrastructure implementation opportunities which can contribute to a reduction in peak runoff flows, removal of

Contract: Wood Rodgers, Inc. for Stormwater Master Plan

CONSENT CALENDAR  
July 25, 2023

pollutants from storm runoff, an increase in green space, and a reduction of the urban heat island effect.

RATIONALE FOR RECOMMENDATION

Wood Rodgers is highly qualified to prepare the City's comprehensive SWMP which will reflect current and future development trends, stormwater quality requirements, climate change, flood control, and funding realities. The SWMP is an essential part of future capital improvement planning and a key piece in ensuring the City remains compliant with stormwater permits.

ALTERNATIVE ACTIONS CONSIDERED

No other alternative actions were considered. The City does not have the staff time or expertise to prepare a comprehensive stormwater master plan.

CONTACT PERSON

Ron Nevels, Interim City Engineer/Manager of Engineering, Department of Public Works, 981-6439

Srinivas Muktevi, Supervising Civil Engineer, Department of Public Works, 981-6402

Attachments:

1: Resolution: Contract with Wood Rodgers, Inc.

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

CONTRACT: WOOD RODGERS, INC. FOR STORMWATER MASTER PLAN

WHEREAS, the City desires to retain an engineering consulting firm for the development of a comprehensive Stormwater Master Plan to identify deficiencies in City's stormwater system, prioritize capital improvement projects, identify funding needs, develop City specific drainage design standards, and update maintenance and inspection plans for stormwater facilities; and

WHEREAS, City staff do not have the expertise or availability to prepare a comprehensive stormwater master plan; and

WHEREAS, on February 24, 2023, the City released a Request for Proposal (Specification No. 22-11505-C) seeking firms or individuals qualified to develop comprehensive stormwater master plans; and

WHEREAS, on April 14, 2023, the City received one submission from Wood Rodgers, Inc.; and

WHEREAS, a panel of City staff reviewed the proposal and held an interview with the Wood Rodgers team; and following an evaluation of the proposer's team experience and a thorough check of client references which include several local agencies for which Wood Rodgers has provided stormwater master planning services, City staff found Wood Rodgers to be highly qualified to prepare the City's Stormwater Master Plan; and

WHEREAS, the desired professional consulting services required for the completion of the Stormwater Master Plan shall not exceed \$1,900,000; and

WHEREAS, funding for the SWMP in the amount of \$1,500,000 is available in the FY 2023 – FY 2026 budget in the Clean Storm Water Fund (616). Funding currently budgeted for the SWMP in FY 2023 will be rolled over to FY 2024. An additional \$400,000 in funding will be recommended for appropriation in the FY 2025 and FY 2026 budget adoption in the Capital Improvement Fund (501).

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to approve a contract with Wood Rodgers, Inc. for the development of the Stormwater Master Plan in an amount not to exceed \$1,900,000. A record signature copy of said contract and any amendments to be on file in the Office of the City Clerk.





Office of the City Manager

CONSENT CALENDAR  
July 25, 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: Contract: Disability Access Consultants for On-Call American with Disabilities Act Consulting Services

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to execute a contract with Disability Access Consultants (DAC) for on-call American with Disabilities Act consulting services to provide support to the City of Berkeley's Disability Compliance Program, for up to three years in an amount not to exceed \$300,000.

FISCAL IMPACTS OF RECOMMENDATION

Initial funding for the contract is available in the FY 2024 Public Works budget in the Capital Improvement Fund 501. Funding for future fiscal years will be approved in the next budget development cycle from the ADA CIP Fund 501 baseline budget or may be requested by carryover in FY 2024 via approval of the First Amendment to the Annual Appropriations Ordinance (AAO). Services provided through this contract may protect the City against civil litigation.

CURRENT SITUATION AND ITS EFFECTS

The City released a December 22, 2022 Request for Proposals (RFP) (Specification No. 23-11543-C) for on-call American with Disabilities Act (ADA) consulting services on an ongoing and back up basis to provide support to its Disability Compliance Program. Four proposals were received and evaluated by a selection committee of City staff and ranked according to criteria including project approach; completeness of proposal requirements; staff qualifications; references; and reasonableness of cost. The proposal submitted by Disability Access Consultants (DAC) was ranked highest and deemed most responsive, and was thus selected for recommendation to the City Council for award of a contract. Main duties will include but are not limited to providing City staff with technical ADA assistance on requirements and best practices related to City programs and policies, physical access, digital accessibility, ADA grievances, and reasonable accommodation requests.

DAC has previously contracted with the City and has a proven record of providing excellent and timely service to Disability Services staff. DAC is very familiar with the City and has a solid understanding of its needs, having surveyed practically all City facilities, parks, streets, websites, and programs for the development of a new ADA Transition Plan.

This contract supports the Strategic Plan Priorities of both advancing our goal to provide state-of-the-art, well-maintained infrastructure, amenities, and facilities and championing and demonstrating social and racial equity.

### BACKGROUND

The Americans with Disabilities Act (ADA) requires state and local governments provide accessibility to people with disabilities. Ensuring equal access to civic life for all people is a fundamental legislative goal of the ADA as accessibility relates not only to physical access but to the delivery of government programs, services, activities, and employment practices.

The City of Berkeley has a vibrant, diverse, highly educated and very engaged community of people with disabilities, and is known as the birthplace of the Disability Rights Movement in the United States. Public Work's Disability Services team, who is responsible for overseeing the City's Disability Compliance Program, seeks additional support to its program through use of consulting services for comprehensive ADA and accessibility compliance services to better serve the community and to achieve the City's values of equity and inclusion.

### ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

ADA accessibility benefits many pedestrians including but not limited to people with disabilities, seniors, and parents with strollers and small children. Such improvements encourage the use of public transportation and travel without cars, thus reducing greenhouse gases and other negative impacts of driving.

### RATIONALE FOR RECOMMENDATION

Public Work's Disability Services team consists of only 1.5 FTEs, yet the City's Disability Compliance Program covers a wide range of services such as City wide programmatic and policy reviews, facility inspections, plan reviews, and addressing ADA grievances and accommodation requests. DAC brings forward a support team of subject matter experts with a comprehensive understanding of applicable standards, regulations and requirement under Title II of the ADA, California Building Code and related state accessibility standards.

### ALTERNATIVE ACTIONS CONSIDERED

None. There are critical and time sensitive services such as evaluating and responding to public grievances and ADA accommodation requests and providing accessibility reviews of plans and policies as needed. Staff requires consultant support to keep up

Contract: Disability Access Consultants for On-Call  
American with Disabilities Act Consulting Services

CONSENT CALENDAR  
July 25, 2023

with the demands placed onto the Disability Compliance Program and to remain compliant with the ADA.

CONTACT PERSON

Andrew Brozyna, Deputy Director of Public Works, Public Works, (510) 981-6396  
Thomas Gregory, ADA Program Coordinator, Public Works, (510) 981-6418

Attachments:

1: Resolution

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

CONTRACT: DISABILITY ACCESS CONSULTANTS FOR ON-CALL AMERICAN  
WITH DISABILITIES ACT CONSULTING SERVICES

WHEREAS, the Americans with Disabilities Act (ADA) requires state and local governments to provide accessibility to people with disabilities, and ensuring equal access to civic life for all people in the delivery of government programs, services, activities, and employment practices is a fundamental legislative goal of the ADA; and

WHEREAS, the City of Berkeley complies with the ADA and related State and Federal laws; and

WHEREAS, on December 22, 2022 the City advertised a Request for Proposals (RFP) (Specification No. 23-11543-C) for On Call American with Disabilities Act Consulting Services providing City staff with technical ADA assistance on requirements and best practices related to City programs and policies, physical access, digital accessibility, ADA grievances, and reasonable accommodation requests; and

WHEREAS, Disability Access Consultants, LLC was determined to be the best qualified and appropriately priced bidder among four other RFP submissions evaluated by a selection committee of City staff and ranked according to criteria including project approach; completeness of proposal requirements; staff qualifications; references; and reasonableness of cost.; and

WHEREAS, funding for the duration of the contract amendment will be available in the FY 2024 Capital Improvement Fund budget via the approval of the First Amendment to the Annual Appropriations Ordinance or in future fiscal year baseline CIP Fund budgets.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to execute a three-year contract and any amendments, extensions, or change orders with Disability Access Consultants, LLC for an amount not to exceed \$300,000 to provide on-call American with Disabilities Act consulting services in support of the City of Berkeley's Disability Compliance Program. A record signature copy of said contract and any amendments to be on file in the Office of the City Clerk.



Office of the City Manager

CONSENT CALENDAR  
July 25, 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 Report: Underfunded Mandate: Resources, Strategic Plan, and Communication Needed to Continue Progress towards the Year 2020 Zero Waste Goal

INTRODUCTION

The Office of the City Auditor presented a July 1, 2014 Report to the City Council: Underfunded Mandate: Resources, Strategic Plan, and Communication Needed to Continue Progress towards the Year 2020 Zero Waste Goal<sup>1</sup> (Audit Report). The City Auditor conducted the Audit Report at the Public Works Director's request to assess Zero Waste Division's progress towards the Year 2020 Zero Waste Goal. This is the fifth and final status report on the efforts made to implement the Audit Report's recommendations, which are slated for no further follow-up action as recommended by the City Auditor for all audits more than five years old.

POLICY COMMITTEE RECOMMENDATION

On June 7, 2023, the Facilities, Infrastructure, Transportation, Environment & Sustainability Committee adopted the following action: M/S/C (Harrison/Robinson) to send the item to Council with a positive recommendation. Vote: Ayes – Robinson, Harrison; Noes – None; Abstain – None; Absent – Taplin.

CURRENT SITUATION AND ITS EFFECTS

The Audit Report noted fifteen (15) recommendations for the Public Works Department (PWD) and its Zero Waste Division (ZWD) to review, implement and report to Council. The first set of seven (7) recommendations was related to zero waste goals and ZWD's operational components, and the second set of eight (8) recommendations focused on collaborating with the Department of Information Technology (IT) to utilize technology to interface with Zero Waste routes, staff, and the customers.

Since the January 15, 2020 update on this Audit Report, Public Works has made additional progress on the implementation of recommendations. At the time of this

---

<sup>1</sup> [https://www.cityofberkeley.info/uploadedFiles/Auditor/Level\\_3\\_-\\_General/A%20RPT\\_Zero%20Waste\\_Final.pdf](https://www.cityofberkeley.info/uploadedFiles/Auditor/Level_3_-_General/A%20RPT_Zero%20Waste_Final.pdf)

report, the Auditor's Office verified three (3) of the recommendations as implemented and dropped the remaining twelve (12) recommendations.

### BACKGROUND

Public Works' Zero Waste Division is responsible for the collection of residential material, including refuse, recycling, and composting; collection and processing of commercial material, including refuse, recycling, and composting; off-site hauling and composting of green/food waste for all customers; off-site hauling, sorting, and marketing of construction and demolition debris for all customers; and manages contracts related to the above work.

On March 22, 2015, the Berkeley City Council adopted Zero Waste Resolution No. 62,849-N.S. setting a goal of zero waste sent to landfills by the year 2020. The Resolution does not define a specific zero waste percentage expectation for Berkeley, but the language used therein suggests diversion of 100% of waste from landfills.

In its October 17, 2017 presentation to the City Council, the Zero Waste Commission recommended attaining the City's Zero Waste goal requires redefining the Zero Waste Goal and issuing a Request for Proposal (RFP) for a Zero Waste Management Strategic Plan. The City Council approved this recommendation.

On April 28, 2022, the City released the RFP, seeking qualified firms for the development and completion of an Integrated Zero Waste Management Strategic Plan (Plan) to provide methodologies and guidance for the City's Zero Waste Division's operation, personnel, program, and financial requirements to meet the City's Climate Action Plan and Zero Waste goals. The Plan's development will include robust public participation and outreach, along with City Council and staff input on both the draft and final Plan. City Council approved an item at the October 8, 2022 meeting to enter into a contract with the selected consultant for the Plan's development.

### ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

The increased diversion of compostable and recyclable materials is an essential part of the City's Zero Waste Goal as described in the City's 2009 Climate Action Plan.

### POSSIBLE FUTURE ACTION

Public Works' Zero Waste Division and the Zero Waste Commission will continue to take timely and focused action(s) to address outstanding and partially implemented recommendations.

### FISCAL IMPACTS OF POSSIBLE FUTURE ACTION

The Integrated Zero Waste Management Strategic Plan has an approved budget of \$500,000. The AMCS financial software platform and associated professional services are budgeted for \$1.3 million for the first five years. There may be additional financial impacts to complete the remaining Audit findings.

Audit Status Report -- Underfunded Mandate: Resources, Strategic Plan,  
and Communication Needed to Continue Progress  
Toward the Year 2020 Zero Waste Goal

CONSENT CALENDAR  
July 25, 2023

CONTACT PERSON

Greg Apa, Solid Waste & Recycling Manager (510) 981-6359

Attachment:

1. Audit Findings and Recommendations Response Form

## ATTACHMENT No. 1

| <b>Audit Title: Underfunded Mandate: Resources, Strategic Plan, and Communication Needed to Continue Progress Toward the Year 2020 Zero Waste Goal</b> |                                                                                                                                                                                                                                                                                        |                                                                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |                                                                                                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
|--------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Findings and Recommendations</b>                                                                                                                    | <b>Lead Dept.</b>                                                                                                                                                                                                                                                                      | <b>Agree, Partially Agree, or Do Not Agree and Corrective Action Plan</b> | <b>Expected or Actual Implementation Date</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | <b>Status of Outstanding Audit Recommendations and Implementation Progress Summary</b>                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| <b>Finding 1: Insufficient data and resources (for planning, strategy, or execution) dedicated to Berkeley's zero waste by 2020 resolution</b>         |                                                                                                                                                                                                                                                                                        |                                                                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |                                                                                                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| 1.1                                                                                                                                                    | Request the City Council to redefine and then reaffirm its commitment to zero waste (i.e., the percentage that the Council considers to be success), and to ensure sufficient resources to fund appropriate staffing and the necessary infrastructure to achieve stated goals by 2020. | Public Works                                                              | <p>Agree</p> <p>This is consistent with the strategic approach the Public Works Department has taken to correct operational deficiencies and create an organization more capable of continuing the work to reach the City's zero waste goal.</p> <p>The Department is poised to undertake an open search for a new ZWD Manager whose input, perspective, and anticipated professional expertise will be essential in analyzing the resources necessary to achieve the goal and drafting suitable recommendations to Council.</p> | <p>June 2015</p> <p>June 2019</p> <p>June 2019</p> <p>December 2019</p> <p>November 2020</p> <p>July 2023</p> | <p>5/09/2017 Status: not submitted</p> <p><b>January 23, 2018 Update:</b><br/><b>Not Implemented</b><br/>The Zero Waste Commission submitted to the City Council its recommendation for the City to develop an RFP to: 1) develop a Zero Waste Strategic Plan (Plan) to delineate terminology, 2) define and clarify what the City's Zero Waste Goal will be, and 3) develop plan for the Public Works - Zero Waste Division to implement to attain that goal. The City Council concurred with this recommendation which was an item on its October 17, 2017 Action Calendar for the Zero Waste Division to develop the RFP for the development of the Plan.</p> <p><b>6/04,2018 Update:</b><br/><b>Not Implemented</b><br/>The RFP is in development and should be released to solicit proposals to be submitted during the second quarter FY2019.</p> <p><b>March 12, 2019</b><br/><b>Partially Implemented</b><br/>ZWD has developed an RFP to: 1) develop a Zero Waste Strategic Plan (Plan) to delineate terminology, 2) define and clarify what the City's Zero Waste Goal will be, and 3) develop plan for the Public Works - Zero Waste Division to implement to attain that goal. The RFP is in administrative review.</p> <p><b>March 24, 2020 Update</b><br/><b>Partially Implemented</b><br/>At the September 17, 2019 City Council Work Session, Public and its consultant presented the proposed 5-year Rate Review that includes additional staffing for implementation and compliance with State and StopWaste.org mandatory recycling and food waste. The Council provided input on the Rate Review is in review and adjusted Rates with be presented to the City Council mid-2020.</p> <p><b>November 13, 2022 Update</b><br/><b>Dropped</b><br/>Revised 5-year Rate Schedules presented at the December 7, 2021 City Council Work Session. Council consented to moving forward with Proposition 218 process to approve Rates as proposed. In January</p> |



ATTACHMENT No. 1

| Audit Title: Underfunded Mandate: Resources, Strategic Plan, and Communication Needed to Continue Progress Toward the Year 2020 Zero Waste Goal                                                                                                                                                                                                                                                                                                                                                                           |              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                                                                                         |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Findings and Recommendations                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | Lead Dept.   | Agree, Partially Agree, or Do Not Agree and Corrective Action Plan                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | Expected or Actual Implementation Date                                                  | Status of Outstanding Audit Recommendations and Implementation Progress Summary                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                                                                                         | 2022, The City Agenda Committee placed the revised 5-year rate schedules on pause.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| 1.2 Draft and obtain Council approval of a written strategic plan to achieve zero waste by 2020, including annual or biennial interim waste diversion goals. Topics that the strategic plan should discuss include: <ul style="list-style-type: none"> <li>Objectives and long-term and interim goals</li> <li>Actions to be taken</li> <li>Responsible parties</li> <li>Expected cost and impact of implementation</li> <li>Performance measures</li> <li>External factors affecting performance and progress</li> </ul> | Public Works | <p>Agree</p> <p>The Public Works Department has taken a strategic approach to solving the structural deficit and making progress toward our Zero Waste goal. The Department improved the efficiency of operations, followed the strategies in the Climate Action Plan, is currently completing a commercial franchise study, and in May 2014 completed a Prop 218-compliant rate increase. PW will continue to focus on maintaining efficient operations, high quality customer service, and improvements to waste diversion efforts.</p> <p>The Department will take the next step toward zero waste by reassessing the current situation, and developing a strategic plan intended to guide the Department through the increasingly difficult path to zero waste. Part of this process requires evaluating the existing Transfer Station infrastructure, along with what might be required to reach the Zero Waste goal as defined.</p> <p>The strategic plan will be flexible so that annual work plans can be designed to address changing conditions.</p> <p>Public Works will build upon relevant</p> | <p>June 2015</p> <p>June 2019</p> <p>June 2019</p> <p>December 2019</p> <p>May 2021</p> | <p>5/09/2017 Status: not submitted</p> <p><b>January 23, 2018 Update:</b><br/><b>Not Implemented</b><br/>The City's Solid Waste Management Plan (1998) and Source Reduction and Recycling Element (1992) are the City's most recent documents guiding the City's actions toward the goal of zero waste. Although the City's Solid Waste Management Plan Update (2005) wasn't formerly adopted by the City, it was designed to achieve the 2010 goal of reaching 75% diversion. The City is currently achieving 76% diversion based on FY2015 information. The Zero Waste Commission and the City Auditor each concluded independently that a comprehensive, written strategic plan that clearly defines roles and responsibilities and assigns sufficient resources is needed to guide the City towards the goal of achieving zero waste. The Zero Waste Commission recommended and the City Council concurred at its October 17, 2017 Action Calendar concurred with Zero Waste Commission's recommendation for Public Works' Zero Waste Division to develop an RFP to: develop a Zero Waste Strategic Plan to delineate terminology, define and clarify what the City's Zero Waste Goal will be, and develop plan to attain the defined Strategic Plan's Zero Waste Goal.</p> <p><b>6/04,2018 Update:</b><br/><b>Not Implemented</b><br/>These issues will be included in the development of RFP that will be advertised for proposals the second quarter FY2019.</p> <p><b>March 12, 2019</b><br/><b>Partially Implemented</b><br/>ZWD has developed an RFP to: 1) develop a Zero Waste Strategic Plan (Plan) to delineate terminology, 2) define and clarify what the City's Zero Waste Goal will be, and 3) develop plan for the Public Works - Zero Waste Division to implement to attain that goal. The RFP is in administrative review.</p> <p><b>March 24, 2020 Update</b><br/><b>Partially Implemented</b><br/>With installation and implementation of the Zero Waste Division's management software (vendor is AMCS and projected to be</p> |

ATTACHMENT No. 1

| <b>Audit Title: Underfunded Mandate: Resources, Strategic Plan, and Communication Needed to Continue Progress Toward the Year 2020 Zero Waste Goal</b> |              |                                                                                                                                                                                                                                                                                                                    |                                                                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
|--------------------------------------------------------------------------------------------------------------------------------------------------------|--------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Findings and Recommendations                                                                                                                           | Lead Dept.   | Agree, Partially Agree, or Do Not Agree and Corrective Action Plan                                                                                                                                                                                                                                                 | Expected or Actual Implementation Date                                       | Status of Outstanding Audit Recommendations and Implementation Progress Summary                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
|                                                                                                                                                        |              | content in the 2005 Solid Waste Management Plan, the 2009 Climate Action Plan, and incorporate input from the Zero Waste Commission.                                                                                                                                                                               | August 2024                                                                  | completed late 2020), the City can assure Strategic Plan proposes that customers information is accurate and verifiable (FUND\$ cannot). Then the RFP for a Zero Waste Strategic Plan will then be issued and this Plan will develop strategies to attain the City’s zero waste goal. RFP for Integrated Zero Waste Management Strategic Plan released <b><u>November 13, 2022 Update</u></b><br><b>Dropped</b><br>The AMCS software financial platform will not be fully implemented until July 2024. An RFP for an Integrated Zero Waste Management Strategic Plan (Plan) was released April 28, 2022. An October 8, 2022 City Council Consent Item was submitted for award of contract for development of the Plan to the selected consultant. The implementation of the AMCS platform and the Plan development will be conducted and coordinated in unison.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| 1.3                                                                                                                                                    | Public Works | <p>Agree</p> <p>Public Works will continue to prepare its annual work plan under the direction of the City Manager, in coordination and consistent with other Department work plans.</p> <p>Goals, objectives, and actions for the Zero Waste program will be organized and managed by the Zero Waste Manager.</p> | <p>June 2019</p><br><br><br><br><br><br><br><br><br><br><p>December 2019</p> | <p>5/09/2017 Status: not submitted</p> <p><b><u>January 23, 2018 Update:</u></b></p> <p><b>Not Implemented</b></p> <p>The Zero Waste Commission submitted to the City Council its recommendation for the City to develop an RFP to: 1) develop a Zero Waste Strategic Plan (Plan) to delineate terminology, 2) define and clarify what the City’s Zero Waste Goal will be, and 3) develop plan for the Public Works - Zero Waste Division to implement to attain that goal. The City Council concurred with this recommendation which was an item on its October 17, 2017 Action Calendar for the Zero Waste Division to develop the RFP for the development of the Plan.</p> <p>With a third-party firm in-place, the Plan development will proceed with all stakeholders’ input solicited, reviewed and included. With approved by both the Zero Waste Commission and City Council, a fully vetted and approved Zero Waste Strategic Plan will provide Public Works a detailed road map to attain a Zero Waste goal. With these elements agree to then annual/biennial goals, budget allocations, timelines for completion, employees’ assigned task and performance measures will be concisely identified and assigned to meet the Zero Waste goal.</p> <p><b><u>March 12, 2019</u></b></p> <p><b>Partially implemented</b></p> <p>ZWD is drafting an RFP for a Zero Waste Strategic plan to guide the</p> |

ATTACHMENT No. 1

| Audit Title: Underfunded Mandate: Resources, Strategic Plan, and Communication Needed to Continue Progress Toward the Year 2020 Zero Waste Goal |              |                                                                                                                                                             |                                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
|-------------------------------------------------------------------------------------------------------------------------------------------------|--------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Findings and Recommendations                                                                                                                    | Lead Dept.   | Agree, Partially Agree, or Do Not Agree and Corrective Action Plan                                                                                          | Expected or Actual Implementation Date | Status of Outstanding Audit Recommendations and Implementation Progress Summary                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
|                                                                                                                                                 |              |                                                                                                                                                             | <p>May 2022</p> <p>August 2024</p>     | <p>City's policy and decision making and paths of implementation to the goal of Zero Waste. IT and ZWD are in the process of selecting a vendor to implement an entirely new ZW software solution that includes routing, billing and work orders. ZW meets weekly with key PW staff to ensure division objectives and action items are prioritized and budgeted for. With the first reading and passing of the Single Use Foodware and Litter Reduction Ordinance on January 22, 2019, ZWD is working closely with PW Fiscal and Admin division to budget for adequate staffing for this new responsibility. ZWD anticipates completion of a Feasibility Study to replace the existing Transfer Station by mid-2019. ZWD primary objectives are in accordance with the Citywide Strategic Plan. Once the new ZW software system is in place and the Strategic Plan has been completed, a more accurate work plan could be created that would include performance measures.</p> <p><b>March 24, 2020 Update</b><br/> <b>Partially Implemented</b><br/>                     With installation and implementation of the Zero Waste Division's management software (vendor is AMCS and projected to be completed late 2020), the City can assure Strategic Plan proposes that customers information is accurate and verifiable (FUND\$ cannot). With completion of this step, the City can issue an RFP for a new user-friendly routing system. With a new Routing system, reliable, verifiable and accurate performance metrics can be developed. The cost of these systems and additional staffing required have been included in projected budgets.</p> <p><b>November 13, 2022 Update</b><br/> <b>Dropped</b><br/>                     The AMCS software financial platform will not be fully implemented until July 2024. An RFP for an Integrated Zero Waste Management Strategic Plan (Plan) was released April 28, 2022. An October 8, 2022 City Council Consent Item was submitted for award of contract for development of the Plan to the selected consultant. The implementation of the AMCS platform and the Plan development will be conducted and coordinated in unison.</p> |
| 1.4                                                                                                                                             | Public Works | <p>Agree</p> <p>Prepare an annual report to Council, highlighting progress toward strategic plan and work plan goals to achieve zero waste in Berkeley.</p> | December 2019                          | <p>5/09/2017 Status: not submitted</p> <p><b>January 23, 2018 Update:</b><br/> <b>Partially Implemented</b><br/>                     With the newly re-staffed ZWC and new management at Zero Waste Division and once the Strategic Plan is completed and as part of the Strategic Plan, the Work Plan with goals, budget, timelines, FTEs and measurements will be developed. Then, Public Works will initiate</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |

ATTACHMENT No. 1

| Audit Title: Underfunded Mandate: Resources, Strategic Plan, and Communication Needed to Continue Progress Toward the Year 2020 Zero Waste Goal |            |                                                                    |                                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
|-------------------------------------------------------------------------------------------------------------------------------------------------|------------|--------------------------------------------------------------------|----------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Findings and Recommendations                                                                                                                    | Lead Dept. | Agree, Partially Agree, or Do Not Agree and Corrective Action Plan | Expected or Actual Implementation Date | Status of Outstanding Audit Recommendations and Implementation Progress Summary                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| Berkeley achieve zero waste. This includes sharing strategic and annual work plan goals and regular updates regarding progress and completion.  |            |                                                                    | November 2021                          | <p>annual reporting to Council. Nonetheless progress has been made, such as: the ZWD has undertaken a City Facilities Greening Project to ensure that all City-owned facilities have the appropriate containers with signage for trash, recyclables (bottles/cans and fiber), and organics; and that City staff receive training on the acceptable materials to place in each container type. The recent, May through September 2017, renovation of 1947 Center Street is being used as a pilot for this Project.</p> <p>In celebration of Earth Day 2017, the ZWD hosted a Zero Waste Earth Day Fair for City employees to get answers to all of their recycling-related questions, play games, enjoy zero waste snacks, and talk trash with ZWD staff. This event was attended by more than 100 City employees.</p> <p><b><u>March 12, 2019</u></b><br/> <b>Partially Implemented</b><br/>                     City staff have been encouraged to participate in the visioning sessions for the Transfer Station Redesign January 16, 17, and 18, 2019. Also, ZWD has developed an RFP to: 1) develop a Zero Waste Strategic Plan (Plan) to delineate terminology, 2) define and clarify what the City's Zero Waste Goal will be, and 3) develop plan for the Public Works - Zero Waste Division to implement to attain that goal. The RFP is in administrative review. Once the strategic plan is completed, it will be shared with City staff.</p> |
|                                                                                                                                                 |            |                                                                    | November 2021                          | <p><b><u>March 24, 2020 Update</u></b><br/> <b>Partially Implemented</b><br/>                     At the Council's Work Sessions for Rate Review (September 17, 2019) and Solid Waste &amp; Recycling Transfer Station Feasibility Study (November 5, 2019), PW informed Council of the need for additional RFPs, staffing, funding and facility requirements to meet the City's zero waste goal.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
|                                                                                                                                                 |            |                                                                    | August 2024                            | <p><b><u>November 13, 2022 Update</u></b><br/> <b>Dropped</b><br/>                     Revised 5-year Rate Schedules was presented at the December 7, 2021 City Council Work Session. Council consented to moving forward with Proposition 218 process for property owner consent of the revised Rates as proposed. These Revised Schedules included additional costs for: 1) Ecology and CCC contracts (\$85 mil over 10 years, sole sourced per Council direction); staffing for AB 341 &amp; 1826 (commercial recycling), SB1383 (organic recycling) and Single Use</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |

ATTACHMENT No. 1

| Audit Title: Underfunded Mandate: Resources, Strategic Plan, and Communication Needed to Continue Progress Toward the Year 2020 Zero Waste Goal                                                                                                                                                                                         |              |                                                                                                                                                                                                                                                                                                     |                                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Findings and Recommendations                                                                                                                                                                                                                                                                                                            | Lead Dept.   | Agree, Partially Agree, or Do Not Agree and Corrective Action Plan                                                                                                                                                                                                                                  | Expected or Actual Implementation Date | Status of Outstanding Audit Recommendations and Implementation Progress Summary                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
|                                                                                                                                                                                                                                                                                                                                         |              |                                                                                                                                                                                                                                                                                                     |                                        | Disposal Foodware and Litter Reduction Ordinance compliance; and CEQA compliance work for Transfer Station Replacement Concepts A and B. In January 2022, The City Agenda Committee placed the revised 5-year rate schedules on pause.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| 1.5 Determine if additional funds are needed for the education, outreach, compliance, and enforcement necessary to reach zero waste goals. If sufficient funds are not available, propose to Council a separate fee to cover those costs for the City's zero- waste program, such as a regulatory fee as allowed under Proposition 218. | Public Works | Agree<br>The Public Works Strategic Plan process will evaluate and identify the necessary resources, and if funding is insufficient, a recommendation will be made to consider an Integrated Waste Management Fee or other appropriate mechanism to fund additional staffing and/or outreach needs. | December 2019                          | 5/09/2017 Status: not submitted<br><b>January 23, 2018 Update:</b><br><b>Partially Implemented</b><br>Since September 2016, Public Works has hired the Zero Waste Division's Solid Waste & Recycling Manager, Greg Apa, and Recycling Program Manager, Heidi Obermeit, who have 29 and 10 years, respectively, of solid waste industry experience. With their extensive background in the solid waste industry, they are in the process of reviewing, assessing and addressing Zero Waste's current efforts to educate and as needed the expansion of educational outreach to the community members and commercial businesses, both existing and new. Outreach educational materials are somewhat dated and these materials may be updated and customized as required with more current graphics and narratives.<br>In addition, the ZWD has hired a Field Service Representative who assists ZWD's education and compliance efforts with all community members and businesses.<br>In 2018, the current Council approved rate structure will require an updated rate study including the cost of increased educational outreach and training for handling of recyclable materials to ensure a sustainable rate structure to achieve the zero waste goals that the Council has set for Public Waste and Zero Waste Division.<br><b>March 12, 2019</b><br><b>Partially Implemented</b><br>Public Works has determined through internal budget process that Zero Waste needs two additional full-time staff members to oversee the education, outreach, compliance, and enforcement necessary to reach zero-waste goals. The Zero Waste Division will be determining additional funding beyond staffing needed to increase education, outreach, compliance, and enforcement during the strategic planning process. The RFP for the strategic plan process is currently under administrative review. This process will also identify if the current levels of fees can cover the costs of the City's Zero Waste program or if Public Works will need to assess additional fees. |



ATTACHMENT No. 1

| Audit Title: Underfunded Mandate: Resources, Strategic Plan, and Communication Needed to Continue Progress Toward the Year 2020 Zero Waste Goal |                                                                                          |                                                                    |                                                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
|-------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------|--------------------------------------------------------------------|----------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Findings and Recommendations                                                                                                                    | Lead Dept.                                                                               | Agree, Partially Agree, or Do Not Agree and Corrective Action Plan | Expected or Actual Implementation Date                         | Status of Outstanding Audit Recommendations and Implementation Progress Summary                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
|                                                                                                                                                 |                                                                                          |                                                                    | November 2021<br><br><br><br><br><br><br><br><br><br>July 2023 | <p><b>March 24, 2020</b><br/> <b>Partially Implemented</b><br/>                     July 2019, City Council approved the hiring two additional full-time staff members to oversee the education, outreach, compliance, and enforcement necessary to reach zero waste goals. At a September 17, 2019 City Council Work Session on the current Rate Review Study, Council provided Public Works and its consultant direction to provide ongoing and additional services to be funded by the Zero Waste Fund. An update of the Rate Review Study will be scheduled with the City Council mid-2020.</p> <p><b>November 13, 2022 Update</b><br/> <b>Dropped</b><br/>                     Revised 5-year Rate Schedules was presented at the December 7, 2021 City Council Work Session. Council consented to moving forward with Proposition 218 process for property owner consent of the revised Rates as proposed. These Revised Schedules included additional costs for: 1) Ecology and CCC contracts (\$85 mil over 10 years, sole sourced per Council direction); staffing for AB 341 &amp; 1826, SB1383 and Single Use Disposal Plastic and Litter Reduction Ordinance compliance; and CEQA compliance work for Transfer Station Replacement Concepts A and B. In January 2022, The City Agenda Committee placed the revised 5-year rate schedules on pause.</p> |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| 1.6                                                                                                                                             | Update the City's Zero Waste website to include easily accessible information regarding: | Public Works                                                       | Agree                                                          | October 2016                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | <p>5/09/2017 Status: not submitted</p> <p><b>January 23, 2018 Update:</b><br/> <b>Implemented</b><br/>                     With the hiring of the Recycle Program Manager, ZWD is continuously streamlining and updating the City's and ZWD's website to include: guidelines to recycle plant debris and food waste; information on the mandatory recycling requirements for businesses and multi-family properties in Alameda County; and links to other recycling resources in the area. Further, the ZWD has made available guidelines to help designers of multifamily, commercial, and mixed-use buildings plan for recycling collection when designing new buildings or renovations.</p> <p>In conjunction with the City's Public Information Officer, the ZWD has distributed press releases to educate the general public about the appropriate material to place in their refuse, recycling and green compost carts, extra pick-up bags, proper cart placement.</p> |

## ATTACHMENT No. 1

| Audit Title: Underfunded Mandate: Resources, Strategic Plan, and Communication Needed to Continue Progress Toward the Year 2020 Zero Waste Goal                                                                                                                                                                                                                                                                                              |              |                                                                                                                                                                                                                                             |                                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Findings and Recommendations                                                                                                                                                                                                                                                                                                                                                                                                                 | Lead Dept.   | Agree, Partially Agree, or Do Not Agree and Corrective Action Plan                                                                                                                                                                          | Expected or Actual Implementation Date | Status of Outstanding Audit Recommendations and Implementation Progress Summary                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| <ul style="list-style-type: none"> <li>Zero waste goals and progress toward those goals.</li> </ul> <p><a href="http://StopWaste.org">StopWaste.org</a> is a good example and has resources that Berkeley can direct customers to use.</p> <p>Updates should be made as changes are made to the list of materials accepted through each waste stream.</p>                                                                                    |              |                                                                                                                                                                                                                                             |                                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| 1.7 Engage in discussions with the California Department of Resources Recycling and Recovery to obtain permission to collect garbage biweekly instead of weekly while maintaining weekly collection of compostables. Perform additional education and outreach prior to implementing biweekly garbage service to educate the public on the change. Alternatively, seek permission to implement a pilot project for biweekly garbage service. | Public Works | <p>Agree</p> <p>The ZWD will investigate the process of obtaining legal permission to pilot biweekly rubbish collection. We will identify the operational and outreach preparation necessary to evaluate the feasibility of this pilot.</p> | N/A                                    | <p>5/09/2017 Status: not submitted</p> <p><b>January 23, 2018 Update:</b></p> <p><b>Dropped</b></p> <p>Although a Solid Waste &amp; Recycling Manager and Recycling Program Manager is on staff, the Zero Waste Division, as an enterprise funded collection service division, is understaffed and inexperienced to engage in the process change of State Law, which requires weekly collection of refuse. In addition, this would require significant lobbying of CalRecycle to approve a pilot program to collect refuse other than on a weekly basis.</p> <p>The Audit Report states that there is the potential of \$496,000 annual cost savings by switching to biweekly garbage service. However, and as noted in the Audit Report, this is based on assumptions which:</p> <p>1) State law requires the refuse shall not remain on any premises more than seven (7) days. Berkeley would need to revise the State law, request a waiver or seek permission for a pilot program. This waiver or revision of State law will potentially require substantial lobbying members of City Council, State House of Representative(s) and Senator(s), as well as, of all the many County and State permitting and health agencies that would be involved to amend State law.</p> |

## ATTACHMENT No. 1

| Audit Title: Underfunded Mandate: Resources, Strategic Plan, and Communication Needed to Continue Progress Toward the Year 2020 Zero Waste Goal |                                                                                                                                                                                                                                                                    |                                                                    |                                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
|-------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------|----------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Findings and Recommendations                                                                                                                    | Lead Dept.                                                                                                                                                                                                                                                         | Agree, Partially Agree, or Do Not Agree and Corrective Action Plan | Expected or Actual Implementation Date | Status of Outstanding Audit Recommendations and Implementation Progress Summary                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
|                                                                                                                                                 |                                                                                                                                                                                                                                                                    |                                                                    |                                        | 2) Require additional staff and funding to support a community educational outreach to ensure that refuse is not just reallocated by community members to the recycling and plant debris carts.<br>3) Public Works would need to enter into negotiations with the employee bargaining unit to an agreement whether positions can be eliminated through attrition or reassignment.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| <b>Finding 2: Limited use of available technologies affects operational efficiencies</b>                                                        |                                                                                                                                                                                                                                                                    |                                                                    |                                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| 2.1                                                                                                                                             | Work with the Department of Information Technology to configure the CRM system with a required field that auto populates valid route information based on address and service delivery type so that route specific data can be collected on a going-forward basis. | Public Works                                                       | Agree                                  | <p>5/09/2017 Status: not submitted</p> <p><b>December 2019</b><br/><u>January 23, 2018 Update:</u><br/><b>Not implemented</b><br/>Currently the City is implementing an Enterprise Resource Planning (ERP) project to replace the FUND\$ system including the CRM application. ERP is a software with financial (accounting, billing, budget, contracts) and human resource (time entry, personnel, payroll, benefits) applications. As part of this project, ZWD has been working with IT and its consultant during the needs assessment phase to ensure that RouteSmart™ will interface with the selected software.</p> <p><u>June 4, 2018 Update:</u><br/><b>Not implemented</b><br/>IT with ZWD is soliciting many companies to demonstrate their invoicing, customer service, and routing systems. With the conclusion of the demonstrations, IT will develop an RFP that will soloist proposals for systems that will integrate with Erma.</p> <p><b>December 2019</b><br/><u>March 12, 2019</u><br/><b>Not Implemented</b><br/>IT released an RFP on behalf of Public Works for Zero Waste Management software on October 18, 2018. As the FUND\$ system is in the process of being replaced, a new system was deemed necessary and IT issued an RFP for a Zero Waste Management System and Professional Services consisting of a Waste Billing System, a Waste Computerized Maintenance Management System and a Route Optimization System. One proposal was received. If the proposal is accepted, software installation and implementation is anticipated to begin immediately upon contract execution in May 2019, with software operational by December 2019.<br/>The new system will require route optimization and will have an onboard system for drivers containing route information based on address and service delivery type so that route-specific data can be</p> |



ATTACHMENT No. 1

| Audit Title: Underfunded Mandate: Resources, Strategic Plan, and Communication Needed to Continue Progress Toward the Year 2020 Zero Waste Goal |              |                                                                                                                                                                                                                                                                                                                                                                                                           |                                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
|-------------------------------------------------------------------------------------------------------------------------------------------------|--------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Findings and Recommendations                                                                                                                    | Lead Dept.   | Agree, Partially Agree, or Do Not Agree and Corrective Action Plan                                                                                                                                                                                                                                                                                                                                        | Expected or Actual Implementation Date | Status of Outstanding Audit Recommendations and Implementation Progress Summary                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
|                                                                                                                                                 |              |                                                                                                                                                                                                                                                                                                                                                                                                           | <p>November 2022</p> <p>July 2024</p>  | <p>collected on a going-forward basis. The details of this system will be evaluated and developed as part of implementation. In addition to these new systems, Public Works and Parks are also implementing a new computerized maintenance management system. Once that vendor has been selected, then 311 will issue an RFP for a new Customer Relationship Management system that will integrate with the Zero Waste solutions.</p> <p><b>March 24, 2020 Update</b><br/><b>Not Implemented</b><br/>IT is finalizing the contract the new Zero Waste software management system and to be completed late 2020. After this in operation, RFPs will be issued for new Routing and CRM system. When these are operational, CRM will be able to integrate routing information.</p> <p><b>November 13, 2022 Update</b><br/><b>Dropped</b><br/>Contract awarded to AMCS to install new customer account &amp; financial software platform to be up and running by mid-2024.</p>                                                                                                                                                       |
| 2.2                                                                                                                                             | Public Works | <p>Agree</p> <p>Zero Waste will work with IT to create the most efficient link between RouteSmart™ and the CRM system that can be created, given available resources. One solution, budget permitting, would be implementing the best of breed billing system that integrates with RouteSmart, rather than to trying to configure the CRM system to handle functions it was never designed to handle.</p> | <p>April 2015</p> <p>December 2019</p> | <p>5/09/2017 Status: not submitted</p> <p><b>January 23, 2018 Update:</b><br/><b>Not Implemented</b><br/>IT has been able to create a table that extracts customer information from the FUND\$ and RouteSmart™. However, and due to the limitations of FUND\$, this link takes hours to download information into RouteSmart™ versus that the company states should take minutes. Therefore, until the installation of the ERP process is completed, RouteSmart™ cannot be used to its full route optimization capabilities.</p> <p><b>March 12, 2019</b><br/><b>Not Implemented</b><br/>Working with RouteSmart™ for further integration was deemed not worthwhile as that system does not integrate with ArcGIS which is the City's primary system for spatial data. IT released an RFP on behalf of Public Works for Zero Waste Management software on October 18, 2018. The RFP was for a Zero Waste Management System and Professional Services consisting of a Waste Billing System, a Waste Computerized Maintenance Management System and a Route Optimization System. One proposal was received. If the proposal is</p> |

**ATTACHMENT No. 1**

| <p><b>Audit Title: Underfunded Mandate: Resources, Strategic Plan, and Communication Needed to Continue Progress Toward the Year 2020 Zero Waste Goal</b></p> |                                                                                                                                                                                                                                                                                                                                    |                                                                    |                                         |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------|-----------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Findings and Recommendations                                                                                                                                  | Lead Dept.                                                                                                                                                                                                                                                                                                                         | Agree, Partially Agree, or Do Not Agree and Corrective Action Plan | Expected or Actual Implementation Date  | Status of Outstanding Audit Recommendations and Implementation Progress Summary                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
|                                                                                                                                                               |                                                                                                                                                                                                                                                                                                                                    |                                                                    | <p>November 2022</p> <p>August 2024</p> | <p>accepted, software installation and implementation is anticipated to begin immediately upon contract execution in May 2019, with software operational by December 2019. In addition to these new systems, Public Works and Parks are also implementing a new computerized maintenance management system. Once that vendor has been selected, then 311 will issue an RFP for a new Customer Relationship Management system that will integrate with the Zero Waste solutions.</p> <p><b>March 24, 2020 Update:</b><br/><b>Not Implemented</b><br/>After evaluating various applications and discussed by IT, IT-CS and PW, a link between RouteSmart and CRM cannot be installed. Therefore, the first step of soliciting a new Zero Waste software management system. Then, an RFP for new routing software will be issued. In IT-CS will be soliciting a new CRM system.</p> <p><b>November 13, 2022 Update</b><br/><b>Dropped</b><br/>Contract awarded to AMCS to install new customer account &amp; financial software platform to be up and running by mid-2024.</p> |
| 2.3                                                                                                                                                           | Appoint individuals at the management, supervisory, and line staff levels to meet and identify Zero Waste Division operational and analytical reporting needs based on the performance goals at each level of the organization. Work with IT staff to determine responsibility and establish timelines for developing the reports. | Public Works                                                       | Agree.                                  | <p>September 2016</p> <p>5/09/2017 Status: not submitted<br/><b>January 23, 2018 Update:</b><br/><b>Implemented</b><br/>ZWD along with IT, 311 Call Center, and Revenue Collection have established a monthly meeting to address operational and reporting needs; and create action plans to address those identified needs. These monthly reports included reviewing and analyzing as a Group: 1) monthly 311 calls on various the community members zero waste issues, 2) develop resolutions on community members' zero waste issues (reviewed weekly by 311 and ZWD personnel), and 3) review and resolve community members' LAGAN cases created by 311 calls.</p>                                                                                                                                                                                                                                                                                                                                                                                                      |
| 2.4                                                                                                                                                           | Designate a business-line expert within the                                                                                                                                                                                                                                                                                        | Public Works                                                       | Agree                                   | <p>December 2018</p> <p>5/09/2017 Status: not submitted<br/><b>January 23, 2018 Update:</b></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |

**ATTACHMENT No. 1**

| <b>Audit Title: Underfunded Mandate: Resources, Strategic Plan, and Communication Needed to Continue Progress Toward the Year 2020 Zero Waste Goal</b>                                                                                                                                                                                                                                              |                     |                                                                                                                                                                                                               |                                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Findings and Recommendations</b>                                                                                                                                                                                                                                                                                                                                                                 | <b>Lead Dept.</b>   | <b>Agree, Partially Agree, or Do Not Agree and Corrective Action Plan</b>                                                                                                                                     | <b>Expected or Actual Implementation Date</b> | <b>Status of Outstanding Audit Recommendations and Implementation Progress Summary</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| <p>Zero Waste Division and require that expert to develop internal capacity to configure optimal collection routes and produce standardized reports for route specific reporting using existing software (or the software implementation of Recommendation 2.5 below). The reports developed should allow measurement of the performance metrics developed in Recommendation 1.2 and 1.3 above.</p> |                     |                                                                                                                                                                                                               | <p>December 2019</p> <p>May 2021</p>          | <p><b>Not Implemented</b><br/>                     In late 2016 and with RouteSmart™ staff input, ZWD reviewed its current staff capability to implement complete routing needs. And it was determined, the ZWD staff is not currently capable of this effort. ZWD has only recently achieved sufficient fund balance to have the funding ability to budget and requisition this job classification with its annual budget. With the completion of the optimization of commercial routing, ZWD in collaboration with IT will propose to fund this position in FY2019.<br/> <b>March 12, 2019 Update:</b><br/> <b>Not Implemented</b><br/>                     Additional staffing positions have been proposed as part of the budget process with both the Senior Solid Waste Supervisor and an Associate Management Analyst being tasked with route optimization once new software has been identified and implemented. As mentioned elsewhere in this table, an RFP process for this software is currently underway.<br/> <b>March 24, 2020</b><br/> <b>Dropped</b><br/>                     Existing software (FUND\$ and RouteSmart™) are not capable or adaptable to allow configuration of optimal routing. IT received one proposal for an RFP for a Zero Waste Management System that includes a Waste Billing System, a Waste Computerized Maintenance Management System on October 18, 2018. Once the contract is finalized and the system installed, an RFP for Routing System may be released. With a user-friendly routing system, performance metrics; such as, cart set out and participation rates cubic yards/tons collected; can be compiled and reports developed.</p> |
| <p>2.5 Assess the benefits of using mobile technologies that would allow drivers to enter information directly into the CRM system while on their routes, take pictures of why pickups were skipped, and implement electronic</p>                                                                                                                                                                   | <p>Public Works</p> | <p>Agree</p> <p>The Zero Waste Division will work with Information Technology and Human Resources Departments to assess the pros, cons, and feasibilities of mobile technologies (hardware and software).</p> |                                               | <p>5/09/2017 Status: not submitted<br/> <b>January 23, 2018 Update:</b><br/> <b>Not Implemented</b><br/>                     ZWD with IT input has been working with the RouteSmart™ to determine if ZWD can utilize its mobile technology to improve route management and provide real-time service data to the customer service representatives in the 311 Call Centers. Fixed unit GPS units are available in the marketplace to track truck movements, such as, missed pickups. However, and with any mobile technology, these systems are constantly involving and improving. Therefore, any investment in a mobile system will not be implemented until the</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |

## ATTACHMENT No. 1

| <b>Audit Title: Underfunded Mandate: Resources, Strategic Plan, and Communication Needed to Continue Progress Toward the Year 2020 Zero Waste Goal</b>                                                                                 |                   |                                                                           |                                                             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------|---------------------------------------------------------------------------|-------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Findings and Recommendations</b>                                                                                                                                                                                                    | <b>Lead Dept.</b> | <b>Agree, Partially Agree, or Do Not Agree and Corrective Action Plan</b> | <b>Expected or Actual Implementation Date</b>               | <b>Status of Outstanding Audit Recommendations and Implementation Progress Summary</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| <p>route books and other mobile field reporting. Include in the assessment changes to job responsibilities that might require a meet and confer with union representatives. Purchase the software and hardware if cost beneficial.</p> |                   |                                                                           | <p>December 2019</p> <p>January 2021</p> <p>August 2024</p> | <p>City's ERP project vendor selected, contract awarded and then ZWD/IT needs assessment completed.</p> <p><b>March 12, 2019</b><br/><b>Partially Implemented</b><br/>IT released an RFP on behalf of Public Works for Zero Waste Management software on October 18, 2018. The RFP was for a Zero Waste Management System and Professional Services consisting of a Waste Billing System, a Waste Computerized Maintenance Management System and a Route Optimization System. These systems will utilize onboard mobile hardware. In addition, this system will integrate with the new GPS solution which will integrate with the Zero Waste solution allowing for real time decision making and route information. Exact capabilities of both systems will be validated and coordinated as part of the contracting process once the vendors are selected.</p> <p><b>March 24, 2020 Update</b><br/><b>Partly Implemented</b><br/>IT released an RFP for a Zero Waste Management System and Professional Services consisting of a Waste Billing System, a Waste Computerized Maintenance Management System will allow a follow-up RFP for Route Optimization System on October 18, 2018. One proposal was received. IT and Legal are in the process of finalizing a contract with the vendor with software installation to follow. Once this system is installed and operating, an RFP for onboard truck/route/customer reporting system may be released.</p> <p><b>November 13, 2022 Update</b><br/><b>Dropped</b><br/>Contract awarded to AMCS to install new customer account &amp; financial software platform to be up and running by mid-2024.</p> |
| 2.6 Work jointly with the Department of Information Technology and the Department of Finance to develop and automate script flows in the CRM system to ensure that all cases undergo the appropriate                                   | Public Works      | Agree                                                                     | October 2016                                                | <p>5/09/2017 Status:<br/>not submitted</p> <p><b>January 23, 2018 Update:</b><br/><b>Implemented</b><br/>ZWD, IT, 311 Call Center, and Finance have developed script flows with use of the CRM tracking systems to ensure all cases receive appropriate review prior to closing. These cases are compiled and reviewed weekly and monthly by ZWD, IT, 311 Call Center, and Finance staff.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |

**ATTACHMENT No. 1**

| <b>Audit Title: Underfunded Mandate: Resources, Strategic Plan, and Communication Needed to Continue Progress Toward the Year 2020 Zero Waste Goal</b>                                                                                                                                                                                                                                                                                                                    |                   |                                                                                                                                  |                                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------|----------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Findings and Recommendations</b>                                                                                                                                                                                                                                                                                                                                                                                                                                       | <b>Lead Dept.</b> | <b>Agree, Partially Agree, or Do Not Agree and Corrective Action Plan</b>                                                        | <b>Expected or Actual Implementation Date</b>            | <b>Status of Outstanding Audit Recommendations and Implementation Progress Summary</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| reviews before a case can be closed. The final step in the script flow should be a final review by someone who has authority to verify that all required steps have occurred before the case is closed.                                                                                                                                                                                                                                                                   |                   |                                                                                                                                  |                                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| 2.7 Use the reports developed from implementing recommendation 2.4 To monitor customer complaints and determine what impact the annual bid process has on customer service. If the information demonstrates the annual bid process significantly affects customer service, meet and confer with union representatives to discuss the elimination the annual route bidding process to help reduce customer complaints and improve service delivery.<br>Implement change if | Public Works      | Agree<br>Zero Waste will use the CRM system to monitor customer complaints and help assess the effect of the yearly bid process. | January 2019<br><br>June/August 2019<br><br>January 2021 | 5/09/2017 Status: not submitted<br><b>January 23, 2018 Update:</b><br><b>Not Implemented</b><br>ZWD services 62 commercial route days and these ZWD's routes include: 42 refuse route days, 11 fiber (cardboard, paper) route days, 5 mixed recyclable route days and 6 plant debris/food waste routes days. After the new commercial accounts are optimized with existing commercial accounts/routes, ZWD will be in the position to numerically determine if the annual bid system is affecting customer service. With this information completed, this would enable ZWD to meet and confer with the Union.<br><b>June 4, 2018 Update:</b><br><b>Not Implemented</b><br>With the integration of an additional 440 commercial accounts (had been serviced by either Waste Management, Inc. or Republic Services, Inc.) completed March/April 2018, with existing commercial accounts/routes, ZWD is in the position to numerically determine if the annual bid system is affecting customer service in April 2019. When this information is completed, ZWD will have information to meet and confer with the Union.<br><b>March 12, 2019</b><br><b>Not Implemented</b><br>The annual bid process is set to begin February 2019 and its impacts will be evaluated June 2019.<br><b>March 24, 2020 Update:</b><br><b>Dropped</b><br>Meet and confer with SEIU 1021 is ongoing and the Route Bid system as currently handled is in place. With the completion of the meet and confer, it will be reassessed at that time. |





ATTACHMENT No. 1

| Audit Title: Underfunded Mandate: Resources, Strategic Plan, and Communication Needed to Continue Progress Toward the Year 2020 Zero Waste Goal |            |                                                                    |                                        |                                                                                                                                                                                                                                                                                           |
|-------------------------------------------------------------------------------------------------------------------------------------------------|------------|--------------------------------------------------------------------|----------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Findings and Recommendations                                                                                                                    | Lead Dept. | Agree, Partially Agree, or Do Not Agree and Corrective Action Plan | Expected or Actual Implementation Date | Status of Outstanding Audit Recommendations and Implementation Progress Summary                                                                                                                                                                                                           |
|                                                                                                                                                 |            |                                                                    | August 2024                            | reporting system, customers could track status of their cases, such as, missed pickups, late routes, etc<br><b>November 13, 2022 Update</b><br><b>Dropped</b><br>Contract awarded to AMCS to install new customer account & financial software platform to be up and running by mid-2024. |







Office of the City Manager

CONSENT CALENDAR

July 25, 2023

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Liam Garland, Director, Public Works

Subject: Audit Status Report: Unified Vision of Zero Waste Activities Will Help Align Service Levels with Billing and Ensure Customer Equity

INTRODUCTION

The Office of the City Auditor presented to the City Council a September 20, 2016 Report: Unified Vision of Zero Waste Activities Will Help Align Service Levels with Billing and Ensure Customer Equity. The City Auditor conducted the audit to assess whether the City of Berkeley is correctly billing customers based on their actual refuse collection levels; whether all Berkeley residents are signed up to receive refuse, recycling, and plant debris collection service as required by the Berkeley Municipal Code; and whether there are opportunities for improving both refuse and service delivery operations. This is the final status report on the efforts made to implement the Audit Report's recommendations, which are slated for no further follow-up action as recommended by the City Auditor for all audits more than five years old.

POLICY COMMITTEE RECOMMENDATION

On June 7, 2023, the Facilities, Infrastructure, Transportation, Environment & Sustainability Committee adopted the following action: M/S/C (Harrison/Robinson) to send the item to Council with a positive recommendation. Vote: Ayes – Robinson, Harrison; Noes – None; Abstain – None; Absent – Taplin.

CURRENT SITUATION AND ITS EFFECTS

The Audit Report included twelve (12) recommendations for the Office of the City Manager and Departments of Finance, Information Technology, and Public Works to review, implement, and report to Council regarding the status of recommendations. This is the fifth and final status report on the recommendations. Public Works has continued to make progress since the last status update. The Auditor's Office verified six recommendations as implemented and has dropped the remaining six recommendations. Please see Attachment 1 for a detailed table of audit report recommendations, corrective actions, and implementation progress.

### BACKGROUND

Public Works' Zero Waste Division is responsible for the collection of residential material, including refuse, recycling, and composting; collection and processing of commercial material, including refuse, recycling, and composting; off-site hauling and composting of green/food waste for all customers; off-site hauling, sorting, and marketing of construction and demolition debris for all customers; and manages contracts related to the above work.

### ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

With the implementation of the Audit's recommendations, the Zero Waste Division will continue to help reduce the volume of waste landfilled and:

- Increase residential composting, recycling, and source reduction.
- Increase commercial composting, recycling, and source reduction.
- Increase recycling of construction and demolition (C&D) debris.
- Expand efforts to eliminate waste at its source.
- Increase waste diversion in public buildings.

All of these above-noted items promote the City's zero waste goal and are included in the approved Climate Action Plan Goals for Waste Reduction and Recycling.

### POSSIBLE FUTURE ACTION

Public Works will continue to take timely and focused action(s) to address outstanding and partially implemented recommendations. The Zero Waste Division is working with the Information Technology and Finance Departments to select the software solution(s) needed to facilitate the implementation of the audit recommendations.

### FISCAL IMPACTS OF POSSIBLE FUTURE ACTION

Public Works will update Council periodically on the progress, resources available, and any additional funding needed to address those recommendations that remain outstanding and partially implemented.

### CONTACT PERSON

Greg Apa, Solid Waste and Recycling Manager, (510) 981-6359

Attachment:

1. Audit Findings and Recommendations Response Form

ATTACHMENT No. 1

| Audit Title: Unified Vision of Zero Waste Activities Will Help Align Service Levels with Billing and Ensure Customer Equity |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                                                                                               |                                        |                                                                                 |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
|-----------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------|----------------------------------------|---------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Findings and Recommendations                                                                                                | Lead Dept.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | Agree, Partially Agree, or Do Not Agree and Corrective Action Plan                            | Expected or Actual Implementation Date | Status of Outstanding Audit Recommendations and Implementation Progress Summary |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| <b>Finding: Integrated thinking about zero waste operations will help ensure accurate billings and customer equity</b>      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                                                                                               |                                        |                                                                                 |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| 1.1                                                                                                                         | Agree to a common and unified vision for zero waste operations. Discuss the long-term zero waste goals, objectives, and key initiatives and share that information with those responsible for day-to-day operations. Use meetings and informal communications to regularly encourage staff to embrace a unified view of zero waste operations.                                                                                                                                                                                                                              | City Manager's Office and Team<br>Response: Public Works, Finance, and Information Technology | Agree                                  | October 2016                                                                    | <b>January 23, 2018 Update Implemented</b><br>Since late 2015, Zero Waste, 311, and IT (called collectively the Customer Solutions Group or Group) have met on a monthly basis to discuss operational issues that affect the three divisions. Given that this Group was already in place and per the Auditor's recommendation, the Group opted to include Finance as a participant instead of creating of a separate team and meeting.<br>The meetings' monthly agenda identifies that the Group's primary focus is the development and continuous implementation of a common approach by all members to ensure a unified vision for zero waste operations for all community members. In addition, the meetings' agenda details those customers' issues as they occur, so that, the Group's members resolve them. These resolutions are applied by the Group to continue its efforts to strive towards the City's zero waste goals and the initiatives needed to attain these goals.                   |
| 1.2                                                                                                                         | Form a zero waste team comprised of managers and line staff involved with zero waste operations (i.e., waste collection, billings, customer calls, systems support). Include a diverse pool of people who can share ideas, resources, and knowledge. Have the team members' work collectively to evaluate their respective functions; the interrelationships among their departmental activities; and the practices, policies, and procedures they use to perform their zero waste account management and operations functions. Ensure that the team understands that their | Team Response: Public Works, Finance, and Information Technology                              | Agree                                  | October 2016                                                                    | <b>September 20, 2016 Update Implemented</b><br>Zero Waste, 311, and IT meet on a monthly basis to discuss operational issues that affect the three divisions. This meeting schedule has been in existence for over one year.<br>Since there was already a setup in place, we decided to include Finance as a participant versus create a separate team. We expanded the group and meeting scope to accommodate the Auditor's recommendations. At every meeting, it will be the first agenda item to make sure all participants are made aware of the team's concept. We will consider this completely implemented by October 2016, as at that time we will have met twice within the capacity required by this audit recommendation. This will be a regular meeting for the foreseeable future. The team members do understand that the Zero Waste operation is an enterprise with different parts and that the success of the operation depends on each of these distinctive units working together. |



ATTACHMENT No. 1

| <b>Audit Title: Unified Vision of Zero Waste Activities Will Help Align Service Levels with Billing and Ensure Customer Equity</b> |                                                   |                                                                           |                                                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
|------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------|---------------------------------------------------------------------------|-----------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Findings and Recommendations</b>                                                                                                | <b>Lead Dept.</b>                                 | <b>Agree, Partially Agree, or Do Not Agree and Corrective Action Plan</b> | <b>Expected or Actual Implementation Date</b>             | <b>Status of Outstanding Audit Recommendations and Implementation Progress Summary</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
|                                                                                                                                    |                                                   |                                                                           | <p>December 2019</p> <p>January 2021</p> <p>July 2024</p> | <p>IT administration, IT-311 and Zero Waste have commenced efforts, such as, an As-Is (existing software) review to improve customer interface with the City and a To-Be (future software) for the development of an RFP to solicit new software for new customer interface, refuse billing and routing systems. These reviews were facilitated by the City’s software consultant, Third Wave. The RFP is tentatively scheduled for a late 2018 release.</p> <p>Rather than the purchase of another software system to integrate the existing inefficient (i.e., requires another software program to be bolted on to existing software), and inadequate software, a new routing and customer billing system would replace the CX and RouteSmart™ systems, integrate with ERMA and would be customer driven resolution and coordinated billing system.</p> <p><b>March 12, 2019 Update</b><br/><b>Partially Implemented</b></p> <p>IT released an RFP on behalf of Public Works for Zero Waste Management software on October 18, 2018. The RFP was for a Zero Waste Management System and Professional Services consisting of a Waste Billing System, a Waste Computerized Maintenance Management System and a Route Optimization System. One proposal was received. If the proposal is accepted, software installation and implementation is anticipated to begin immediately upon contract execution in May 2019, with software operational by December 2019</p> <p><b>March 24, 2020 Update</b><br/><b>Partially Implemented</b></p> <p>IT released an RFP for a Zero Waste Management System and Professional Services consisting of a Waste Billing System, a Waste Computerized Maintenance Management System will allow a follow-up RFP for Route Optimization System on October 18, 2018. One proposal was received. IT and Legal are in the process of finalizing a contract with the vendor with software installation to follow.</p> <p><b>November 13, 2022 Update</b><br/><b>Dropped</b></p> <p>Contract awarded to AMCS, July 2020, to install new customer account &amp; financial software platform to be up and running by mid-2024.</p> |
| 1.4                                                                                                                                | Require the zero waste team formed in response to | Team Response:                                                            | Agree                                                     | <p>October 2016</p> <p><b>September 20, 2016 Update</b><br/><b>Implemented.</b></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |

ATTACHMENT No. 1

| <b>Audit Title: Unified Vision of Zero Waste Activities Will Help Align Service Levels with Billing and Ensure Customer Equity</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                                                          |                                                                           |                                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------|---------------------------------------------------------------------------|-----------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Findings and Recommendations</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | <b>Lead Dept.</b>                                        | <b>Agree, Partially Agree, or Do Not Agree and Corrective Action Plan</b> | <b>Expected or Actual Implementation Date</b> | <b>Status of Outstanding Audit Recommendations and Implementation Progress Summary</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| <p>recommendation 1.2 to have regular meetings, e.g., quarterly, to share information about their operations and the known or expected changes and events that may impact cross-functional efforts. These meetings may need to be more frequent at first and less frequent over time. The team should use their meeting time to:</p> <ul style="list-style-type: none"> <li>▪ Identify continued barriers to change.</li> <li>▪ Decide on solutions that will help overcome barriers.</li> <li>▪ Share information about the challenges preventing staff from meeting operational objectives.</li> <li>▪ Make cross-departmental decisions to improve processes and customer service.</li> </ul> <p>Also see recommendation 1.2.</p> | <p>Public Works, Finance, and Information Technology</p> |                                                                           |                                               | <p>As mentioned in response to recommendation 1.2, we expanded our existing monthly meeting to include Finance. The purpose of those meetings has always been to share information about operational and staff challenges. We expanded the meeting to include specific suggestions for this recommendation.</p> <p>This initiative will be a continuous process that will be put in place for years to come as it becomes part of managing the operations of Zero Waste.</p>                                                                                                                                                                                                                                                                                                                                                                               |
| <p>1.5 In collaboration with Information Technology and as part of Enterprise Resource Planning, budget for, select, and install an account management system designed for zero waste activities. Use information from the zero waste team evaluation (recommendation 1.2) and zero waste strategy analyses</p>                                                                                                                                                                                                                                                                                                                                                                                                                      | <p>Team Response: Public Works and Finance</p>           | <p>Agree</p>                                                              |                                               | <p><b>January 23, 2018 Update</b><br/> <b>Not Implemented</b><br/>                     The current Customer Relationship Management (CRM) system will not integrate with RouteSmart™ due to both FUND\$ and CRM system limitations. The City is currently engaged in the Enterprise Resource Planning process to replace the FUND\$ and then integrate the CRM system, which according to the current schedule by June 2019. The long term solution will be to procure a new customer management, operations and billing software that will fully integrate the RouteSmart™ with the new ERP. Zero Waste Division and the Customer Solutions Group is actively engaging with IT to ensure that the new ERP system recognizes that Zero Waste Division is an enterprise funded operation. That is, it would be desirable to utilize RouteSmart system's</p> |



ATTACHMENT No. 1

| <b>Audit Title: Unified Vision of Zero Waste Activities Will Help Align Service Levels with Billing and Ensure Customer Equity</b>                                                                                                                                                                                                                                     |                   |                                                                           |                                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------|---------------------------------------------------------------------------|-----------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Findings and Recommendations</b>                                                                                                                                                                                                                                                                                                                                    | <b>Lead Dept.</b> | <b>Agree, Partially Agree, or Do Not Agree and Corrective Action Plan</b> | <b>Expected or Actual Implementation Date</b> | <b>Status of Outstanding Audit Recommendations and Implementation Progress Summary</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| <p>(recommendation 1.8) to identify the critical business needs that should be included in the purchase of new zero waste account management system, or that should be considered when determining whether sufficient middleware options exist to fully integrate existing systems with the new account management software. Also see recommendations 1.2 and 1.8.</p> |                   |                                                                           | July 2019                                     | <p>capabilities to generate customer driven service requests (work orders), whereas the current ERP system is a City staff internally generated system input. IT has recognized that to provide seamless CRM service that a Request for Proposals (RFP) for an application that delivers the most efficient financial and operational software system that specifically handles the Zero Waste collection services will be written in FY2018 as part of Phase 2 of the ERP project.</p> <p><b><u>September 25, 2018 Update</u></b><br/> <b>Partially Implemented</b><br/>                     IT administration, IT-311 and Zero Waste have commenced efforts, such as, an As-Is (existing software) review to improve customer interface with the City and a To-Be (future software) for the development of an RFP to solicit new software for new customer interface, refuse billing and routing systems. These reviews were facilitated by the City's software consultant, Third Wave. The RFP is tentatively scheduled for a late 2018 release.</p> <p>Rather than the purchase of another software system to integrate the existing inefficient (i.e., requires another software program to be bolted on to existing software), and inadequate software, a new routing and customer billing system would replace the CX and RouteSmart™ systems, integrate with ERMA and would be customer driven resolution and coordinated billing system.</p> |
|                                                                                                                                                                                                                                                                                                                                                                        |                   |                                                                           | December 2019                                 | <p><b><u>March 12, 2019 Update</u></b><br/> <b>Partially Implemented</b><br/>                     IT released an RFP on behalf of Public Works for Zero Waste Management software on October 18, 2018. The RFP was for a Zero Waste Management System and Professional Services consisting of a Waste Billing System, a Waste Computerized Maintenance Management System and a Route Optimization System. One proposal was received. If the proposal is accepted, software installation and implementation is anticipated to begin immediately upon contract execution in May 2019, with software operational by December 2019.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
|                                                                                                                                                                                                                                                                                                                                                                        |                   |                                                                           | January 2021                                  | <p><b><u>March 24, 2020 Update</u></b><br/> <b>Partially Implemented</b><br/>                     IT released an RFP for a Zero Waste Management System and Professional Services consisting of a Waste Billing System, a Waste Computerized Maintenance Management System will allow a follow-up RFP for Route Optimization System on October 18, 2018. One proposal was received. IT and Legal are in the process of finalizing a contract with the vendor with software installation to follow.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
|                                                                                                                                                                                                                                                                                                                                                                        |                   |                                                                           | July 2024                                     | <p><b><u>November 13, 2022 Update.</u></b></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |

## ATTACHMENT No. 1

| <b>Audit Title: Unified Vision of Zero Waste Activities Will Help Align Service Levels with Billing and Ensure Customer Equity</b>                                                                                                                                                                                                                                                                                                                                                             |                                         |                                                                                                                                                                                                                                                                                                                                              |                                                                  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Findings and Recommendations                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | Lead Dept.                              | Agree, Partially Agree, or Do Not Agree and Corrective Action Plan                                                                                                                                                                                                                                                                           | Expected or Actual Implementation Date                           | Status of Outstanding Audit Recommendations and Implementation Progress Summary                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                                         |                                                                                                                                                                                                                                                                                                                                              |                                                                  | <b>Dropped</b><br>Contract awarded to AMCS to install new customer account & financial software platform to be up and running by mid-2024.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| 1.6 Incorporate systems thinking into the hiring process for both competitive and promotional recruitments: <ul style="list-style-type: none"> <li>▪ Describe the interdependent nature of zero waste operations in job announcements.</li> <li>▪ Highlight the cross-functional responsibilities and relationships in job descriptions. Discuss cross-functional experiences during job interviews to gain an understanding of an applicant's mindset about shared accountability.</li> </ul> | Team Response: Public Works and Finance | Agree<br>Difficult to implement I and II because some classifications are not specific to Zero Waste operations but are general classification that are Citywide Item III – During job interviews for Zero Waste functions, questions are tailored to potential hires about the working conditions specifically as the relate to Zero Waste. | October 2016<br><br><br><br><br><br><br><br><br><br>October 2016 | <b>September 20, 2016 Update</b><br>Public Works is currently recruiting for zero waste and using the interview techniques described. Finance and IT, however, are not in the process of, or able to identify when they will be, recruiting for a position for which this recommendation applies. Therefore, we cannot identify a future implementation date. However, both IT and Finance applied these concepts in recent hires. Additionally, all the departments intend to use the concepts described in the recommendation as much as allowable and consider this recommendation implemented.<br>During the interview process, candidates are provided an overview of Zero Waste Division operations including relationships with other departments, the strategic priorities used to guide our everyday thinking and application of resources, and owning the commitment to excel in the areas of courtesy, knowledge, promptness, and teamwork.<br>To the extent possible and allowable by the City's recruitment practices, we will include in our recruitment materials information that conveys to applicants for general classifications that their work will include cross-functional responsibilities and shared accountability.<br><b>January 23, 2018 Update</b><br><b>Implemented</b><br>The Departments of Public Works and Human Resources have reviewed the process of development of job announcements, such as, the recent hiring of Zero Waste Division Operations Manager to directly address the issues noted in this Recommendation. With this job description for the Operations Manager and future Zero Waste management, administrative and operation staff positions will include a description of the interdepartmental nature of zero waste operations, and highlight cross-functional responsibilities. |
| 1.7 Require that someone other than the person who manually calculated the zero waste rates and entered the updated rates into the CX module                                                                                                                                                                                                                                                                                                                                                   | Finance                                 | Agree                                                                                                                                                                                                                                                                                                                                        | May 2015                                                         | <b>September 20, 2016 Update</b><br>Completed. For FY 2016 updates, which was input in 2015, Finance implemented a Quality Assurance process in which an error report was produced by IT. The Supervisor reviewed the report and made corrective changes. The report was re-                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |



ATTACHMENT No. 1

| <b>Audit Title: Unified Vision of Zero Waste Activities Will Help Align Service Levels with Billing and Ensure Customer Equity</b>                                                                                                                                                                                                                                     |                   |                                                                           |                                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------|---------------------------------------------------------------------------|-----------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Findings and Recommendations</b>                                                                                                                                                                                                                                                                                                                                    | <b>Lead Dept.</b> | <b>Agree, Partially Agree, or Do Not Agree and Corrective Action Plan</b> | <b>Expected or Actual Implementation Date</b> | <b>Status of Outstanding Audit Recommendations and Implementation Progress Summary</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| <p>perform an independent review of the calculations and data entry for accuracy. Have the reviewer report back on any errors.</p> <p>Ensure that management is also notified of the errors, verifies that the corrections were made, and signs off on the review.</p>                                                                                                 |                   |                                                                           | July 2024                                     | <p>produced two other times to make sure all the error was fixed and the Manager of the unit signed off on the final report before finalizing system changes.</p> <p><b>January 23, 2018 Update:</b><br/><b>Implemented</b></p> <p>The initial base rates were approved by Resolution No. 66,600-N.S. effective July 1, 2014 for FY2015. The Department of Public Works administration calculates the next Fiscal Year's rates based on the previous Fiscal Year's rates. The rates are calculated utilizing the current CPI, the published April annual rate, or 3%, whichever is greater. These new FY rates and calculations are verified and signed off by Zero Waste Division Manager. The completed approved Rate Tables are then forwarded to the Finance Department Revenue Collections Manager for final verification and FUNDS\$ system input for billing.</p> <p><b>November 13, 2022 Update</b><br/><b>Implemented</b></p> <p>Contract awarded to AMCS, July 2020, to install new customer account &amp; financial software platform to be up and running by mid-2024. New Rates were proposed at a 12/07/2022 Council Work Session that was to include the cost of AMCS. The Proposition 218 rate approval process was put on hold by City Agenda Committee in January 2022.</p> |
| <p>1.8 Request that Information Technology use the CX module data extracts, such as the one used for this audit, to provide Public Works staff with the data they need to analyze zero waste strategies. Use the data extracts to further identify the critical business needs for new zero waste account management software.</p> <p>Also see recommendation 1.5.</p> | Public Works      | Agree                                                                     | Originally Expected: December 2016            | <p><b>September 20, 2016 Update</b></p> <p>We will ask IT to provide our fiscal services and zero waste strategy staff with CX data using existing data extracts, and use that for data analytics using software such as Excel. We will use these extracts to help identify the reporting needs of a new zero waste account management system.</p> <p>If needed, IT staff can provide reports or training to Public Works staff so they are able to run the reports themselves or extract the information in the format needed, if feasible.</p> <p><b>January 23, 2018 Update</b><br/><b>Not Implemented</b></p> <p>The CX module data utilized for this Audit was specifically designed to support the data request and this is what is called a bolt-on module, which means, it retrieves specific data requested from the CRM. Any module development requires IT to code, test and implement these bolt-on modules for a specific request. To analyze all appropriate data to identify a critical Zero Waste Division business need(s) would require the utilization of data residing in RouteSmart™. The Current CRM system will not integrate or auto-populate with RouteSmart™ due to CRM system limitations. Per</p>                                                                 |

ATTACHMENT No. 1

| Audit Title: Unified Vision of Zero Waste Activities Will Help Align Service Levels with Billing and Ensure Customer Equity |            |                                                                    |                                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
|-----------------------------------------------------------------------------------------------------------------------------|------------|--------------------------------------------------------------------|----------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Findings and Recommendations                                                                                                | Lead Dept. | Agree, Partially Agree, or Do Not Agree and Corrective Action Plan | Expected or Actual Implementation Date | Status of Outstanding Audit Recommendations and Implementation Progress Summary                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
|                                                                                                                             |            |                                                                    | December 2019                          | <p>the current IT ERP implementation schedule, the City is scheduled to upgrade and/or replace the CRM system in June 2019.</p> <p>The long term solution will be to procure a new customer management, operations and billing software that will integrate and fully utilize the RouteSmart™ data. An RFP for an application that delivers the most efficient financial and operational software system specific to the Zero Waste Division operational and the solid waste industry requirements is scheduled to be developed in FY2018 as part of Phase 2 of the ERP project.</p> <p><b>September 25, 2018 Update</b><br/> <b>Partially Implemented</b></p> <p>IT provided extensive CX data in support of the Commercial Route expansion. During the expansion which involved adding over 400 accounts, critical limitations of the CZX software were identified. Additionally, IT facilitated the key departments to complete an As-Is analysis of existing software to identify areas of improvement. The departments have completed s To-Be analysis of future software which was the basis for a Request For Proposals (RFP) to solicit new software for new customer interface, refuse billing and routing systems. Both the CX (customer account management and billing software) and RouteSmart™ (collection routing software) systems are planned for replacement within the next year. These reviews were facilitated by the City's software consultant, Third Wave. The RFP is tentatively scheduled for late 2018 release. IT administration, IT-311 and Zero Waste are collaborating to ensure a unified approach.</p> <p>This new routing and customers billing software will the CX and RouteSmart™ Systems and integrate with Erma, the City's new financial software system. The new software will be customer driven and provide enhanced, coordinated billing system.</p> |
|                                                                                                                             |            |                                                                    | December 2019                          | <p><b>March 12, 2019 Update</b><br/> <b>Partially Implemented</b></p> <p>IT released an RFP on behalf of Public Works for Zero Waste Management software on October 18, 2018. The RFP was for a Zero Waste Management System and Professional Services consisting of a Waste Billing System, a Waste Computerized Maintenance Management System and a Route Optimization System. One proposal was received. If the proposal is accepted, software installation and implementation is anticipated to begin immediately upon contract execution in May 2019, with software operational by December 2019.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
|                                                                                                                             |            |                                                                    | January 2021                           | <p><b>March 24, 2020 Update</b><br/> <b>Partially Implemented</b></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |

**ATTACHMENT No. 1**

| <b>Audit Title: Unified Vision of Zero Waste Activities Will Help Align Service Levels with Billing and Ensure Customer Equity</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                   |                                                                           |                                                            |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------|---------------------------------------------------------------------------|------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Findings and Recommendations</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | <b>Lead Dept.</b> | <b>Agree, Partially Agree, or Do Not Agree and Corrective Action Plan</b> | <b>Expected or Actual Implementation Date</b>              | <b>Status of Outstanding Audit Recommendations and Implementation Progress Summary</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |                   |                                                                           | July 2024                                                  | <p>IT released an RFP for a Zero Waste Management System and Professional Services consisting of a Waste Billing System, a Waste Computerized Maintenance Management System will allow a follow-up RFP for Route Optimization System on October 18, 2018. One proposal was received. IT and Legal are in the process of finalizing a contract with the vendor with software installation to follow.</p> <p><b>November 13, 2022 Update.</b><br/> <b>Dropped</b><br/>           Contract awarded to AMCS to install new customer account &amp; financial software platform to be up and running by mid-2024.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| <p>1.9 Perform, or contract for, a fully comprehensive route audit to align service delivery with billing rates. Use the route audit to:</p> <ul style="list-style-type: none"> <li>▪ Make CX module and/or RouteSmart system updates to ensure customers are billed correctly for their City-provided services.</li> <li>▪ Ensure that all residential accounts are receiving required services.</li> <li>▪ Ensure that the commercial accounts that the City is responsible for receive and pay for the zero waste services required by City policy. Verify that roll-off bin customers serviced by the Zero Waste Division are accurately billed.</li> </ul> | Public Works      | Agree                                                                     | <p>Originally expected: July 2018</p> <p>December 2019</p> | <p><b>September 20, 2016 Update</b><br/>           As part of the route audit, actual service levels will be compared against data in the CX module and appropriate updates made to ensure that all residential and commercial accounts are receiving required services and billed correctly for those services. Route books will also be updated to reflect the results of the route audit.</p> <p><b>January 23, 2018 Update</b><br/> <b>Not Implemented</b><br/>           IT has created a table for monthly routing development that extracts customer information from the FUNDS and provides the data to be then downloaded into RouteSmart™. Due to the FUNDS system limitations, this link takes hours to download information into RouteSmart™. The company, RouteSmart™, has stated that this integration process should take minutes. The City will be replacing the ERP system in June 2019 and then the CRM system would be upgraded or replaced. The long term solution is to integrate the new customer management, operations and billing software with RouteSmart™. With RouteSmart™ full utilization and the integration of a work order system, the invoicing system could be customer based, i.e. customers' billing and services are directly linked with the new EFP implementation, to allow the City to more easily reconcile services provided with customers' invoices.</p> <p><b>September 25, 2018 Update</b><br/> <b>Partially Implemented</b><br/>           IT facilitated the key departments to complete an As-Is analysis of existing software to identify areas of improvement. The departments have completed a To-Be analysis of future software which was the basis for a Request For Proposals (RFP) to solicit new software for new customer interface, refuse billing and routing systems. Both the CX (customer account management and billing software) and RouteSmart™ (collection routing software) systems are planned for replacement within the next year. These reviews were facilitated by the City's software consultant, Third Wave. The RFP is</p> |

ATTACHMENT No. 1

| <b>Audit Title: Unified Vision of Zero Waste Activities Will Help Align Service Levels with Billing and Ensure Customer Equity</b> |                   |                                                                           |                                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
|------------------------------------------------------------------------------------------------------------------------------------|-------------------|---------------------------------------------------------------------------|-----------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Findings and Recommendations</b>                                                                                                | <b>Lead Dept.</b> | <b>Agree, Partially Agree, or Do Not Agree and Corrective Action Plan</b> | <b>Expected or Actual Implementation Date</b> | <b>Status of Outstanding Audit Recommendations and Implementation Progress Summary</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
|                                                                                                                                    |                   |                                                                           | December 2019                                 | tentatively scheduled for late 2018 release. IT administration, IT-311 and Zero Waste are collaborating to ensure a unified approach. This new routing and customers billing software will the CX and RouteSmart™ Systems and integrate with Erma, the City’s new financial software system. The new software will be customer driven and provide enhanced, coordinated billing system.<br><b>March 12, 2019 Update</b><br><b>Partially Implemented</b>                                                                                                                                                                                                                                                                                            |
|                                                                                                                                    |                   |                                                                           | January 2020                                  | IT released an RFP on behalf of Public Works for Zero Waste Management software on October 18, 2018. The RFP was for a Zero Waste Management System and Professional Services consisting of a Waste Billing System, a Waste Computerized Maintenance Management System and a Route Optimization System. One proposal was received. If the proposal is accepted, software installation and implementation is anticipated to begin immediately upon contract execution in May 2019, with software operational by December 2019.<br><b>March 24, 2020 Update</b><br><b>Partially Implemented</b>                                                                                                                                                      |
|                                                                                                                                    |                   |                                                                           | July 2024                                     | IT released an RFP for a Zero Waste Management System and Professional Services consisting of a Waste Billing System, a Waste Computerized Maintenance Management System will allow a follow-up RFP for Route Optimization System on October 18, 2018. One proposal was received. IT and Legal are in the process of finalizing a contract with the vendor with software installation to follow.<br><b>August 24, 2022 Update.</b><br><b>Dropped</b><br>Contract awarded to AMCS to install new customer account & financial software platform to be up and running by mid-2024.                                                                                                                                                                   |
| 1.10                                                                                                                               | Public Works      | Agree.                                                                    | December 2016                                 | <b>September 20, 2016 Update</b><br>We agree that the actual service levels should be compared against route books but believe that enforcing the policy to have drivers do onsite comparisons is no longer an efficient use of our drivers’ time. We are exploring other options, such as using student interns to do the comparisons.<br><b>January 23, 2018 Update</b><br><b>Implemented</b><br>The Zero Waste drivers are reminded monthly to verify actual service levels with the route books for their collection routes by the Zero Waste Management Team. The Zero Waste dispatcher(s) are in constant communication with the drivers to ensure service levels are correct. If service levels are not corrected, Zero Waste Supervisor(s) |

## ATTACHMENT No. 1

| <b>Audit Title: Unified Vision of Zero Waste Activities Will Help Align Service Levels with Billing and Ensure Customer Equity</b>                                                                                                                                                                                                                                                                                                               |              |                                                                    |                                                                                                 |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------|--------------------------------------------------------------------|-------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Findings and Recommendations                                                                                                                                                                                                                                                                                                                                                                                                                     | Lead Dept.   | Agree, Partially Agree, or Do Not Agree and Corrective Action Plan | Expected or Actual Implementation Date                                                          | Status of Outstanding Audit Recommendations and Implementation Progress Summary                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| discrepancies.                                                                                                                                                                                                                                                                                                                                                                                                                                   |              |                                                                    |                                                                                                 | undertake appropriate corrective actions to ensure verification.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| 1.11 When drafting new franchise hauler agreements: <ul style="list-style-type: none"> <li>▪ Clearly define the fee calculation requirements.</li> <li>▪ Clearly define the type of financial data and reports that the haulers must submit to support their fee calculations. Create and enforce the use of standardized forms for the franchise haulers to use when remitting their fees to facilitate Public Works staff's review.</li> </ul> | Public Works | Agree                                                              | Originally Expected: December 2017<br><br><br><br><br><br><br><br><br><br><br><br><br>July 2019 | <p><b><u>September 20, 2016 Update</u></b><br/>The City has contracted with a consultant to assess development and implementation costs related to the City's planned in-house commercial hauling system, and evaluate the financial and operational impacts of that system on the City and on existing commercial customers. The study will look at future franchise agreements for waste collection services and will include these factors.</p> <p><b><u>January 23, 2018 Update</u></b><br/><b>Not Implemented</b><br/>The City Council approved a recommendation to replace the current non-exclusive franchise collection system for commercial refuse and recyclables with in-house commercial refuse and recycling collection services except for roll-off service. In FY19, Public Works' will be issuing an RFP to solicit a consultant to review all Transfer Station and residential and commercial community members' rates. Once contracted, the consultant will assess development and implementation costs related to redesigning the franchise commercial hauling system to provide for roll-off and compactor services. Then, the consultant will evaluate the financial and operational impacts of that system on the City and on existing commercial customers.</p> <p><b><u>January 23, 2018 Update</u></b><br/><b>Not Implemented</b><br/>No changes since last report, but progress continues on this item.</p> <p><b><u>September 25, 2018 Update</u></b><br/><b>Not Implemented</b><br/>No changes since last report, but progress continues on this item.</p> <p><b><u>March 12, 2019 Update</u></b><br/><b>Dropped</b><br/>With Zero Waste Division successful completion in March 2018 of the integration of commercial accounts (440 +) formerly collected under the existing Non-Exclusive Commercial Hauler Franchise Agreement system, revision of the existing system is not required. Zero Waste does not anticipate issuing new Franchise Agreements but will work with the three existing Franchisees during the next Franchise Agreement renewal process in 2020 to enhance reporting requirements. Public Works will also evaluate the published fees as set by resolution as listed in 9.60.260 of the Municipal Code.</p> |





**ATTACHMENT No. 1**

| <b>Audit Title: Unified Vision of Zero Waste Activities Will Help Align Service Levels with Billing and Ensure Customer Equity</b> |                   |                                                                           |                                               |                                                                                                                                                                                                                                                                                                                              |
|------------------------------------------------------------------------------------------------------------------------------------|-------------------|---------------------------------------------------------------------------|-----------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Findings and Recommendations</b>                                                                                                | <b>Lead Dept.</b> | <b>Agree, Partially Agree, or Do Not Agree and Corrective Action Plan</b> | <b>Expected or Actual Implementation Date</b> | <b>Status of Outstanding Audit Recommendations and Implementation Progress Summary</b>                                                                                                                                                                                                                                       |
|                                                                                                                                    |                   |                                                                           | June 2020                                     | <p><b><u>March 12, 2019 Update</u></b><br/> <b>Partially Alternately Implemented</b><br/>                     Given the roll-out issues associated with the November 1st implementation of the City's new enterprise resource planning system, "Erma", staff time has been rerouted to resolve. This project is on hold.</p> |







Mental Health Commission

CONSENT CALENDAR  
July 25, 2023

To: Honorable Mayor and Members of the City Council  
 From: Mental Health Commission  
 Submitted by: Monica Jones, Chairperson  
 Subject: Resolution to Adopt a City-Wide “Care First, Jails Last” Policy

RECOMMENDATION

Adopt a Resolution adopting a city-wide “Care First, Jails Last” policy that prioritizes the use and/or development of a continuum of care for individuals with mental illness, substance use, or co-occurring disorders rather than incarceration. Require City departments that have contact with the public to revise policies, procedures, and practices to reflect this priority and policy resolution. Require City Council to use this priority and policy resolution to inform budgetary priorities.

SUMMARY

Care First, Jails Last is a policy that is used nationwide – prioritizing the care of persons with mental illness and/or substance use disorders who allegedly commit crimes over their incarceration. In fact, in 2021, the Board of Supervisors for Alameda County adopted a similar “Care First, Jails Last” resolution, establishing a taskforce to create policies, procedures, and practices consistent with the resolution. The City of Berkeley needs to join Alameda County and other jurisdictions nationwide (like Los Angeles) in adopting a “Care First, Jails Last” policy resolution because (1) not all of the City’s Mental Health funding comes from the County so having its own resolution will ensure that the City will also follow a Care First, Jails Last resolution like the County of Alameda regardless of funding sources; (2) a Care First, Jails Last resolution is necessary for the success of other programs already under way such as the Specialized Care Unit (which will treat those in mental health and/or substance use crises without police); and (3) following Care First, Jails Last policy will lead to more cost-effective and overall successful outcomes than incarceration.

(<https://www.apa.org/monitor/julaug03/alternatives>; <https://www.nami.org/Blogs/NAMI-Blog/March-2021/The-Cost-of-Criminalizing-Serious-Mental-Illness> )

At the May 15<sup>th</sup> Mental Health Commission meeting the Mental Health Commission passed the following motions on a revised version of the Care First, Jails Last Resolution:

Resolution to Adopt a City-Wide “Care First, Jails Last” Policy

M/S/C (Opton, Prichett) Motion to omit the last sentence preceding the subtitle “Background” on Page 2, that starts with “The Mental Health Commission and ends with Policies”.

Ayes: Appel, Opton, Prichett, Kimber-Smith, Turner; Noes: None; Abstentions: None; Absent: Fine, Harrison, Jones.

M/S/C (Appel, Kimber-Smith) Motion to adopt this resolution with the omission on the one sentence.

Ayes: Appel, Opton, Prichett, Kimber-Smith, Turner; Noes: None; Abstentions: None; Absent: Fine, Harrison, Jones.

### FISCAL IMPACTS OF RECOMMENDATION

There will be minimal fiscal impacts to the City of Berkeley in choosing to provide “care” over “jails.” Indeed, the cost of the care for an individual in a crisis care center or other facility associated with care will not be billed to the City of Berkeley, but rather to Medi-Cal who finances treatment and services to our vulnerable and marginalized people. It is true that some of these care facilities only accept Medi-Cal (not private insurance); however, there are usually private insurance options available at other comparable facilities should this be needed. There may be minimal costs to the City in the form of staffing time so as to revise existing policies and procedures or to create new policies and procedures consistent with this resolution.

### CURRENT SITUATION AND ITS EFFECTS

At this time, the City of Berkeley does not have its own established diversion program (or a plan for one) that provides care (non-incarceration) options for those who have allegedly committed crimes and are experiencing mental health and/or substance use crises. People who have mental illness and/or substance use disorders and who allegedly commit crimes are taken to Santa Rita Jail. Making things worse, Santa Rita has recent history of Americans with Disabilities Act (ADA) violations resulting from their treatment of people with mental health disabilities.

<https://www.justice.gov/opa/pr/justice-department-finds-alameda-county-california-violates-americans-disabilities-act-and-us> (finding that those with mental illness at Santa Rita Jail would be better served by community-based alternatives). Likewise given the significantly higher suicide rate at Santa Rita Jail than most jails, based on the Department of Justice investigation into Santa Rita Jail, the City of Berkeley should consider the potential risks of placing people at these facilities when there is opportunity to offer alternatives. <https://www.justice.gov/crt/case-document/file/1388891/download> p. 25 (noting that from 2015 through 2019, there were at least 14 suicides in the Santa Rita Jail, which equates to a rate of suicides that is more than twice the national average in other jails).

A diversion program might, for example, allow those with misdemeanors committed while in the midst of a mental illness and/or substance use crisis to be placed in a care facility instead of in the County Jail. Currently, the City of Berkeley has no established

arrangements with local crisis stabilization, detox, and withdrawal management centers or other care facilities that could serve in this diversion role. However, there are such options. The Mental Health Commission has been conducting site visits to some of these options, including Amber House, located in Oakland (close to the Berkeley border and 12 minutes from downtown Berkeley). The Mental Health Commission believes Amber House (and other facilities like it) have the potential of being an excellent alternative to jail if an agreement could be reached between the City and Amber House.

### BACKGROUND

Alameda County’s “Care First, Jails Last” resolution has been effective since May 25, 2021, calling for a “just and equitable transformation of criminal justice, behavioral health, and wraparound services to reduce incarceration of people with mental illness, substance use, and co-occurring disorders in Santa Rita Jail.” Its 25-member body “charged with developing a county-wide implementation plan” has been meeting monthly for almost a year and a half. There is no clear “program” in place. There are budgetary priorities and draft plans. The approach uses that “Sequential Intercept Model” (SIM) approach which has been adopted by both the U.S. Department of Veterans Affairs and the Substance Abuse and Mental Health Services Administration (SAMHSA). This model is designed to look at various intercepts where “care” should be offered before or instead of “jail.” They include everything thing from arrest to sentencing to release in which mental health and/or substance use disorder supports could be offered to persons in need—thus placing care first when possible.

### ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

None

### RATIONALE FOR RECOMMENDATION

The City of Berkeley has not historically aimed to provide care as an alternative to incarceration. By reimagining public safety, Berkeley can embrace care for our vulnerable and marginalized populations. Additionally, we must recognize that these types of contemporary approaches are designed to improve well-being and bring our city closer to achieving equity among diverse groups. This recommendation is not a radical approach; it is a humane and common-sense goal that has been adopted by cities such as Los Angeles and counties such as Alameda County.

Additionally, this proposed recommendation will assist Berkeley’s Specialized Care Unit (SCU), when it goes into operation, by providing options for the teams who will offer non-police responses to those having mental health and/or substance use crises. One of the obstacles the SCU will face in helping those who have experienced mental health and/or substance use crises is to find the services to support them in the long-run. This resolution will commit Berkeley to focus on services over enforcement and care over jails. It is essential to making our SCU successful.

Resolution to Adopt a City-Wide "Care First, Jails Last" Policy

Finally, this proposed recommendation will highlight that there is a spectrum of mental health and/or substance use crises responses beyond either a 72-hour involuntary commitment to a hospital (5150) or being left on the streets, which is too often the choice our officers face. Hopefully, even in non-criminal situations our officers will recognize there are multiple care options to assist all who need help, no matter what degree of treatment required.

ALTERNATIVE ACTIONS CONSIDERED

Initially, the Mental Health Commission reviewed one particular County program: the CARES Navigation Center that is designed to address those with mental illness and/or substance use disorder who commit misdemeanors. In this situation, we would have our police officers bring persons from the City of Berkeley, who meet these criteria for the CARES Navigation Center, to this destination and they would receive care as opposed to jail. However, there have been concerns raised with the efficacy of the CARES Navigation Center (including the distance to travel there from Berkeley). More importantly, though, the Mental Health Commission believes we must serve all of those with mental illness and/or substance use disorders – not just those committing misdemeanors pre-booking. Rather we must provide care at all stages of the incarceration process, including pre-detention all the way to post-release support. This is how the benefits of care will truly be felt in our society.

CITY MANAGER

The City Manager has no objections with the content and recommendations of the Commission's Report. Given staffing and data challenges, it will be preferable if the impacted departments (HHCS and BPD) work collaboratively with the Mental Health Commission to identify the most relevant data sources, as well appropriate reporting frequency and start time for implementation.

CONTACT PERSON

Jamie Works-Wright, MHC Secretary, HHCS, 510-981-7721  
Monica Jones, Chairperson  
Mary-Lee Kimber Smith, Vice Chairperson

Attachments:

- 1: Resolution to adopt a city-wide "Care First-Jail Last" Policy

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

RESOLUTION TO ADOPT A CITY WIDE "CARE FIRST, JAIL LAST" POLICY

WHEREAS the City Council of the City of Berkeley acknowledges the need to reduce the number of people with mental illness, substance use and co-occurring disorders in our jails; and

WHEREAS the City Council of the City of Berkeley acknowledges that it is critical that we provide quality, affordable, accessible, and compassionate community-based mental health and substance use treatment options in order to reduce the number of people with mental illness, substance use and co-occurring disorders in our jails; and

WHEREAS the fundamental goal of a "Care First, Jails Last" policy is to develop a continuum of care that includes a full spectrum of treatment and housing, including preventative and outpatient services, inpatient acute and subacute facilities, licensed board and care homes, and other wraparound support services so that people with mental illness, substance use, and co-occurring disorders have a full opportunity to receive and live stable lives; and

WHEREAS the City Council of the City of Berkeley, recognizes the importance of responding to unprecedented and sustained calls from community members and behavioral health and criminal justice reform advocates to end law enforcement responses to health and social services' needs; and

WHEREAS the Care First, Jails Last policy is consistent with the goals and mission of our Reimagining Public Safety and the resulting Specialized Care Unit; and

WHEREAS the Mental Health Commission, established pursuant to California Welfare and Institutions Code 5604 et seq, is composed of 10 to 15 members. Fifty percent of the board membership shall be consumers or the parents, spouses, siblings, or adult children of consumers, who are receiving or have received mental health services. At least 20 percent of the total membership shall be consumers, and at least 20 percent shall be families of consumers. Pursuant to Berkeley City Council Resolution No. 65,945-N.S.: "The Commission shall...Review and evaluate the community's mental health needs, services, facilities, and special problems...Advise the governing body and the local mental health director as to any aspect of the local mental health program"; and

WHEREAS the COVID-19 public health and financial crisis has further highlighted the need to move away from criminalization, and to reduce our jail population and provide people with mental illness, substance use and co-occurring disorders with safe and community-based services; and

WHEREAS reducing the number of people with mental illness, substance use and co-occurring disorders and providing a quality, affordable, accessible, and compassionate community-based behavioral health continuum of care are racial justice issues; and

WHEREAS incarceration and insufficient mental health and substance use disorder services disproportionately impact Black residents in Berkeley; and

WHEREAS individuals with serious mental illness, substance use and co-occurring disorders are more likely to return to jail, experience deteriorated health, and cycle through the criminal justice system than those without serious mental illness; and

WHEREAS community-based behavioral health and substance use services have been proven to reduce crime and recidivism; and

WHEREAS jails spend two to three times more money on adults with mental illness who require intervention than on those without the same needs, with little or no improvement to public safety or individuals' health; and

WHEREAS community-based care for mental illness and/or substance use disorder is less expensive and more effective than treatment offered in a jail setting; and

WHEREAS both incarceration and insufficient quality, accessible behavioral health care services are linked to shortened life spans for people with mental illness, substance use, and co-occurring disorders; and

WHEREAS the Care First, Jails Last policy has demonstrated success in other jurisdictions, including Los Angeles County, in reducing incarceration and poor health outcomes of people with mental illness, substance use, and co-occurring disorders; and

WHEREAS it is critical to ensure that implementing a Care First, Jails Last policy allows those with lived experiences with the criminal justice system to meaningfully inform the recommendations for what a new system can look like.

NOW THEREFORE, BE IT RESOLVED that the City Council of the City of Berkeley, does hereby adopt a "Care First, Jails Last Policy" for just and equitable behavioral health care services and alternatives to incarceration that transform the city's systems of criminal justice, behavioral healthcare, and wraparound services including public benefits, social services, and housing to prioritize preventative, rehabilitative, health-focused programs; and

BE IT FURTHER RESOLVED that the work advancing the Care First, Jails Last policy must prioritize equity and inclusion frameworks in addressing racial, economic, and other disparities in the City of Berkeley's criminal justice, behavioral health, and wraparound support services systems; and

BE IT FURTHER RESOLVED that all the City of Berkeley's departments that have contact with the public, in particular Public Safety, Division of Mental Health and any other supportive services, shall revise existing policies and procedures and/or create new policies and procedures, to the extent necessary, so as to advance a Care First, Jails Last policy within one (1) year of the passage of this resolution and that these policies and procedures be publicly available online; and

BE IT FURTHER RESOLVED that the Division of Mental Health and the Berkeley Police Department take the recommendations of the Mental Health Commission into consideration with regard to facilities (such as the use of Amber House as a care facility) and other strategies for diversion; and

BE IT FURTHER RESOLVED that the work advancing the Care First, Jails Last policy shall be grounded in shared data from across the criminal justice, behavioral health, and other supportive services systems to the extent allowable by law; and

BE IT FURTHER RESOLVED that the Chief of Berkeley Police Department (BPD) shall publicly provide updates every three months for at least three (3) years (or longer if implementation is not complete) to the City Council as to (1) the revision of existing policies, procedures and practices and/or creation of new policies, procedures and practices to implement and advance the Care First, Jails Last policy; (2) the implementation of those policies, procedures and practices; and (3) aggregate data as to the number of transports to diversion locations, number of transports to jail, number of 5150s, and a listing of the services/places utilized for diversion, in an effort to uplift systemwide transparency and coordination; and

BE IT FURTHER RESOLVED that the Manager of the Division of Mental Health shall provide updates every three months for at least three (3) years (or longer if implementation is not complete) to the City Council as to the implementation progress of a Care First, Jails Last policy, specifically, (1) the revision of existing policies, procedures and practices and/or creation of new policies, procedures and practices to implement and advance the Care First, Jails Last policy; (2) the implementation of those policies, procedures and practices; and (3) any work being done to increase the number of or scope of providers in the City of Berkeley so as to increase the services available; and (4) any proposed new services and/or upgrades to existing services and the estimated costs to the City; and

BE IT FURTHER RESOLVED that in conjunction with adopting this "Care First, Jails Last" resolution, the City Council of the City of Berkeley directs a member of the Division of Mental Health to attend all the meetings of the Alameda County "Care First, Jails Last Task Force" and to report back to the Division of Mental Health on any opportunities or ideas about diversion from jails to care.







CONSENT CALENDAR  
July 25, 2023

To: Honorable Mayor and Members of the City Council  
 From: Councilmember Taplin and Councilmember Harrison  
 Subject: Young Lives Matter Foundation Walk for Peace: Relinquishment of Council Office Budget Funds from General Funds and Grant of Such Funds

RECOMMENDATION

Adopt a Resolution approving the expenditure of an amount not to exceed \$500 per Councilmember, including up to \$500 from Councilmember Taplin, to support the Young Lives Matter Foundation’s Walk for Peace with funds relinquished to the City’s general fund.

FINANCIAL IMPLICATIONS

No General Fund impact. \$500 is available from contributing Councilmember’s Council Office Budget discretionary accounts.

BACKGROUND

Berkeley Junior Jackets and their fiscal sponsor, Young Lives Matter Foundation, will be hosting a Walk For Peace at San Pablo Park on August 5 at 12:00pm. The walk, in collaboration with IMPOP (Important Minds Positive On Purpose), will highlight the solidarity among Berkeley’s Black community and youth enrichment programs in denouncing and preventing gun violence in our communities.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

None.

CONTACT PERSON

Councilmember Taplin      Council District 2      510-981-7120

Attachments:

- 1: Resolution
- 2: Event Flyer

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

AUTHORIZING THE EXPENDITURE OF SURPLUS FUNDS FROM THE OFFICE EXPENSE ACCOUNTS OF THE MAYOR AND COUNCILMEMBERS FOR A GRANT TO PROVIDE PUBLIC SERVICES FOR A MUNICIPAL PUBLIC PURPOSE

WHEREAS, Councilmember Taplin has surplus funds in his office expenditure account (budget code 011-11-102-100-0000-000-411); and

WHEREAS, a California non-profit tax exempt corporation Young Lives Matter Foundation seeks funds in the amount of \$500 to provide the following public services: Walk For Peace; and

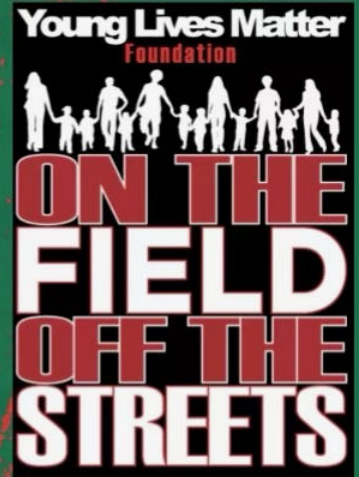
WHEREAS, the provision of such services would fulfill the following municipal public purpose: champion and demonstrate social and racial equity;

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that funds relinquished by the Mayor and Councilmembers from their Council Office Budget up to \$enter amount per office shall be granted to Young Lives Matter Foundation to fund the following services: Walk For Peace.

# YOUNG LIVES MATTER & BERKELEY PEACE PROJECT

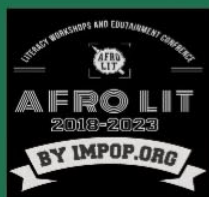
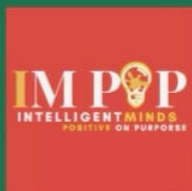
INVITES YOU TO

# LET'S WALK FOR PEACE TOGETHER



## SATURDAY, AUGUST 5, 2023

Meet Up: **SAN PABLO PARK** 12:00 PM  
2800 PARK ST, BERKELEY, CA





**BEN BARTLETT**

VICE MAYOR

CONSENT CALENDAR

July 25, 2023

To: Honorable Mayor and Members of the City Council  
 From: Vice Mayor Ben Bartlett (Author), Mayor Jesse Arreguin, Councilmember Kate Harrison (Co-Sponsor), and Councilmember Sophie Hahn (Co-Sponsor)  
 Subject: Resolution to Initiate Berkeley Farmers' Market Week

RECOMMENDATION

Adopt a resolution to officially proclaim the first week of August as Berkeley Farmers' Market Week.

CURRENT SITUATION

The community based farmers' markets, operated with the highest standards by the Ecology Center in Berkeley since 1989, are deeply ingrained in the city's culture, providing access to fresh fruits and vegetables for shoppers of all incomes, while advancing beginning farmers, veteran and women-owned farms, and supporting farmworkers in becoming farm owners. Furthermore, farmers' markets contribute to the economic vitality of the community by supporting a direct marketing system in which local and regional family farmers receive 90 cents of every dollar spent.

BACKGROUND

The City of Berkeley has long been on the forefront of the farm-to-table movement by recognizing the importance of local farmers' markets in promoting sustainable agriculture, fostering community connections, and supporting healthy, resilient food systems. In fact, the City of Berkeley passed one of the nations first "Food and Nutrition Policies" in 2001 and has worked to overcome food insecurity and health inequity while supporting California's most forward thinking farmers.

Farmers' markets have been a fundamental part of the cultural landscape within the City of Berkeley Community for several reasons. Farmers' markets serve as community gathering spaces: a space where neighbors can meet, share stories, learn about agriculture, and foster a strong sense of belonging and connectedness.

Additionally, farmers' markets have long served as an incubator and platform for food entrepreneurs and small businesses such as Blue Bottle Coffee, Cowgirl Creamery, Hodo Soy, the Fatted Calf, Red Bay Coffee and so many others, bolstering the regional and national economy.

Moreover, farmers' markets play a crucial role in supporting innovative family farmers to lead the way in sustainable, regenerative, biodiverse, organic, and biodynamic agriculture, by way of mitigating contributing to our global climate crisis and reducing the toxic impacts of pesticides on farmworkers, pollinators, ecosystems and drinking water.

RATIONALE FOR RECOMMENDATION

National Farmers' Market Week, celebrated annually during the first week of August, highlights the vital contributions of farmers' markets across the nation.

FISCAL IMPACTS

No impact on the general fund.

CONTACT PERSON

Vice Mayor Ben Bartlett  
James Chang  
Nina (Wenxin) Li  
Tina Posner

[bbartlett@cityofberkeley.info](mailto:bbartlett@cityofberkeley.info)  
[jchang@cityofberkeley.info](mailto:jchang@cityofberkeley.info)  
[wli@cityofberkeley.info](mailto:wli@cityofberkeley.info)  
510-981-7130

ATTACHMENT

1. Resolution

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

**WHEREAS**, the City of Berkeley has long been on the forefront of the farm-to-table movement by recognizing the importance of local farmers' markets in promoting sustainable agriculture, fostering community connections, and supporting healthy, resilient food systems; and

**WHEREAS**, the community based farmers' markets, operated with the highest standards by the Ecology Center in Berkeley since 1989, are deeply ingrained in the city's culture, providing access to fresh fruits and vegetables for shoppers of all incomes, while advancing beginning farmers, veteran and women-owned farms, and supporting farmworkers in becoming farm owners; and

**WHEREAS**, the City of Berkeley passed one of the nations first "Food and Nutrition Policies" in 2001 and has worked to overcome food insecurity and health inequity while supporting California's most forward thinking farmers; and

**WHEREAS**, Berkeley is committed to further fostering a healthy and resilient community, one that values access to nutritious, delicious, locally-sourced food for all its citizens; and

**WHEREAS**, farmers' markets contribute to the economic vitality of the community by supporting a direct marketing system in which local and regional family farmers receive 90 cents of every dollar spent; and

**WHEREAS**, farmers' markets have served as an incubator and platform for food entrepreneurs and small businesses such as Blue Bottle Coffee, Cowgirl Creamery, Hodo Soy, the Fatted Calf, Red Bay Coffee and so many others, bolstering the regional and national economy; and

**WHEREAS**, farmers' markets serve as community gathering spaces: a space were neighbors can meet, share stories, learn about agriculture, and foster a strong sense of belonging and connectedness; and

**WHEREAS**, farmers' markets play a crucial role in supporting innovative family farmers to lead the way in sustainable, regenerative, biodiverse, organic, and biodynamic agriculture, by way of mitigating contributing to our global climate crisis and reducing the toxic impacts of pesticides on farmworkers, pollinators, ecosystems and drinking water; and

**WHEREAS**, National Farmers' Market Week, celebrated annually during the first week of August, highlights the vital contributions of farmers' markets across the nation;

**NOW THEREFORE, BE IT RESOLVED** that, I, Jesse Arreguín, Mayor of the City of Berkeley, do hereby affirm Berkeley's commitment to healthy sustainable food systems and call upon all residents, businesses, and community organizations to join in celebrating the abundance, diversity, and sustainability of our local farmers' markets, do hereby proclaim August 6-12, 2023 as

BERKELEY FARMERS' MARKET WEEK

The foregoing Resolution was adopted by the Berkeley City Council on **[Date]** by the following vote

Ayes

Noes

Absent

Attest

\_\_\_\_\_  
, City Clerk

\_\_\_\_\_  
Jesse Arreguin, Mayor





Susan Wengraf  
Councilmember District 6

CONSENT CALENDAR  
July 25, 2023

To: Honorable Mayor and Members of the City Council

From: Councilmember Wengraf (author), Councilmember Harrison (co-sponsor), Councilmember Hahn (co-sponsor), Mayor Arreguin (co-sponsor)

Subject: Commemoration of the 100<sup>th</sup> Anniversary of the 1923 Berkeley Fire: Relinquishment of Council Office Budget Funds from General Funds and Grant Such Funds

RECOMMENDATION

Adopt a Resolution approving the expenditure of an amount not to exceed \$500 per Councilmember or Mayor, including \$500 from Councilmembers Wengraf and Harrison, to support the City's Commemoration of the 100<sup>th</sup> Anniversary of the 1923 Berkeley Fire with funds relinquished to the City's general fund. The relinquishment of funds from Councilmembers Wengraf and Harrison's discretionary Council Office Budgets and all other Councilmembers and Mayor who would like to contribute will support a community fair with family friendly activities, including historical and educational displays and activities for the 1923 Fire Commemoration on September 17, 2023.

FINANCIAL IMPLICATIONS

No General Fund impact: up to \$500 is available from contributing Councilmember's and the Mayor's Office Budget discretionary accounts.

BACKGROUND

On September 23, 1923, a grass fire on the eastern slope of the Berkeley hills spread quickly as it was fueled by Diablo winds, destroying 640 structures, including 584 homes on the northside of the UC campus. When the winds finally calmed down the fire was contained at the corner of Shattuck and Hearst. Embers from the flames created smaller fires throughout the downtown and western area of Berkeley. As a result, thousands of residents became homeless including 1,000 UC Berkeley students.

To commemorate the 100<sup>th</sup> anniversary of this devastating fire, several COB departments and external grassroots organizations are working together to plan a day of activities and learning opportunities. The groups involved in planning the event include Councilmembers Hahn, Harrison and Wengraf, COB Fire, COB Parks, Berkeley Historical Society, BAHA and Berkeley Path Wanderers, FireWise groups and the Berkeley FireSafe Council.

The proposed community fair at Live Oak Park will include family friendly activities for children, an exhibit, a walking tour of homes that survived the fire, an evacuation exercise, interactive games with firefighters, exploring the paths in the burned area, and booths for organizations to distribute relevant information and educational materials. Fire trucks will be available for young children to sit on for photos.

The commemoration of the 100<sup>th</sup> year anniversary of the 1923 Fire is an important opportunity and sober reminder of the risks Berkeley faces, as well as an occasion to come together as a community and learn how to become a more resilient and fire safe city.

The fiscal sponsor for these donations will be The Hillside Association of Berkeley, a 501c3 non-profit in the State of California and affiliate of the Berkeley Fire Safe Council.

ENVIRONMENTAL SUSTAINABILITY

Wildfire is devastating to the environment, and one of the largest contributors of greenhouse gases. Work towards fire safety supports environmental sustainability.

CONTACT PERSON

Councilmember Wengraf

Council District 6

510-981-7160

Attachments:

1: Resolution

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

AUTHORIZING THE EXPENDITURE OF SURPLUS FUNDS FROM THE OFFICE EXPENSE ACCOUNTS OF COUNCILMEMBERS WENGRAF AND HARRISON, OTHER COUNCILMEMBERS AND THE MAYOR FOR A GRANT TO PROVIDE PUBLIC SERVICES FOR A MUNICIPAL PUBLIC PURPOSE

WHEREAS, Councilmember Wengraf and Councilmember Harrison have surplus funds in their office expenditure accounts and will each contribute \$500, and invite the Mayor and other Councilmembers to join them in contributing; and

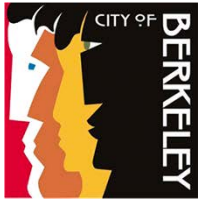
WHEREAS, a California nonprofit tax-exempt corporation, The Hillside Association of Berkeley, affiliate of the Berkeley Fire Safe Council, will receive funds in an amount up to \$500 per contributing Councilmember's and the Mayor's discretionary accounts; and

WHEREAS, these funds will go towards Commemorating the 100<sup>th</sup> Anniversary of the 1923 Berkeley Fire, to include a community fair at Live Oak Park with family friendly activities, educational information and historical displays about the September 17, 1923 fire; and

WHEREAS, the provision of such funds would fulfill the municipal public purpose of honoring the devastation the community and city endured from the 1923 fire, and coming together as a community to learn how to become a more resilient and fire safe city.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that funds relinquished by the Mayor and Councilmembers from their Office Budgets, up to \$500 per office, shall be granted to the Hillside Association of Berkeley, affiliate of the Berkeley Fire Safe Council, to fund the Commemoration of the 100<sup>th</sup> Anniversary of the 1923 Berkeley Fire on September 17, 2023.





CITY COUNCILMEMBER  
**RIGEL ROBINSON**  
 DISTRICT 7

CONSENT CALENDAR  
 July 25, 2023

To: Honorable Mayor and Members of the City Council

From: Councilmember Rigel Robinson (Author), Councilmember Sophie Hahn (Co-Sponsor), Councilmember Mark Humbert (Co-Sponsor), Mayor Jesse Arreguin (Co-Sponsor)

Subject: Resolution Supporting the Unionization of Peet's Coffee Workers

RECOMMENDATION

Adopt a Resolution in support of workers at Peet's Coffee unionizing under the Industrial Workers of the World IU 460

BACKGROUND

In June 2023, three East Bay Peet's Coffee locations, including the Telegraph and Dwight location in Berkeley, joined a growing movement of union organizing in the food and beverage industry and filed petitions for union elections under the Industrial Workers of the World IU 460 with the National Labor Relations Board (NLRB).<sup>1</sup>

Peet's Coffee workers have expressed frustration with wage stagnation, understaffing, and unsafe working conditions, and have filed for a union election to address these issues. Their demands include fair worker compensation, expanded and accessible worker benefits, safe workplace environments, and stringent accountability standards for management.<sup>2</sup>

Peet's Coffee has been an integral part of Berkeley's history and culture ever since it opened its first store on Vine Street in 1966. The City of Berkeley has long been a supporter of workers' rights, including the right to organize and choose to join a union. The unionization efforts at Peet's Coffee play an important role in furthering that support for workers at a company with such a rich history in Berkeley and the Bay Area.

FINANCIAL IMPLICATIONS

None.

ENVIRONMENTAL SUSTAINABILITY

None.

---

<sup>1</sup><https://www.berkeleyside.org/2023/06/12/peets-coffee-union-efforts-oakland-berkeley>

<sup>2</sup> <https://www.peetslaborunion.org/our-demands>

CONTACT PERSON

Councilmember Rigel Robinson, (510) 981-7170  
Rachel Alper, Legislative Assistant

Attachments:

1: Resolution

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

## RESOLUTION SUPPORTING THE UNIONIZATION OF PEET'S COFFEE WORKERS

WHEREAS, workers at three Peet's Coffee locations in the East Bay, including the location at Dwight Way and Telegraph Avenue in Berkeley, have filed a petition for a union election under the Industrial Workers of the World IU 460 with the National Labor Relations Board (NLRB); and

WHEREAS, Peet's Coffee workers put their own health at risk by working tirelessly through the COVID-19 State of Emergency to serve Berkeley residents; and

WHEREAS, Peet's workers are demanding fair worker compensation, expanded and accessible worker benefits, safe workplace environments, and stringent accountability standards for management; and

WHEREAS, unionization allows frontline service workers — disproportionately women, Black and Latinx workers, and other disadvantaged groups — to fight for fair pay and working conditions when these conditions are not being met by management; and

WHEREAS, workers across the country at major chains including Starbucks, Trader Joe's and Amazon have recently won major union victories; and

WHEREAS, the first established Peet's Coffee location is located in Berkeley and Peet's Coffee is headquartered nearby in Emeryville; and

WHEREAS, it is incumbent upon Peet's Coffee management to strengthen its commitment to its workers and to the Berkeley community; and

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that Peet's Coffee management is urged to recognize the union representation petitions submitted by its employees seeking to unionize under the Industrial Workers of the World IU 460.

BE IT FURTHER RESOLVED that the Council of the City of Berkeley supports the unionization efforts of the Peet's Labor Union and the unionization efforts of underpaid essential workers in Berkeley and across the country.







Office of the City Manager

PUBLIC HEARING  
July 25, 2023

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: Jordan Klein, Director, Planning and Development  
 Subject: Amendments to Title 23 Relating to Accessory Dwelling Units (ADUs) and Repeal of Chapter 12.99 to Conform to State Law and Respond to Guidance from the California Department of Housing and Community Development

RECOMMENDATION

Conduct a public hearing and, upon conclusion, adopt the first reading of an Ordinance amending Berkeley Municipal Code (BMC) Title 23, and repealing BMC Chapter 12.99, relating to Accessory Dwelling Units and Junior Accessory Dwelling Units.

SUMMARY

Staff have prepared amendments to Title 23 (Zoning) of the BMC in response to: (a) recent changes in state laws pertaining to Accessory Dwelling Units (ADUs) and Junior Accessory Dwelling Units (Junior ADUs) that took effect on January 1, 2023, and (b) feedback from the California Department of Housing and Community Development (HCD) finding that the City of Berkeley's current ADU Ordinance does not comply with state law.

The proposed Zoning Ordinance amendments (Attachment 1) and the repeal of Chapter 12.99 (Wildfire Hazard Evacuation Risk Mitigation Ordinance) per HCD guidance will bring the City's ADU Ordinance into compliance with current state law and address concerns raised in HCD's letter to the City, dated October 17, 2022.

FISCAL IMPACTS OF RECOMMENDATION

The proposed amendments are intended to simplify the planning review process and facilitate the development of ADUs and Junior ADUs in accordance with state law. The proposed amendments may result in a modest decrease in staffing-related expenditures due to streamlined review.

CURRENT SITUATION AND ITS EFFECTS

A local ADU ordinance supports the City's Strategic Plan goal to create affordable housing and housing support services for our most vulnerable community members. Over the past five years, Berkeley has adopted four comprehensive ADU Ordinance amendments in order to maintain compliance with changing State ADU law. Between

2018 and 2022, the City issued 528 building permits for ADUs and Junior ADUs, and entitled an average of 78 ADU permits per year.

On October 17, 2022, the City received a letter from HCD (Attachment 2) stating that it had reviewed the City's current ADU Ordinances (BMC Sections 23.306 and 12.99, the "Ordinances") and found that the Ordinances do not comply with Government Code Section 65852.2.

### **Efficiency Kitchen Definition**

HCD found a discrepancy between the definition of "Efficiency Kitchen" contained within Ordinance No. 7,797-N.S. (Chapter 23.306) and Government Code §65852.22(a)(6)(A) and requested that the City remove the sink requirement from its zoning definition, as well as the reference to a working refrigerator in the definition of a "Junior Accessory Dwelling Unit."

### **Wildfire Hazard Evacuation Risk Mitigation Ordinance**

Regarding Ordinance No. 7,799-N.S (Chapter 12.99), HCD found that the City did not make adequate findings with respect to ADU and Junior ADU development impacts on traffic flow and public safety when the City adopted limitations on ADU and Junior ADU development in the Hillside Overlay zoning district.

HCD asserts that the traffic simulation study referenced in Chapter 12.99 is not specific to ADUs and Junior ADUs and therefore cannot be used to justify the restriction on the number of ADUs in the Hillside Overlay. Additionally, the traffic simulation study does not provide data on how many lots are likely to add ADUs and Junior ADUs, does not identify specific impacts new ADUs and Junior ADUs may have on evacuations, and does not account for the potential for ADUs and Junior ADUs to be excluded from requiring a parking space given the availability of public transit in the Hillside Overlay. Furthermore, HCD adds that even if the City adequately justified the restriction of ADUs and Junior ADUs, it may not justify restrictions on ADUs or Junior ADUs that fall under subdivision (e) of Government Code section 65852.2, because local development standards do not apply to ADUs created under that subdivision. Government code section 65852.2, subdivision (e) requires local agencies to ministerially approve building permit applications for the creation of ADUs and Junior ADUs within any residential or mixed-use zone, subject only to specific limitations.

Regarding BMC Section 12.99.030 – Total Number of Units Permitted, HCD asserts that the City's decision to limit the number of units allowed per lot in the Hillside Overlay to one ADU or one Junior ADU conflicts with Government Code Section 65852.2, subdivisions (e)(1)(A), (B), (C), and (D), which requires a local agency to ministerially approve an application for a building permit within a residential or mixed-use zone to create one ADU and one Junior ADU per lot. Lines (A) through (D) of subdivision (e) identify the following ADU categories:

- (A) One ADU and one Junior ADU within the proposed space of a single-family dwelling, or existing space of a single-family dwelling or accessory structure

- (B) One detached, new construction ADU
- (C) Multiple ADUs within the portions of existing multifamily dwelling structures that are not used as livable space
- (D) Not more than two ADUs that are located on a lot that has an existing or proposed multifamily dwelling, but are detached from that multifamily dwelling

### **State Law Updates**

In addition to HCD's letter, on January 1, 2023, the most recent round of state ADU regulations came into effect, impacting maximum height limits, prohibiting front setback standards that would preclude at least an 800 square foot ADU, and requiring internal connections between Junior ADUs and main dwelling units.

Staff recommend making the following amendments to Title 23 of the BMC:

1. Remove standards that provide a distinction between parcels within and outside of the Hillside Overlay, and apply non-Hillside Overlay ADU standards citywide where residential uses are permitted;
2. Bring the City's zoning code into compliance with current State ADU law, including SB 897, AB 2221, and AB 2097, and respond to HCD's letter; and
3. Clarify and/or correct minor technical edits associated with the related Ordinance sections, and edit for consistency with the existing BMC.

Public safety remains a significant concern regarding increasing density in the Hillside Overlay. To address these concerns, staff are working with the Fire Department to collect additional data on the health and safety impacts of increased development in the Hillside Overlay.

On March 14, 2023, the Fire Department was authorized by the City Manager to execute a contract with KLD Engineering, P.C., for Evacuation and Response Time Modeling from April 1, 2023 through June 30, 2024 as part of an effort to collect data and forecast the number of vehicles and people that may need to be evacuated during a wildfire or other emergency.<sup>1</sup> The study will also be analyzing how major evacuation routes will operate under emergency conditions, and whether there would be any public safety impacts resulting from projected development of new ADUs and Junior ADUs, including parking and additional vehicular travel in the Very High Fire Hazard Severity Zone.

In addition to this study, the City is in the process of updating the Local Hazard and Mitigation Plan and Disaster Preparedness and Safety Element, which will similarly provide an opportunity to collect data and engage community members.

Together, the data collected from the evacuation study as well as input received from community members could enable the City Council to make the findings to support the

---

<sup>1</sup> <https://berkeleyca.gov/sites/default/files/documents/2023-03-14%20Item%2004%20Contract%20KLD%20Engineering.pdf>

reinstitution of controls on ADU development in the Hillside Overlay. Staff plan to bring the Fire Department’s study findings, as well as other research and community engagement findings, back to Planning Commission and City Council by Summer 2024.

**Proposed Ordinance**

The Ordinance recommended by the Planning Commission would amend Title 23 of the BMC as follows:

**23.106 Rules of Measurement**

Consistent with the provisions of Subdivision (c) in Government Code 65852.2, staff propose amending 23.106.020(B) and 23.106.030(D) to exclude up to 800 square feet of area associated with an existing or proposed ADU or Junior ADU from lot coverage and gross floor area calculations. Presently, once an ADU is built, it counts towards lot coverage and gross floor area, which can mean that even minor future additions to the main dwelling would require an Administrative Use Permit (AUP). By amending 23.106.020(B) and 23.106.030(D) to exclude up to 800 square feet of ADU area, the regulation is consistent with state law, removes a barrier to development, and aligns with the State’s goal of streamlining the development of ADUs.

In addition, staff propose amending 23.106.090(A) to exempt attached ADUs from inclusion in average building height calculations. This would allow for residences, in particular those on a slope, to add an attached ADU without technically increasing the average building height and thereby limiting the ability to make other structural changes in the future.

**23.306 Accessory Dwelling Units (Organization)**

The proposed Ordinance simplifies the ADU chapter by consolidating seven sections into four, maintaining consistency with other chapters of Title 23 (see Table 1).<sup>2</sup>

*Table 1: Chapter 23.306 - Existing and Proposed Sections*

| Existing Sections                         | Proposed Sections                 |
|-------------------------------------------|-----------------------------------|
| 23.306.010– Purposes                      | 23.306.010– Purpose               |
| 23.306.020– Applicability and Definitions | 23.306.020– Applicability         |
| 23.306.030– Permit Procedures             | 23.306.030– Development Standards |
| 23.306.040– Development Standards         | 23.306.040– Permit Procedures     |
| 23.306.050– Deed Restrictions             |                                   |
| 23.306.060– Neighbor Noticing             |                                   |
| 23.306.070– Rooftop Decks and Balconies   |                                   |

The proposed Ordinance adds a reference to the latest California Government Code Section 65852.1 and removes subsection (f) which states that the purpose of the chapter is to reduce potential impacts of new development in the Very High Fire Hazard

<sup>2</sup> The proposed ordinance includes Deed Restrictions and Neighbor Noticing under Section 23.306.040 (Permit Procedures), and Rooftop Decks and Balconies under Section 23.396.030 (Development Standards).

Severity Zones (VHFHSZ), Wildland-Urban Interface Fire Areas, and Hillside Overlay. This complies with HCD’s finding that the current Ordinances do not meet the requirements of state law.

**23.306.020 Accessory Dwelling Units (Applicability)**

The proposed Ordinance removes subsection (b), which defines the Hillside Overlay for the purposes of the ADU chapter, and removes the reference to Chapter 12.99 to comply with HCD’s finding that the City does not sufficiently justify the creation of a separate set of regulations for the Hillside Overlay.

The proposed amendment includes a new subsection clarifying that ADUs and Junior ADUs do not count towards density calculations established by the underlying zoning districts. This is consistent with HCD guidance in the HCD ADU Handbook Update<sup>3</sup>.

Staff also propose amending the maximum number of units permitted on a lot with a duplex or multi-family dwelling to allow for two detached ADUs and at least one interior ADU (see Table 2). In 2022, HCD changed its interpretation regarding the total number of ADUs that "must" be allowed by local governments on any given parcel. Whereas in the 2020 ADU Handbook, HCD wrote that "local governments are not required to allow (A) and (B) together or (C) and (D) together," in the July 2022 ADU Handbook, HCD rewrote that "local governments must allow (A) and (B) together or (C) and (D) together." Although this change in HCD's interpretation is not supported by any corresponding change in state law, the proposed Ordinance is drafted to be consistent with HCD's new interpretation for lots with a duplex or multi-family dwelling.

*Table 2: Existing and Proposed Maximum Density Standards on a Lot with a Duplex or Multi-Family Dwelling*

| Existing Maximum Density                                                                                                                                                                                                                                                                                                                                                                                                                                                   | Proposed Maximum Density                                                                                                                          |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------|
| Either:<br>a. Up to two detached ADUs; <u>or</u><br>b. At least one ADU converted from non-habitable portions of the existing Main Building that are not within the living space of a Dwelling Unit (e.g. basement, attic, garages storage room). The maximum number of ADUs converted from portions of the existing Main Building that are not within the living space of a Dwelling Unit shall not exceed 25% of the total number of existing Dwelling Units on the lot. | Two detached ADUs <u>and</u> at least one interior ADU up to 25% of the total number of existing duplex or multi-family dwelling units on the lot |

<sup>3</sup> July 2022 HCD ADU Handbook. <https://www.hcd.ca.gov/sites/default/files/2022-07/ADUHandbookUpdate.pdf>.

**23.306.030 Accessory Dwelling Units (Development Standards)**

In response to HCD’s letter and to bring the development standards section into compliance with state law, staff propose removing standards that are specific to parcels located in the Hillside Overlay. Instead, the development standards will apply to ADUs and Junior ADUs citywide.

Staff also recommend a number of technical revisions to the development standards section, including removing Junior ADU standards from the development standards table and including all relevant information in subsection (B), and replacing footnotes from the development table with a subsection for supplemental standards.

Within subsection (C), staff propose technical edits to amend the provisions pertaining to building projections into yards to align with other sections of the code and in response to Planning Commission’s recommendation. This includes permitting bay windows and balconies to project two feet into the required setbacks so long as there remains at least a two-foot setback from front and side property lines, and does not permit bay windows and balconies to project into the required rear ADU setback, which is four feet. This would allow for ADUs to benefit from the same projection allowances as single-family homes of the same size, while still ensuring that the projections are a reasonable distance from the property lines.

In addition to these technical revisions, a number of the standards have been changed to match state law. Tables 3 and 4 provide the proposed development standards and the rationale informing the recommended changes. This table does not include all ADU development standards; it only includes the standards that are proposed to be amended.

*Table 3: Proposed Revisions to ADU Development Standards & Rationale*

| Basic Standard             | Proposed Standards                                                                                                         | Rationale/Intent                                                                                                                                                                                                                                                                      |
|----------------------------|----------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Building Height, Maximum   | Detached, New Construction – 20 ft.                                                                                        | Increase the maximum building height for Attached, New Construction from 20 ft. to 25 ft. to match state law (SB 897). The current 20 ft. maximum building height for Detached, New Construction already exceeds the 18 ft. and 2 ft. roof pitch accommodation required by state law. |
|                            | Attached, New Construction – 25 ft.                                                                                        |                                                                                                                                                                                                                                                                                       |
| Lot Line Setbacks, Minimum | Front of Interior Lot – Same as underlying district                                                                        | Add a standard for front setbacks on through lots to ensure that there are standards for such parcels, consistent with existing regulations for accessory buildings.                                                                                                                  |
|                            | Front of Through Lot - Same as underlying district or 10 ft. on the secondary frontage as determined by the Zoning Officer |                                                                                                                                                                                                                                                                                       |

|                                               |                                          |                                                                                                                                                                            |
|-----------------------------------------------|------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Building Separation for Detached ADU, Minimum | 3 ft.                                    | Add a minimum building separation standard (in addition to below “Detached or Attached ADU” supplemental standard) for consistency with standards for Accessory Buildings. |
| Required Off-Street Parking Spaces            | See 23.322.030 – Required Parking Spaces | Move to BMC 23.322 – Parking and Loading to be consistent with other parking standards.                                                                                    |

*Table 4: Proposed Revisions to ADU Development Supplemental Standards & Rationale*

| <b>Supplemental Standard</b>          | <b>Proposed Standards</b>                                                                                                                                                                   | <b>Rationale/Intent</b>                                                                                                                                                                         |
|---------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| State Exemption ADU                   | No lot coverage, floor area ratio, open space, front setback, or minimum lot size standard in the underlying district shall preclude at least an 800 square foot ADU.                       | Match state law.                                                                                                                                                                                |
| Junior ADU Shared Sanitation Facility | If a Junior ADU shares a sanitary facility with a single-family dwelling, an internal connection between the Junior ADU and the main living area of the single-family dwelling is required. | Match state law.                                                                                                                                                                                |
| Junior ADU Floor Area                 | The Junior ADU gross floor area calculation excludes any shared sanitation facility with the single-family dwelling.                                                                        | Clarify the rules of measurement for gross floor area if a sanitation facility is shared.                                                                                                       |
| Detached or Attached ADU              | If an ADU is located within 3 feet of an exterior wall of a main building, it is considered attached.                                                                                       | Establish a Building Separation standard for Detached ADU, Minimum (see also “Building Separation for Detached ADU, Minimum” above).                                                            |
| Attached ADU, New Construction        | Attached ADUs with height up to 25 feet are permitted with a Zoning Certificate.                                                                                                            | Eliminate the requirement for AUP approval for ADUs to achieve maximum permitted height to conform with state law and in response to Planning Commission recommendation. (GOV 65852.2(c)(2)(D). |

Figure 1 – Examples of Additions Over 14 ft. Containing Attached ADUs




**23.306.040 Accessory Dwelling Units (Permit Procedures)**

Currently it is required that notice of an ADU application shall be mailed to owners and tenants of the subject, adjacent, confronting and abutting properties within ten working days of submission of a building permit to the Planning Department, and shall include



the project address, allowable hours of construction, a link to the City’s ADU webpage, and information for tenants of the subject property on how to contact a Rent Board Housing Counselor. The cost of materials, postage, and staff time is paid for by the applicant – currently a fixed fee of \$460.

Figure 2 – Existing ADU Notice (Front and Back)



Planning and Development Department  
Land Use Planning Division  
1947 Center Street, 2<sup>nd</sup> Floor  
Berkeley, CA 94704

**Post and Mail Date:**  
**Month X, 2023**

## NOTICE OF APPLICATION: ACCESSORY DWELLING UNIT (ADU)

**BP#B2023-XXXXX**  
**Address**

**Applicant Contact Information**  
**Applicant Full Name**  
**Phone number**  
**Email address**

**Permit information and status may be viewed online:**  
<https://permits.cityofberkeley.info/CitizenAccess/Default.aspx>

«Next Record» «NAME1»  
«NAME2»  
«ADDRESS1» «ADDRESS2»

### NOTICE OF APPLICATION: Accessory Dwelling Unit (ADU)

The City received an application to construct an accessory dwelling unit(s) at the property listed on the front of this postcard. Zoning review and approval of the application will be based on the objective criteria found in State law and local regulations, including Chapters 23.306 and 12.99 of the Berkeley Municipal Code (BMC).

For questions about the design and construction of the proposed ADU, please contact the applicant listed on the front of this application notice.

Construction noise is only allowed between 7:00 a.m. – 7:00 p.m. on weekdays, and 9:00 a.m. – 8:00 p.m. on weekends and legal holidays. (BMC 13.40.070). For complaints about construction noise, please contact Environmental Health at [envhealth@cityofberkeley.info](mailto:envhealth@cityofberkeley.info), or (510) 981-5310.

Tenants of the subject property may contact a Rent Board Counselor by email at [rent@cityofberkeley.info](mailto:rent@cityofberkeley.info), or at (510) 981-RENT (510-981-7368).

Additional information about ADUs is available online at: <https://berkeleyca.gov/ADU> or by contacting the Land Use Planning Division at [planning@cityofberkeley.info](mailto:planning@cityofberkeley.info) or (510) 981-7400.

The requirement for neighbor noticing presents a number of challenges for applicants and members of the public. ADU permits are building permits, and plans associated with building permit applications are protected under copyright law, and cannot be printed out or shared online with members of the public (unlike plans associated with zoning permits). For neighbors interested in seeing proposed ADU plans, this means that they must visit the Permit Service Center in-person and look at the plans accompanied by a staff member. Additionally, ADU permits are non-discretionary permits, so members of the public cannot appeal a conforming proposed ADU. The noticing procedure can create an expectation that there is a discretionary review process involved, and there is not.

In order to address these concerns, Planning Commission recommended amendments to the neighbor noticing requirements as follows:

1. **Require mailing a notice to tenants of the subject property only.** The Planning Commission recommended amending the Ordinance to provide notice only to tenants of the subject property. Staff propose requiring project applicants to attest to whether any tenants live on site as part of the project application. The presence of tenants would trigger the mailing of a notice to tenants of the subject property.
2. **Increase clarity of the notice.** The Planning Commission recommended more clearly indicating the non-discretionary nature of the permit and noting that permit and construction information and resources can be found on the City's ADU webpage.

### ***23.322.020 Parking and Loading (Applicability)***

Staff propose amending BMC Tables 23.322-1, 23.322-2, and 23.322-4 to relocate off-street parking standards for ADUs in Residential, Commercial, and Manufacturing Districts into the Parking and Loading chapter of the BMC (previously specified in Chapter 23.306). Required parking for ADUs within the Hillside Overlay remains one parking space per ADU unless it is located within 0.5 miles of a transit stop as defined in Government Code Section 65852.2<sup>4</sup> or otherwise satisfies subdivision (d) of the same section.

### ***23.322.080 Parking Layout and Design (Placement)***

Staff propose the creation of a new subsection (G) in BMC 23.322.080 to provide guidance on parking placement for ADUs, and includes the following parking placement exceptions:

---

<sup>4</sup> "Public transit" means a location, including, but not limited to, a bus stop or train station, where the public may access buses, trains, subways, and other forms of transportation that charge set fares, run on fixed routes, and are available to the public.  
[https://leginfo.legislature.ca.gov/faces/codes\\_displaySection.xhtml?sectionNum=65852.2&lawCode=GOV](https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=65852.2&lawCode=GOV)

- a. On a lot with an existing or proposed ADU, replacement of required off-street parking for the main building or required off-street parking for an ADU, is allowed in any configuration on the lot, including within the front yard setback; or
- b. Within the Hillside Overlay on a lot with an existing or proposed ADU, where no legal off-street parking exists for the main building, required parking provided for the main building is allowed in any configuration on the lot, including within the front yard setback.

Currently, parking flexibility only applies to replacement parking for main dwelling units and new parking provided for an ADU. To account for ADU projects seeking to provide new parking spaces for both the main dwelling and the ADU, staff propose allowing for the same flexibility in lot configuration for the main dwelling unit's proposed new parking space as is allowed for the ADU's parking space. Encouraging off-street parking in the Hillside Overlay can partially mitigate safety and evacuation access concerns.

### ***23.324.060 Exemptions to Nonconforming Uses, Structures, and Buildings***

In the current zoning code, minor alterations of nonconforming structures within required setbacks, such as for windows and doors, require an AUP. To reduce the administrative costs associated with providing new openings for ADUs, staff propose allowing by right openings to lawful nonconforming existing structures or buildings that are proposed to be converted to an ADU. Staff proposes to add BMC 23.324.060(C) to include the following standards:

**C. Accessory Dwelling Units.** The following alterations of a lawful nonconforming existing structure or building that is an existing ADU or proposed to be converted to an ADU are permitted with a Zoning Certificate:

1. New windows, doors, or other openings to a portion of a building or structure within a minimum required setback.
2. New windows, doors, or other openings to a portion of a building or structure exceeding the height limit.

### ***23.502.020 Defined Terms***

**Junior ADU.** Staff propose relocating the definition for "Junior Accessory Dwelling Unit" within the definition of "Accessory Dwelling Unit" and striking out the reference to a working refrigerator in response to HCD's findings.

**Addition, Major Residential.** Staff propose amending the definition for "Addition, Major Residential" to add a subsection that exempts the floor area associated with an existing or proposed accessory dwelling unit or junior accessory dwelling unit, up to 800 square feet. This would eliminate the requirement for an AUP to add an ADU or Junior ADU to a house, thus matching the State's intent of streamlining the processing of ADU development.

**Efficiency Kitchen.** Staff propose amending the definition of an “Efficiency Kitchen” by removing the requirement for a sink to match the State’s definition and in response to HCD’s findings.<sup>5</sup> Note that while kitchen sinks are required in dwelling units, Junior ADUs are not required to have a sink because they do not meet the definition of a “dwelling unit” in California Building Code Section 202.<sup>6</sup>

**New Construction.** Staff propose amending the definition of “New Construction” to include ADUs, in addition to new main buildings.

## BACKGROUND

On May 3, 2023, the Planning Commission held a public hearing to consider proposed amendments to Title 23 developed by staff (**Attachment 3**). Following public comment and a discussion, the Planning Commission unanimously recommended staff’s proposal with three modifications, which were incorporated into the proposed amendments as follows:

1. **Regulating bay window and balcony projections using setback requirements.** The Commission recommended a technical edit to permit bay windows and balconies on all ADUs outside the Hillside Overlay, with projections measured by setback distance from the property line. Staff previously recommended separate standards for attached versus detached ADUs, with attached ADUs permitted to project two feet into the required setbacks as long as there remains at least a two-foot setback from property lines. In this recommendation, detached ADUs were not permitted to have projections. However, the Commission found that the goal of allowing for more flexibility with projections while also limiting proximity of a dwelling unit to the property line could be achieved more simply by regulating projections for *all* ADUs using property setbacks.
2. **Revising Neighbor Noticing requirements for clarity and efficiency.** The Commission recommended revising the neighbor noticing requirement so that public notices for ADUs link to the City’s ADU webpage and identify additional permit and construction information, and only need to go to tenants on the subject property. Staff amended the noticing requirements accordingly. Staff plan to further revise the existing ADU notice to clearly communicate the non-discretionary nature of the permit, in accordance with the Commission’s recommendations.
3. **Removing the AUP requirement for attached ADUs proposed as additions to streamline ADU building permit applications.** Planning Commission recommended allowing for attached ADUs to reach maximum allowable height

<sup>5</sup> The only other reference to an “efficiency kitchen” in the Berkeley Municipal Code pertains to the definition of a Junior ADU.

<sup>6</sup> California Building Code Section 202, <https://codes.iccsafe.org/content/CARC2022P1/chapter-2-definitions>.

without requiring an AUP to match the State's goal of streamlining the ADU development process.

### ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

ADUs are generally low impact infill development that have the potential to decrease vehicles miles traveled and greenhouse gas emissions and increase availability of housing near various community amenities, the university campus, transit services and employment opportunities.

*Environmental Determination.* The project is statutorily exempt from the California Environmental Quality Act by Guidelines Section 15282(h), the adoption of an ordinance regarding second units in a single-family or multifamily residential zone by a city or county to implement the provisions of Sections 65852.1 and 65852.2 of the Government Code as set forth in Section 21080.17 of the Public Resources Code.

### RATIONALE FOR RECOMMENDATION

The proposed Zoning Ordinance amendments to Title 23 relating to ADUs are required to ensure that the Zoning Ordinance conforms to all applicable state laws and addresses HCD's letter to the City, dated October 17, 2022.

### ALTERNATIVE ACTIONS CONSIDERED

The Planning Commission considered a range of amendments and recommended modifications in response to feedback and deliberations, as discussed above.

### CONTACT PERSON

Zoe Covello, Assistant Planner, Planning and Development Department, 510-981-7418  
Grace Wu, Principal Planner, Planning and Development Department, 510-981-7484

### Attachments:

- 1: Zoning Ordinance
- 2: HCD's Letter, dated October 17, 2022
- 3: Staff Report from May 3, 2023 Planning Commission Meeting
- 4: Notice of Public Hearing



ORDINANCE NO. -N.S.

REPEAL OF THE WILDFIRE HAZARD EVACUATION RISK MITIGATION ORDINANCE (BMC 12.99), AND AMENDMENTS TO THE RULES OF MEASUREMENT (BMC 23.106), ACCESSORY DWELLING UNIT (ADU) ORDINANCE (BMC 23.306), PARKING AND LOADING (BMC 23.322), EXEMPTIONS TO NONCONFORMING USES, STRUCTURES, AND BUILDINGS (BMC 23.324.060), AND DEFINED TERMS (BMC 23.502.020) RELATING TO ADUS

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

Section 1. That Berkeley Municipal Code Chapter 12.99 is hereby repealed.

Section 2. That Berkeley Municipal Code 23.106.020(B) is amended to read as follows:

B. *Exclusions.* The lot coverage calculation excludes:

1. Uncovered porches, landings and stairs;
2. Uncovered decks, except that a deck on the roof of a building or accessory structure or over an enclosed space or paved ground area is included in the lot coverage calculation; and
3. The area of the roof of a subterranean structure, when such a structure is not more than 3 feet above finished grade.
4. [The area of any existing or proposed accessory dwelling unit or junior accessory dwelling unit, up to 800 square feet per lot. See 23.306 Accessory Dwelling Units.](#)

Section 3. That Berkeley Municipal Code 23.106.030(D) is amended to read as follows:

D. *Excluded Areas.* The following areas are excluded from gross floor area calculation:

1. Covered or uncovered areas used for off-street parking or loading spaces.
2. Driveways ramps between floors and maneuvering aisles of a multi-level parking garage.
3. Mechanical, electrical, and telephone equipment rooms below finished grade.
4. Areas which qualify as usable open space.
5. Arcades, porticoes, and similar open areas for non-residential uses which are:
  - (a) Located at or near street level;
  - (b) Accessible to the general public; and

- (c) Are not designed or used as sales, display, storage, service, or production areas.

6. The floor area associated with any existing or proposed accessory dwelling unit or junior accessory dwelling unit, up to 800 square feet per lot. See 23.306 Accessory Dwelling Units.

Section 4. That Berkeley Municipal Code 23.106.090(A)(1) through (3) is amended to read as follows:

A. *Average Building Height.*

1. Average Building Height: The vertical distance from the average level of the highest and lowest point of that portion of the lot covered by the building (or, in the case of residential additions, that portion of the lot covered by the addition) to the roof features shown in Table 23.106-1: Average Building Height Measurement. See Figure 23.106-4: Average Building Height.
- ~~2. Figure 23.106-4: Average Building Height.~~
2. Dormers are not included in the average building height calculation.
3. Attached accessory dwelling units are not included in the average building height calculation.

Section 5. That Berkeley Municipal Code 23.306 is amended to read as follows:

**Sections:**

- 23.306.010– Purposes
- 23.306.020– Applicability ~~and Definitions~~
- 23.306.030– Development Standards~~Permit Procedures~~
- 23.306.040– Permit Procedures~~Development Standards~~
- ~~23.306.050– Deed Restrictions~~
- ~~23.306.060– Neighbor Noticing~~
- ~~23.306.070– Rooftop Decks and Balconies~~

**23.306.010 Purpose~~s~~.**

~~The purposes of this Chapter are to~~ This Chapter establishes accessory dwelling unit (ADU) and junior accessory dwelling unit (Junior ADU) standards that:

- A. Implement California Government Code Section 65852.1, 65852.2 and 65852.22.
- B. Increase overall supply and range of housing options in Berkeley.
- C. Expedite small-scale infill development.



- D. Support Housing Element goals of facilitating construction of accessory dwelling units and increasing the number of housing units that are more affordable to Berkeley residents.
- E. Encourage development of accessory dwelling units in zoning districts with compatible land uses and infrastructure.

~~F. Reduce potential impacts of new development in Very High Fire Hazard Severity Zones and Wildland Urban Interface Fire Areas as designated in the BMC Chapter 19.48 and as may be amended from time to time, and the Hillside Overlay District (HOD) due to unique conditions and hazards within these areas that require additional restrictions on ADUs and JADUs because of impacts of traffic flow and public safety consistent with Government Code 65852.2, subdivision (a)(1)(A), which allows local agencies to regulate ADUs based on "adequacy of water and sewer service, and the impacts of traffic flow and public safety."~~

**23.306.020 Applicability and Definitions.**

A. The provisions of this chapter apply to zoning districts where residential uses are permitted, on lots that have at least one existing or proposed Dwelling Unit or Group Living Accommodation that is not a Fraternity House, Sorority House or Dormitory.

~~B. For purposes of this Chapter the Hillside Overlay District (HOD) includes all lots within Berkeley's designated Very High Fire Hazard Severity Zones and Wildland Urban Interface Fire Areas that are zoned R-1H (Single Family Residential—Hillside Overlay), R-2H (Restricted Two Family Residential—Hillside Overlay), R-2AH (Restricted Multiple Family Residential—Hillside Overlay), or ES-R (Environmental Safety Residential).~~

~~B. Number of ADUs and JADUs Permitted Per Lot. See Table 23.306-1—ADU and Junior ADU Maximum Number of Units per Lot. Except as expressly modified by Chapter 12.99, the following number of ADUs and JADUs shall be the maximum number of accessory units permitted on lots subject to this Chapter.~~

~~C. Density Exemption. ADUs and Junior ADUs are not included in the minimum or maximum density established by the underlying zoning district.~~

TABLE 23.306-1—ADU AND JUNIOR ADU MAXIMUM NUMBER OF UNITS PER LOT

| <u>Use, Primary</u>                                      | <u>ADU and Junior ADU, Maximum Per Lot</u>                                                                                                      |
|----------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------|
| <u>Single Family Dwelling, one unit on lot</u>           | <u>1 ADU and 1 Junior ADU, both are permitted</u>                                                                                               |
| <u>Single Family Dwelling, more than one unit on lot</u> | <u>1 ADU</u>                                                                                                                                    |
| <u>Duplex or Multi-Family Dwelling</u>                   | <u>2 detached ADUs and at least one interior ADU up to 25% of the total number of existing duplex or multi-family dwelling units on the lot</u> |

|                                   |              |
|-----------------------------------|--------------|
| <u>Group Living Accommodation</u> | <u>1 ADU</u> |
|-----------------------------------|--------------|

- ~~1. Lot with one Single Family Dwelling: One ADU and/or one JADU.~~
- ~~2. Lot with more than one Single Family Dwelling: One ADU.~~
- ~~3. Lot with a Duplex or Multiple Family Dwelling, either:
 
  - ~~(a) Up to two detached ADUs; or~~
  - ~~(b) At least one ADU converted from non-habitable portions of the existing Main Building that are not within the living space of a Dwelling Unit (e.g. basement, attic, garages storage room). The maximum number of ADUs converted from portions of the existing Main Building that are not within the living space of a Dwelling Unit shall not exceed 25% of the total number of existing Dwelling Units on the lot.~~~~
- ~~4. Lot with a Group Living Accommodation that is not a Fraternity House, Sorority House or Dormitory: One ADU~~

**23.306.030 Permit Procedures.**

- ~~A. Zoning Certificate. An application for an ADU or JADU shall be allowed with a Zoning Certificate. Review must be completed within 60 days of submission of a completed application. A completed application must include evidence of compliance with this Chapter, including Development Standards, Deed Restrictions, and Neighborhood Noticing.~~
- ~~1. If an application to create an ADU or JADU is submitted as part of a project that requires discretionary review, a Zoning Certificate for a Building Permit shall not be issued for the ADU or JADU until the discretionary approval(s) has/have been granted and any applicable appeal periods have expired.~~
  - ~~2. Issuance of a Zoning Certificate shall not be denied for the construction or conversion of an ADU or JADU that complies with the requirements of Government Code Section 65852.2(e)(1).~~
  - ~~3. Issuance of a Zoning Certificate for the construction or conversion of an ADU or JADU shall not be denied based on the failure of an applicant to correct a nonconforming zoning condition.~~

**23.306.0340 Development Standards.**

A. *Basic Standards.* See Table 23.306-24: ADU ~~and JADU~~ Development Standards.

TABLE 23.306-24. ADU ~~AND JADU~~ DEVELOPMENT STANDARDS

| <u>BASIC STANDARDS</u>           | <u>SUPPLEMENTAL STANDARDS</u> |
|----------------------------------|-------------------------------|
| <u>Gross Floor Area, Maximum</u> | <u>23.306.030(A)(1);</u>      |

|                                                               |                                                                                                                     |                                                                       |
|---------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------|
| <a href="#">Studio or 1 bedroom</a>                           | <a href="#">850 sq. ft.</a>                                                                                         | <a href="#">23.306.030(A)(2);</a>                                     |
| <a href="#">2+ bedrooms</a>                                   | <a href="#">1,000 sq. ft.</a>                                                                                       | <a href="#">23.306.030(A)(3);</a><br><a href="#">23.306.030(A)(4)</a> |
| <a href="#">Building Height, Maximum</a>                      |                                                                                                                     |                                                                       |
| <a href="#">Conversion</a>                                    | <a href="#">Same as existing structure</a>                                                                          | <a href="#">23.306.030(A)(2);</a><br><a href="#">23.306.030(A)(4)</a> |
| <a href="#">Detached, New Construction</a>                    | <a href="#">20 ft.</a>                                                                                              | <a href="#">23.306.030(A)(5)</a>                                      |
| <a href="#">Attached, New Construction</a>                    | <a href="#">25 ft.</a>                                                                                              | <a href="#">23.306.030(A)(5);</a><br><a href="#">23.306.030(A)(7)</a> |
| <a href="#">Lot Line Setbacks, Minimum</a>                    |                                                                                                                     |                                                                       |
| <a href="#">Front of Interior Lot</a>                         | <a href="#">Same as underlying district</a>                                                                         | <a href="#">23.306.030(A)(1)</a>                                      |
| <a href="#">Front of Through Lot</a>                          | <a href="#">Same as underlying district or 10 ft. on the secondary frontage as determined by the Zoning Officer</a> | <a href="#">23.306.030(A)(6)</a>                                      |
| <a href="#">Rear</a>                                          | <a href="#">4 ft.</a>                                                                                               |                                                                       |
| <a href="#">Interior Side</a>                                 | <a href="#">4 ft.</a>                                                                                               |                                                                       |
| <a href="#">Street Side</a>                                   | <a href="#">4 ft.</a>                                                                                               |                                                                       |
| <a href="#">Building Separation for Detached ADU, Minimum</a> | <a href="#">3 ft.</a>                                                                                               | <a href="#">23.306.030(A)(5)</a>                                      |
| <a href="#">Required Off-Street Parking Spaces</a>            | <a href="#">See 23.322.030– Required Parking Spaces</a>                                                             |                                                                       |

1. [State Exemption ADU](#). No lot coverage, floor area ratio, open space, front setback, or minimum lot size standard in the underlying district shall preclude at least an 800 square foot accessory dwelling unit.
2. [Existing Building Conversion](#). An ADU created entirely through conversion with no modifications to the existing building envelope that exceeds the development standards for maximum gross floor area in Table 23.306-2. ADU Development Standards is allowed a physical addition of no more than 150 square feet. The addition must comply with maximum height and setback requirements.
3. [Duplex or Multi-Family Dwelling Conversion](#). Interior ADU(s) must be created entirely through non-habitable residential portions of the existing main building that are not within the living space of a dwelling unit (e.g. basement, attic, garages, storage room).
4. [Accessory Building or Accessory Structure Conversion](#). An ADU converted from an accessory building or accessory structure legally established at least three years prior to submission of an ADU application that does not comply with the maximum height, size, and/or rear and side setback requirements is allowed to maintain non-conformity to the same dimensions of the existing accessory building or accessory structure, provided that the existing side and rear setbacks are sufficient for fire and safety as set forth in California Building Standards Code adopted in BMC Title 19. Any physical additions to the existing accessory

building or accessory structure shall comply with the development standards in Table 23.306-2 ADU Development Standards.

5. Detached or Attached ADU. Detached ADUs shall maintain a minimum 3-foot separation from other buildings on the lot. If an ADU is located within 3 feet of an exterior wall of a main building, it is considered attached for the purposes of applying the development standards in Table 23.306-2 ADU Development Standards.

6. Detached ADU Setback Exceptions. If there is a lesser setback allowed in 23.304.060-Accessory Buildings and Enclosed Accessory Structures for a comparable accessory building or accessory structure in the underlying zoning district, that setback shall apply.

4.7. Attached ADU, New Construction Height. Attached ADUs with height greater than 14 ft. and up to 25 ft. allowed with a Zoning Certificate.

|                                                       | <b>ADU<sup>1</sup></b>                                  | <b>JADU</b>       |
|-------------------------------------------------------|---------------------------------------------------------|-------------------|
| <del>Maximum Size Outside of HOD<sup>2</sup></del>    |                                                         | 500-sf            |
| <del>Studio or 1 bedroom</del>                        | 850-sf                                                  | N/A               |
| <del>2+ bedrooms</del>                                | 1000-sf                                                 |                   |
| <del>Maximum Size Within HOD</del>                    | 800-sf                                                  | 500-sf            |
| <del>Maximum Height Outside of HOD</del>              | 20 ft.                                                  | N/A               |
| <del>Maximum Height Within HOD</del>                  | 16 ft.                                                  |                   |
| <del>Front Yard Setback</del>                         | Same as underlying district                             |                   |
| <del>Rear Setback</del>                               | 4 ft <sup>3</sup>                                       |                   |
| <del>Side Setback</del>                               | 4 ft <sup>3</sup>                                       |                   |
| <del>Required Off-Street Parking Outside of HOD</del> | None <sup>4</sup>                                       |                   |
| <del>Required Off-Street Parking Within HOD</del>     | The lesser of 1 space per bedroom or ADU <sup>5,6</sup> | None <sup>6</sup> |

~~[1] An ADU converted from an Accessory Building or Accessory Structure legally established at least three years prior to submission of an ADU application that does not comply with the Maximum Height, Size, and/or Rear and Side Setback requirements is allowed to maintain non-conformity to the same dimensions of the existing Accessory Building or Accessory Structure, provided that the existing side and rear setbacks are sufficient for fire and safety as set forth in California Building Standards Code adopted in BMC Title 19. Any physical additions to the existing Accessory Building or Accessory Structure shall comply with the development standards in this table.~~

~~[2] An ADU created entirely through conversion with no modifications to the existing building envelope that exceeds the development standards for Maximum Size in this table is allowed a~~

~~physical addition of no more than 150 square feet. The addition must comply with Maximum Height and Setback requirements in this table.~~

~~[3] If there is a lesser setback allowed for a comparable Accessory Building or Accessory Structure in the underlying zoning district, that setback shall apply.~~

~~[4] Replacement parking is not required. Replacement of off-street parking for the Main Building is allowed and does not need to comply with Parking Maximums (BMC 23.322.070) nor Parking Layout and Design (BMC 23.322.080).~~

~~[5] No off-street parking shall be required for ADUs that satisfy the criteria defined in subdivision (d) of California Government Code section 65852.2 or any successor provision thereto.~~

~~[6] If an applicant provides off-street parking for an ADU or a JADU in the HOD, parking shall be allowed in any configuration on the lot, including within the front yard setback.~~

## B. Junior ADUs.

1. Basic Standards. A Junior ADU shall be contained entirely within an existing or proposed single family dwelling or its attached garage, and have no more than 500 square feet in floor area.
2. Shared Sanitation Facility. If a Junior ADU shares a sanitary facility with a single family dwelling, an internal connection between the Junior ADU and the main living area of the single family dwelling is required.
3. Junior ADU Floor Area. The Junior ADU gross floor area calculation excludes any shared sanitation facility with the single family dwelling.

## ~~B. Projections.~~

## C.

~~— Except as limited by Paragraph B.2 of this Section, architectural features (Outside of the Hillside Overlay.~~

1. ~~Attached ADU.~~ Chimneys, wWater hHeater eEnclosures, fFlues, hHeating and cCooling eEquipment, eEaves, cCornices, cCanopies, aAwnings, bay windows, and balconies) may project two feet into the required front and side setbacks, so long as there remains at least a two-foot setback from property lines. Bay windows and balconies may not project into a required rear ADU setback.
2. Within the Hillside Overlay. No projections shall be allowed within atthe required setback ~~on lots that are within the Hillside Overlay District.~~

~~C.D. Rooftop Decks within the Hillside Overlay.~~ Roofs on detached ADUs within the Hillside Overlay may not be designed, converted, or used as usable open space.

**23.306.0450 Permit Procedures Deed Restrictions.**

A. Zoning Certificate. An application for an ADU or Junior ADU shall be allowed with a Zoning Certificate. Review must be completed within 60 days of submission of a completed application. A completed application must include evidence of compliance with this Chapter, including development standards, deed restrictions, and neighborhood noticing.

1. If an application to create an ADU or Junior ADU is submitted as part of a project that requires discretionary review, a Zoning Certificate for a building permit shall not be issued for the ADU or Junior ADU until the discretionary approval(s) has/have been granted and any applicable appeal periods have expired. See 23.404.060(A) Post-Decision Provisions (Effective Dates).
2. Issuance of a Zoning Certificate shall not be denied for the construction or conversion of an ADU or Junior ADU that complies with the requirements of Government Code Section 65852.2(e)(1).
3. Issuance of a Zoning Certificate for the construction or conversion of an ADU or Junior ADU shall not be denied based on the failure of an applicant to correct a nonconforming zoning condition.

B. Neighbor Noticing.

1. Scope and Timing of Notice. Notice of an ADU application shall be mailed to tenants- ~~of owners and tenants of the subject, adjacent, confronting and abutting properties~~ the subject property within ten working days of submission of the building permit to the ~~Planning Department~~City.
2. Content of Notice. Notice shall provide the address of the project and include allowable hours of construction, a link to the City's ADU webpage identifying permit and construction resources, and contact information for a Rent Board Housing Counselor.
- 4.3. Mailing Fees. The applicant shall be responsible for the cost of materials, postage, and staff time necessary to process and mail the notices.

D.C. Deed Restriction. The property owner shall file a deed restriction with the Alameda County Recorder which states:

1. The Junior ADU shall not be sold separately from the main building;
2. The ADU shall not be sold separately from the main building unless the conditions of BMC 23.306.0450(D) ADUs Developed by a Qualified Nonprofit Developer ~~B~~ are met;
3. The ADU and/or Junior ADU shall not be rented for a term that is shorter than 30 days; and

4. If the property includes a Junior ADU, the Junior ADU, or the Single Family Dwelling in which the Junior ADU is located, shall be owner-occupied.

**E.D. ADUs Developed by a Qualified Nonprofit Developer.** An ADU built or developed by a "qualified nonprofit corporation" may be sold or conveyed separately from the mMain bBuilding to a "qualified buyer," as such terms are defined in subdivision (b) of Section 65852.26 of the California Government Code. The ADU must be held pursuant to a recorded tenancy in common agreement recorded on or after December 31, 2021 that includes the following elements:

1. Delineation of all areas of the property that are for the exclusive use of a cotenant;
2. Delineation of each cotenant's responsibility for the costs of taxes, insurance, utilities, general maintenance and repair, and improvements associated with the property;
3. Procedures for dispute resolution among cotenants before resorting to legal action;
4. Allocates to each qualified buyer an undivided, unequal interest in the property based on the size of the dwelling each qualified buyer occupies;
5. A repurchase option that requires the qualified buyer to first offer the qualified nonprofit corporation to buy the ADU or primary dwelling if the buyer desires to sell or convey the property;
6. A requirement that the qualified buyer occupy the ADU or primary dwelling as the buyer's principal residence; and
7. Affordability restrictions on the sale and conveyance of the ADU or primary dwelling that ensure the ADU and primary dwelling will be preserved for low-income housing for 45 years for owner-occupied housing units and will be sold or resold to a qualified buyer.
8. If requested by a utility providing service to the primary residence, the ADU shall have a separate water, sewer, or electrical connection to that utility.

~~9. 23.306.060—Neighbor Noticing.~~

~~10. Scope and Timing of Notice. Notice of an ADU application shall be mailed to owners and tenants of the subject, adjacent, confronting and abutting properties within ten working days of submission to the Planning Department.~~

~~11. Content of Notice. Notice shall provide the address of the project, allowable hours of construction, a link to the City's ADU webpage, and information for tenants of the subject property on how to contact a Rent Board Housing Counselor by e-mail or phone and any other resource information deemed relevant.~~

~~12. Mailing Fees. The applicant shall be responsible for the cost of materials, postage and staff time necessary to process and mail notices.~~

~~13. 23.306.070—Rooftop Decks and Balconies.~~

~~14. Notwithstanding any provisions of this Title to the contrary, roofs on lots within the Hillside Overlay District may not be designed, converted or used as Usable Open Space.~~

Section 6. That Berkeley Municipal Code 23.322.020(C) is amended to read as follows:

C. *Changes of Use.*

1. *Commercial Districts.* In the Commercial Districts, off-street parking is required for a change in use only when the structure is expanded to include new floor area.
2. *Manufacturing and R-SMU Districts.*
  - (a) In the Manufacturing and R-SMU districts, off-street parking is required for a change in use only when:
    - i. The structure is expanded to include new floor area; and/or
    - ii. The use is changed to one with a numerical parking standard greater than the district minimum.
  - (b) If the new use is changed to one with a higher numerical parking standard than the district minimum, the new use must provide the incremental difference between the two numerical parking standards. A higher numerical parking standard may be reduced to the district minimum as provided in Section 23.322.050(A)(2) (Change of Use).
  - (c) As used in this section, the “district minimum” parking requirement is:
    - iii. 2 spaces per 1,000 square feet of floor area in the Manufacturing Districts; and
    - iv. 1 space per 1,000 square feet of floor area in the R-SMU district.
3. *All Other Residential Districts.* In all Residential Districts except for R-SMU, off-street parking spaces are required for all changes in use.

Section 7. That the section named; Residential Uses; in Berkeley Municipal Code Table 23.322-1, Required Off Street Parking in Residential Districts, within Berkeley Municipal Code 23.322.030, Required Parking Spaces, is amended to read as follows:



TABLE 23.322-1: REQUIRED OFF-STREET PARKING IN RESIDENTIAL DISTRICTS

| Land Use                                                                                          | Number of Required Off-street Parking Spaces                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
|---------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Residential Uses</b>                                                                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| Accessory Dwelling Unit                                                                           | <a href="#">Junior ADU: None required</a><br><a href="#">ADU outside of Hillside Overlay: None required</a><br><a href="#">ADU within Hillside Overlay: 1 per ADU unless satisfies the criteria in subdivision (d) of Government Code Section 65852.2. <del>See Chapter 23.306</del></a>                                                                                                                                                                                                                                 |
| Dwellings, including Group Living Accommodations                                                  | <u>R-3, R-4, and R-5 Districts (1-9 units):</u> If located on a roadway less than 26 <del>feet</del> in width in the Hillside Overlay: 1 per unit.<br><u>R-3, R-4, and R-5 District (10 or more units):</u> If located on a roadway less than 26 <del>feet</del> in width in the Hillside Overlay: 1 per 1,000 sq. ft. of gross floor area<br><u>All Other Districts:</u> If located on a roadway less than 26 <del>feet</del> in width in the Hillside Overlay: 1 per unit<br><u>All Other Locations:</u> None required |
| Dormitories, Fraternity and Sorority Houses, Rooming & Boarding Houses, Senior Congregate Housing | <u>If located on a roadway less than 26 <del>feet</del> in width in the Hillside Overlay:</u> 1 per each 5 residents, plus 1 for manager.<br><u>All Other Locations:</u> None required.                                                                                                                                                                                                                                                                                                                                  |
| Rental of Rooms                                                                                   | <u>If located on a roadway less than 26 <del>feet</del> in width in the Hillside Overlay:</u> 1 per each two roomers<br><u>All Other Locations:</u> None required                                                                                                                                                                                                                                                                                                                                                        |

Section 8. That Berkeley Municipal Code Table 23.322-2 is amended to read as follows:

TABLE 23.322-2: REQUIRED OFF-STREET PARKING REQUIREMENTS IN COMMERCIAL DISTRICTS (EXCLUDING C-T)

| Land Use                                         | Required Parking Spaces                                                                                                                               |
|--------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Residential Uses</b>                          |                                                                                                                                                       |
| Accessory Dwelling Unit                          | <del>See Chapter 23.306</del> <a href="#">None required</a>                                                                                           |
| Dwellings, including Group Living Accommodations | <u>If located on a roadway less than 26 <del>feet</del> in width in the Hillside Overlay:</u> 1 per unit<br><u>All Other Locations:</u> None required |
| Hotel, Residential                               | None required                                                                                                                                         |
| Mixed-Use Residential                            | None required                                                                                                                                         |

| <b>Land Use</b>                                                           | <b>Required Parking Spaces</b>                                                                                                                                                                                                  |
|---------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| (residential use only)                                                    |                                                                                                                                                                                                                                 |
| Senior Congregate Housing                                                 | None required                                                                                                                                                                                                                   |
| <b>Non-Residential Uses</b>                                               |                                                                                                                                                                                                                                 |
| All non-residential uses except uses listed below                         | <u>C-DMU District</u> : 1.5 per 1,000 sq. ft.<br><u>All Other Commercial Districts</u> : 2 per 1,000 sq. ft.                                                                                                                    |
| Hospital                                                                  | 1 per each 4 beds plus 1 per each 3 employees                                                                                                                                                                                   |
| Library                                                                   | <u>C-DMU District</u> : 1.5 per 1,000 sq. ft.<br><u>All Other Commercial Districts</u> : 1 per 500 sq. ft. of publicly accessible floor area                                                                                    |
| Nursing Home                                                              | 1 per 3 employees                                                                                                                                                                                                               |
| Medical Practitioners                                                     | <u>C-DMU District</u> : 1.5 per 1,000 sq. ft.<br><u>All Other Commercial Districts</u> : 1 per 300 sq. ft.                                                                                                                      |
| Hotels, Tourist                                                           | <u>C-DMU District</u> : 1 per 3 guest/sleeping rooms or suites<br><u>C-C, C-U, C-W Districts</u> : 1 per 3 guest/sleeping rooms or suites plus 1 per 3 employees<br><u>All Other Commercial Districts</u> : 2 per 1,000 sq. ft. |
| Motels, Tourist                                                           | <u>C-DMU District</u> : 1 per 3 guest/sleeping rooms or suites<br><u>C-C, C-U, C-W Districts</u> : 1 per guest/sleeping room plus 1 for owner or manager [1]<br><u>All Other Commercial Districts</u> : 2 per 1,000 sq. ft.     |
| Large Vehicle Sales and Rental                                            | <u>C-DMU District</u> : 1.5 per 1,000 sq. ft.<br><u>C-SA District</u> : 1 per 1,000 sq. ft.<br><u>All Other Commercial Districts</u> : 2 per 1,000 sq. ft.                                                                      |
| Small Vehicle Sales and Service                                           | <u>C-DMU District</u> : 1.5 per 1,000 sq. ft.<br><u>C-SA District</u> : 1 per 1,000 sq. ft.<br><u>All Other Commercial Districts</u> : 2 per 1,000 sq. ft.                                                                      |
| Manufacturing                                                             | <u>C-DMU District</u> : 1.5 per 1,000 sq. ft.<br><u>C-W District</u> : 1 per 1,000 sq. ft [1]<br><u>All Other Commercial Districts</u> : 2 per 1,000 sq. ft.                                                                    |
| Wholesale Trade                                                           | <u>C-DMU District</u> : 1.5 per 1,000 sq. ft.<br><u>C-W District</u> : 1 per 1,000 sq. ft<br><u>All Other Commercial Districts</u> : 2 per 1,000 sq. ft.                                                                        |
| Live/Work                                                                 | If workers/clients are permitted in work area, 1 per first 1,000 sq. ft. of work area and 1 per each additional 750 sq. ft. of work area                                                                                        |
| <b>Notes:</b><br>[1] Spaces must be on the same lot as building it serves |                                                                                                                                                                                                                                 |

Section 9. That the section named; Residential Uses; in Table 23.322-4, Required Off Street Parking in Manufacturing Districts, within Berkeley Municipal Code 23.322.030, Required Parking Spaces, is amended to read as follows:

TABLE 23.322-4: REQUIRED OFF-STREET PARKING IN MANUFACTURING DISTRICTS

| Land Use                   | Required Parking Spaces                                     |
|----------------------------|-------------------------------------------------------------|
| <b>Residential Uses</b>    |                                                             |
| Accessory Dwelling Unit    | <del>See Chapter 23.306</del> <a href="#">None required</a> |
| Dwellings                  | None required                                               |
| Group Living Accommodation | None required                                               |

Section 10. That Berkeley Municipal Code 23.322.080 is amended to read as follows:

### **23.322.080– Parking Layout and Design**

#### *A. Traffic Engineering Requirements.*

1. All off-street parking spaces, access driveways, circulation patterns, and ingress and egress connections to the public right-of-way must conform to the City of Berkeley's Traffic Engineering requirements.
2. The Traffic Engineer shall determine whether the size, arrangement, and design of off-street parking spaces, access driveways, circulation patterns, and ingress and egress connections to the public right-of-way are adequate to create usable, functional, accessible, and safe parking areas, and are adequately integrated with Berkeley's overall street pattern and traffic flows.

*B. Dimensional Standards.* Dimensional requirements and standards for off-street parking spaces, driveways, and other access improvements, and maneuvering aisles shall be incorporated in administrative regulations, subject to the review and approval by the City Manager and ZAB.

*C. Access Orientation in Non-Residential Districts.* Access to new parking areas in a Non-Residential District that serve commercial uses shall be oriented in such a way as to minimize the use of streets serving primarily residential uses.

[D. Residential Parking Lots in Non-Residential Districts. Parking lots in a non-residential district used exclusively for residential parking must comply with standards in Section 23.322.080 that apply in Residential Districts.](#)

~~D.E.~~ [Placement--Residential Districts.](#)

1. *Side Setback Areas.*

- (a) One new off-street parking space in a required side setback area, where none exists, is allowed by right.
- (b) The space must be constructed of a permeable surface unless the Public Works Department or Office of Transportation determines it is infeasible.
- (c) The space must be screened as required by 23.322.080.HG (Screening).
- (d) The location of the space shall minimize impact on usable open space.

2. *Other Setback Areas.* No portion of an off-street parking space may be located in a required front, street side, or rear setback area unless:

- (a) The parking space location is authorized by Chapter 23.306 (Accessory Dwelling Units); or
- (b) The Zoning Officer approves an AUP, in consultation with the Traffic Engineer, and the space meets all applicable requirements in this section.

3. *Multifamily Buildings.*

- (a) An off-street parking space may not be located closer than 10 feet in horizontal distance from a door or a window of a building with three or more dwelling units where the space is on the same or approximately the same level as the building.
- (b) For the purposes of this section, a window whose bottom edge or point is more than 6 feet in vertical height from the level of the subject off-street parking space is not considered on the same or approximately the same level.
- (c) The Zoning Officer may approve an AUP to grant an exception to this requirement.

E.F. *Placement--Non-Residential Districts.*

- 1. *Where Prohibited.* Except when otherwise allowed by this chapter, ground-level off-street parking spaces are not permitted within 20 feet of the lot's street frontage unless the parking is entirely within a building with walls.
- 2. *Corner Lots.* For a corner lot, the ZAB may approve a Use Permit to allow the parking within 20 feet of the street frontage facing the secondary street.
- 3. *C-W District.*
  - (a) Off-street automobile parking in the C-W district is not permitted between the front lot line and a main structure within a designated node.
  - (b) Outside of a designated node, off-street automobile parking may be allowed between the front lot line and a main structure with a Use Permit or AUP. If

the project requires ZAB approval, a Use Permit is required. An AUP is required for all other projects.

- (c) To approve the AUP or Use Permit, the review authority must find that one or more of the following is true:
- i. Parking in the rear or on the side of the property is impractical because of the lot's depth and/or width.
  - ii. Parking in the rear of the property would result in adverse impacts on abutting residential or other uses.
  - iii. Parking in the rear or on the side of the property would result in the placement of a driveway in an unsafe location.
  - iv. Continuation or re-establishment of parking in front of the building is necessary for the reuse of an existing structure which is substantially set back from the front lot line.

G. Placement--ADU.

(a) On a lot with an existing or proposed ADU, replacement of required off-street parking for the main building or required off-street parking for an ADU is allowed in any configuration on the lot, including within the front setback; or

(b) Within the Hillside Overlay on a lot with an existing or proposed ADU, where no legal off-street parking exists for the main building, required parking provided for the main building is allowed in any configuration on the lot, including within the front yard setback.

**F.H.** Grade Change. This subsection applies to off-street parking spaces in all districts, except for parking decks in Residential Districts.

1. The difference in elevation between a parking space and the finished grade on adjacent areas of the lot may not exceed 5 feet at any point.
2. Where there is a difference in elevation between a parking space and adjacent finished grade, the parking space shall be setback from a lot line as shown in Table 23.322-7.

TABLE 23.322-7. REQUIRED SETBACKS FOR PARKING SPACES WITH ADJACENT GRADE CHANGES

| DIFFERENCE IN ELEVATION                  | MINIMUM SETBACK |
|------------------------------------------|-----------------|
| Parking space lower than finished grade  |                 |
| 3 to 5 ft                                | 4 ft.           |
| Less than 3 ft                           | No min. setback |
| Parking space higher than finished grade | 6 ft.           |

**G.I. Screening.**

1. Table 23.322-8 shows required parking space screening. Screening must effectively screen parked vehicles from view from buildings and uses on adjacent, abutting, and confronting lots. Screening may not interfere with pedestrian safety.

TABLE 23.322-8. REQUIRED PARKING SPACE SCREENING

| DISTRICTS                                  | WHEN REQUIRED                                                                                         | REQUIRED SCREENING FEATURE                                                                                                        | SCREENING FEATURE HEIGHT                                                                                                                                    |
|--------------------------------------------|-------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------|
| All Residential Districts                  | 2 or more parking spaces, or any parking space partly or entirely within a required rear setback area | Continuous view-obscuring wood fence, masonry wall, or evergreen hedge which may be broken only for access driveways and walkways | 4 ft. min and 6 ft. max.                                                                                                                                    |
| All Commercial and Manufacturing Districts | 2 or more parking spaces                                                                              | Wall, fence, or evergreen shrubbery hedge in a landscape strip                                                                    | Parking adjacent to public right-of-way or front lot line: 3 ft. min. and 4 ft. max.<br>Parking adjacent to rear or side lot line: 4 ft. min and 6 ft. max. |

2. In the C-W, M, MM, MU-LI districts, screening and landscape buffers are not required for any portion of a parking lot adjacent to Third Street (Southern Pacific Railroad).

**H.J. Landscape Buffers.**

1. All paved areas for off-street parking spaces, driveways, and any other vehicle-related paving must be separated from adjacent lot lines and the public right-of-way by a landscaped strip as shown in Table 23.322-9.

TABLE 23.322-9. REQUIRED LANDSCAPE BUFFERS

| DISTRICT/NUMBER OF SPACES              | MINIMUM WIDTH OF LANDSCAPE STRIP         |                                                         |
|----------------------------------------|------------------------------------------|---------------------------------------------------------|
|                                        | AREAS ADJACENT TO SIDE OR REAR LOT LINES | AREAS ADJACENT TO PUBLIC RIGHT-OF-WAY OR FRONT LOT LINE |
| Residential Districts                  |                                          |                                                         |
| 1-3 spaces                             | 2 ft.                                    | 2 ft.                                                   |
| 4 spaces or more                       | 4 ft. [1]                                | 4 ft. [1]                                               |
| Commercial and Manufacturing Districts |                                          |                                                         |
| 1 space                                | None required                            | None required                                           |

|                                                                                    |           |           |
|------------------------------------------------------------------------------------|-----------|-----------|
| 2-3 spaces                                                                         | 2 ft.     | 3 ft.     |
| 4 spaces or more                                                                   | 4 ft. [1] | 4 ft. [1] |
| Note:<br>[1] Calculated as average width along the full length of landscape strip. |           |           |

2. In all districts, this landscape buffer requirement does not apply to driveways that serve two adjacent lots when adjacent to a side lot line.
3. In the Residential Districts, this landscape buffer requirement also does not apply to pedestrian walkways that are separated from such areas by a landscaped strip at least two feet wide.

~~H.K.~~ H.K. *Paved Setback Areas.* In Residential Districts, the total area of pavement devoted to off-street parking spaces, driveways, and other vehicle-related paving may not exceed 50 percent of any required setback area that runs parallel to and abuts a street.

~~J.L.~~ J.L. *Driveway Width.*

1. A driveway may not exceed 20 feet in width at any lot line abutting a street or one-half of the width of the street frontage of the lot, whichever is less.
2. In a Non-Residential district, the Zoning Officer may modify this requirement with an AUP.

~~K.M.~~ K.M. *Driveway Separation.* On a single lot in a Residential District, driveways must be spaced at least 75 feet from one another, as measured along any continuous lot line abutting a street.

~~L.N.~~ L.N. *Tandem Parking.* Tandem spaces that provide required off-street parking require an AUP, except when allowed by right by Chapter 23.306 (Accessory Dwelling Units).

~~M. Residential Parking Lots in Non-Residential Districts. Parking lots in a non-residential district used exclusively for residential parking must comply with standards in this section that apply in Residential Districts.~~

~~N.O.~~ N.O. *Carports.* A carport shall meet the minimum horizontal and vertical dimensions specified by the City's Traffic Engineer to be used for one or more legal parking spaces required under this chapter.

Section 11. That Berkeley Municipal Code is amended to add a new Section 23.324.060(C) to read as follows:

C. Accessory Dwelling Units. The following alterations of a lawful nonconforming existing structure or building that is an existing ADU or proposed to be converted to an ADU are permitted with a Zoning Certificate:

1. New windows, doors, or other openings to a portion of a building or structure within a minimum required setback.
2. New windows, doors, or other openings to a portion of a building or structure exceeding the height limit.

Section 12. That Berkeley Municipal Code 23.502.020(A)(4) is amended to read as follows:

4. Accessory Dwelling Unit (ADU). An attached or detached secondary dwelling unit that is located on the same lot as a proposed or existing single family dwelling, duplex, multi-family dwelling use, or group living accommodation in a zoning district where residential uses are permitted and provides independent living facilities for one or more persons. An ADU must comply with local building, housing, safety and other code requirements, except as expressly modified in Chapter 23.306, and provide the following features independent of other dwelling units on the lot: Exterior or independent access to the ADU, living and sleeping quarters, a full kitchen, and a full bathroom. An ADU also includes the following: (a) An efficiency unit, as defined in Section 17958.1 of the Health and Safety Code, or (b) A manufactured home, as defined in Section 18007 of the Health and Safety Code.

~~—Junior Accessory Dwelling Unit (Junior ADU). A unit that is contained entirely within the walls of an existing or proposed single family dwelling, or a single family dwelling unit's attached garage. A Junior ADU must include a separate exterior entrance and, at minimum, an efficiency kitchen with a working refrigerator. A Junior ADU may include separate sanitation facilities or may share sanitary facilities with a single family dwelling. The property owner must reside in either the Single Family Dwelling or the JADU.~~

~~(a) with a proposed or existing Single Family Dwelling, Duplex, Multi-Family Dwelling Use or Group Living Accommodation. An Accessory Dwelling Unit must comply with local building, housing, safety and other code requirements, except as expressly modified in Chapter 23.306, and provide the following features independent of other dwelling units on the lot: 1) exterior or independent access to the Accessory Dwelling Unit; 2) living and sleeping quarters; 3) a full kitchen; and 4) a full bathroom. An Accessory Dwelling Unit also includes the following:~~

~~(b)(a) An efficiency unit, as defined in Section 17958.1 of the Health and Safety Code.~~

Section 13. That Berkeley Municipal Code 23.502.020(A)(8) is amended to read as follows:

8. *Addition, Residential.* The creation of any new portion of a main building which results in a vertical or horizontal extension of the building, or results in additional



residential gross floor area to an existing main building, as long as such new gross floor area does not exceed 15 percent of the lot area or 600 square feet, whichever is less. For purposes of this definition gross floor area does not include:

- (a) Additions of gross floor area devoted to required off-street parking spaces, creation of mezzanines or lofts within the building's shell;
- (b) Making previously unusable attics into habitable floor area (except where new areas with vertical clearance of 6 feet or greater are created through expansions of the building shell);
- (c) Excavations of earth within the existing building footprint (i.e. expansion of existing basements or new basements), or
- (d) Replacement of existing floor area that was lawfully constructed and is located entirely within the addition's shell.
- ~~(d)~~ (e) The floor area associated with any existing or proposed accessory dwelling unit or junior accessory dwelling unit, up to 800 square feet per lot.

Section 14. That Berkeley Municipal Code 23.502.020(A)(9) is amended to read as follows:

9. *Addition, Major Residential.*

- (a) A residential addition greater than 15 percent of the lot area or 600 square feet. Floor area from all residential additions since October 31, 1991, with the exception of:
  - i. Additions that are entirely subsumed within previously existing floor area; and
  - ii. The floor area associated with any existing or proposed accessory dwelling unit or junior accessory dwelling unit, up to 800 square feet per lot.
- (b) The floor area of subsequent stories where the addition does not exceed the district residential addition height limit, shall count towards the calculation of gross floor area for the purposes of this definition.
- (c) Any new floor area, except as exempted under (9)(a), shall be treated as a new major residential addition for the purpose of permit processing, when the cumulative square footage exceeds 15 percent of the lot area or 600 square feet, whichever is less.

Section 15. That Berkeley Municipal Code 23.502.020(E)(1) is amended to read as follows:

1. Efficiency Kitchen. A ~~kitchen that includes a sink, a~~ cooking facility with appliances (e.g. microwave, toaster, oven, hot plate), and food preparation counter space and cabinets.

Section 16. That Berkeley Municipal Code 23.502.020(J) is amended to read as follows:

J. "J" Terms.

~~Junior Accessory Dwelling Unit (JADU). A unit that is contained entirely within the walls of a Single Family Dwelling. A JADU must include a separate exterior entrance and an Efficiency Kitchen with a working refrigerator. A JADU may include separate sanitation facilities or may share sanitary facilities with a Single Family Dwelling. The property owner must reside in either the Single Family Dwelling or the JADU.~~

Section 17. That Berkeley Municipal Code 23.502.020(N)(1) is amended to read as follows:

N. "N" Terms.

1. New Construction. Construction of a new main building or accessory dwelling unit.

Section 18. Severability.

If any provision or clause of this Ordinance or any application thereof to any person or circumstance is held to be unconstitutional or otherwise invalid by a court of competent jurisdiction, such invalidity shall not affect other provisions or clauses or applications of this Ordinance. To this end the provisions and applications of this Ordinance are severable, and the Council of the City of Berkeley hereby declares that it would have passed this Ordinance and each provision or clause without regard to whether any other portion of this Ordinance or application thereof would be subsequently declared invalid or unconstitutional.

Section 19. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be

filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.

**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT  
DIVISION OF HOUSING POLICY DEVELOPMENT**

2020 W. El Camino Avenue, Suite 500  
Sacramento, CA 95833  
(916) 263-2911 / FAX (916) 263-7453  
[www.hcd.ca.gov](http://www.hcd.ca.gov)



October 17, 2022

Jordan Klein, Director  
Planning and Development Department  
1947 Center Street, 3<sup>rd</sup> Floor  
City of Berkeley, CA 94704

Dear Jordan Klein:

**RE: Review of Berkeley's Accessory Dwelling Unit (ADU) Ordinance under State ADU Law (Gov. Code, § 65852.2)**

Thank you for submitting the City of Berkeley's (City) accessory dwelling unit (ADU) Ordinance Nos. 7,797-N.S. and 7,799-N.S. (collectively, Ordinances), both adopted on February 8, 2022, to the California Department of Housing and Community Development (HCD). The Ordinances were received on February 23, 2022. HCD has reviewed the Ordinances and submits these written findings pursuant to Government Code section 65852.2, subdivision (h). HCD finds that the Ordinances do not comply with section 65852.2 in the manner noted below. Under that statute, the City has up to 30 days to respond to these findings. Accordingly, the City must provide a written response to these findings no later than November 17, 2022.

The Ordinances address many statutory requirements; however, HCD finds that the Ordinances do not comply with State ADU Law in the following respects:

**Ordinance No. 7,797-N.S.**

- Section 23.502.020.E.1 and J.1 – *Efficiency Kitchen* – The Ordinance defines efficiency kitchen as including a sink and having a working refrigerator. However, the sink requirement, previously specified in Government Code section 65862.22, subdivision (a)(6), was removed and statute does not specify any type of appliances, thereby creating more options to satisfy the appliance requirement. Efficiency kitchen is now defined as “[a] cooking facility with appliances.” (Gov. Code, § 65852.22, subd. (a)(6)(A).) It shall include “[a] food preparation counter and storage cabinets that are in reasonable size in relation to the size of the junior accessory dwelling unit.” (Gov. Code, § 65852.22, subd. (a)(6)(B).) The City must remove the sink requirement as well as the reference to a working refrigerator to comply with existing statute.

Jordan Klein, Director  
Page 2

### **Ordinance No. 7,799-N.S.**

- Section 12.99 – *Wildfire Hazard Evacuation Risk Mitigation Ordinance* – To restrict ADUs and Junior Accessory Dwelling Units (JADUs) in the Hillside Overlay District, the Ordinance relies on a local agency’s ability to designate areas where ADUs may be permitted based on the impact on traffic flow and public safety per Government Code 65852.2, subdivision (a)(1)(A). The Ordinance provides general information regarding the Hillside Overlay District and its topography and location within Berkeley’s Very High Fire Hazard Severity Zone (VHFHSZ). In addition, the Ordinance refers to a study published by UC Berkeley, and upon further communication by HCD with the City on March 4, 2022, the City provided information regarding a traffic simulation study (*Developing Transportation Response Strategies for Wildfire Evacuations via an Empirically Supported Traffic Simulation of Berkeley, California, Wong, 2021*) conducted within the Hillside Overlay District.

However, while HCD is sympathetic to concerns about fire safety and the need to ensure adequate evacuation in the event of a fire, the City has not adequately demonstrated that new ADUs will actually impact public safety in the VHFHSZ. The traffic simulation study is not specific to ADUs and JADUs, and therefore its information and conclusions do not adequately justify the restriction of ADUs in the Hillside Overlay District per Government Code 65852.2, subdivision (a)(1)(A). Specifically, the City relies on the study, which looks at total vehicular use, to conclude that additional ADUs will create an evacuation hazard. This study, however, does not provide data on how many lots are likely to add ADUs or what specific impact new ADUs might have on evacuations. Moreover, the City does not account for the potential for ADUs to be excluded from requiring a parking space given the availability of public transit in the Hillside Overlay District. HCD is aware that AC Transit serves the Berkeley Hills location, exempting many, if not all, potential lots from parking space requirements for new ADUs.

Furthermore, even if the City would provide adequate justification for this restriction on ADUs under this subdivision, the City may not justify such a restriction on ADUs that fall under subdivision (e), as local development standards (such as an area restriction based on VHFHSZ designation) provided by the Ordinance pursuant to Government Code section 65852.2, subdivisions (a) through (d), do not apply to ADUs created under Government Code section 65852.2, subdivision (e).

In summary, the City must remove these restrictions and permit applications pursuant to Government Code 65852.2, subdivisions (a) and (e).

Jordan Klein, Director

Page 3

- Section 12.99.030 – *Total Number of Units Permitted* – The Ordinance limits the number of units allowed per lot in the Hillside Overlay District to one ADU or JADU. However, this limitation conflicts with the Government Code section 65852.2, subdivisions (e)(1)(A) and (B), requirement to allow for both an ADU and JADU on a lot with a proposed or existing single-family dwelling, should certain conditions be met. In addition, this limitation conflicts with Government Code section 65852.2, subdivisions (e)(1)(C) and (D), for lots with existing multifamily structures. The City must amend this prohibition to explicitly permit applications per Government Code 65852.2, subdivision (e).

In response to the findings in this letter, and pursuant to Government Code section 65852.2, subdivision (h)(2)(B), the City must either amend the Ordinances to comply with State ADU Law or adopt the Ordinances without changes. Should the City choose to adopt the Ordinances without the changes specified by HCD, the City must include findings in its resolution that explain the reasons the City finds that the Ordinances comply with State ADU Law despite the findings made by HCD. Accordingly, the City's response should provide a plan and timeline to bring the Ordinances into compliance.

Please note that, pursuant to Government Code section 65852.2, subdivision (h)(3)(A), if the City fails to take either course of action and bring the Ordinances into compliance with State ADU Law, HCD may notify the City and the California Office of the Attorney General that the City is in violation of State ADU Law.

HCD appreciates the City's efforts in the preparation and adoption of the Ordinances and welcomes the opportunity to assist the City in fully complying with State ADU Law. Please feel free to contact Mike Van Gorder, of our staff, at (916) 916-776-7541 or at [mike.vangorder@hcd.ca.gov](mailto:mike.vangorder@hcd.ca.gov).

Sincerely,

A handwritten signature in blue ink, appearing to read 'D. Zisser', with a long horizontal flourish extending to the right.

David Zisser  
Assistant Deputy Director  
Local Government Relations and Accountability



**Planning and Development Department**  
Land Use Planning Division

## STAFF REPORT

**DATE:** May 3, 2023

**TO:** Members of the Planning Commission

**FROM:** Zoe Covello, Assistant Planner  
Grace Wu, Principal Planner

**SUBJECT:** Amendments to Title 23 Relating to Accessory Dwelling Units (ADUs) to Conform to Current State Law and Guidance from the California Department of Housing and Community Development

### RECOMMENDATION

Planning Commission is asked to hold a public hearing, receive and provide comment on the proposed Zoning Ordinance amendments pertaining to Accessory Dwelling Units and Junior Accessory Dwelling Units, and make a recommendation for consideration by the City Council.

### SUMMARY

City staff have prepared amendments to Title 23 (Zoning Ordinance) of the Berkeley Municipal Code (BMC) in response to: (a) recent changes in State laws pertaining to Accessory Dwelling Unit (ADU) and Junior Accessory Dwelling Unit (Junior ADU) that took effect on January 1, 2023, and (b) feedback from the California Department of Housing and Community Development (HCD) finding that the City of Berkeley's current ADU ordinance does not comply with State law.

These amendments will serve to bring the City's ADU ordinance into compliance with current State law and HCD guidance.

This report provides:

1. Background on Berkeley's existing ADU ordinance and fire safety concerns;
2. A summary of new State ADU Law;
3. A summary of HCD's finding of noncompliance and staff's proposed response for addressing the issues raised; and
4. Proposed Zoning Ordinance amendments and rationale.

### BACKGROUND

### ADU Regulations in the City of Berkeley

The City of Berkeley's current ADU Ordinance was amended in accordance with the State of California law (Government Code Sections 65852.2<sup>1</sup> and 65852.22<sup>2</sup>) and took effect on March 17, 2022. The primary ordinance regulating ADU development in the City is Berkeley Municipal Code (BMC), Chapter 23.306: Accessory Dwelling Units. This chapter allows ADUs on properties located in a zoning district that permits residential use, and provides development standards based on the location of the property. The ordinance currently includes separate development standards for properties that are located in certain zoning districts within the Hillside Overlay [R-1(H), R-2(H), R-2A(H)] and the ES-R district.

In addition to Chapter 23.306, the City adopted Chapter 12.99: Wildfire Hazard Evacuation Risk Mitigation Ordinance, which serves to *"permit and promote the construction of accessory dwelling units and junior accessory dwelling units while protecting human life and health, promoting the public health, safety, and general welfare, and minimizing public and private losses due to dangerous conditions in specific areas"* in accordance with Government Code 65852.2, subdivision (a)(1)(A), which allows local agencies to regulate ADUs based on "adequacy of water and sewer service, and the impacts of traffic flow and public safety."<sup>3</sup>

Chapter 12.99 was adopted in response to a short-term Council referral in January 2021. The referral provided direction to amend the local ADU zoning ordinance and Berkeley's Fire Code, requesting that a set of ordinance amendments and implementation programs be evaluated and recommended to Council to address emergency access and egress. The referral also requested parking and objective development standards to address the constraints presented by the high fire hazard conditions and narrow and curving roadways in Fire Zones 2 and 3.

In response to the January 2021 referral, Planning and Development Department staff proposed revisions to development standards to limit allowable ADU size and increase front yard setbacks in the City's Very High Fire Hazard Severity Zone, which encompasses a significant portion of the Hillside Overlay.

On April 7, 2021, the Planning Commission held a public hearing and recommended staff's proposed amendments to City Council, adding that the maximum height for ADUs be increased from 16 feet to 18 feet. City Council adopted Chapter 23.306 (Accessory Dwelling Unit Ordinance) as submitted by the City Manager with amendments from

---

<sup>1</sup> Government Code Section 65852.2,  
<https://leginfo.ca.gov/faces/selectFromMultiples.xhtml?lawCode=GOV&sectionNum=65852.2>

<sup>2</sup> Government Code Section 65852.22,  
[https://leginfo.ca.gov/faces/codes\\_displaySection.xhtml?lawCode=GOV&sectionNum=65852.22](https://leginfo.ca.gov/faces/codes_displaySection.xhtml?lawCode=GOV&sectionNum=65852.22)

<sup>3</sup> Prior to adopting Chapters 23.306 and 12.99, the City had previously prohibited the construction of ADUs in the ES-R district (Zone 3) and on any lot with frontage on a roadway of less than 26 feet width in the Hillside Overlay, subject to discretionary review. After the ADU ordinance adopted in December 2019 expired on December 4, 2020, the City had been operating without any local provisions for ADUs; all ADUs in residential districts were regulated only by State law, allowing their development without regard to street width or parking.



Councilmember Kesarwani.<sup>4</sup> City Council further amended the ordinance with regards to the three-year rolling date for ADU conversions and the addition of balconies to prohibited projections.

On October 26, 2021, City Council referred to the City Manager a request to develop a set of public safety regulations that address public safety issues stemming from new development in fire-prone areas. Those safety regulations resulted in the adoption of Chapter 12.99 (Wildfire Hazard Evacuation Risk Mitigation Ordinance) on January 25, 2022.

### 2022 State ADU Law Updates - SB 897, AB 2221, and AB 2097

Three new State ADU laws took effect January 1, 2023, codified in Government Code section 65852.2 pertaining to ADUs, necessitating an update to the City of Berkeley's ADU ordinance. These new State ADU laws relate to:

1. **Maximum height limits.** SB 897<sup>5</sup> increases ADU height standards for both attached and detached ADUs in the following circumstances:
  - o An attached ADU on a lot in any permissible zoning district shall have a height limitation no less than 25 feet.
  - o A detached ADU that is located either on a lot in any permissible zoning district that is within a 0.5 mile of a major transit stop or high-quality transit corridor as defined in Public Resources Code (PRC) Section 21155 or on a lot with an existing or proposed duplex or multi-family, multi-story (two or more stories) building shall have a height limitation of no less than 18 feet.

An additional two feet (totaling 20 feet maximum height) is allowed for a detached ADU on a lot in any permissible zoning district that is within 0.5 miles of a transit stop or high-quality transit corridor as defined in PRC Section 21155 to accommodate a roof pitch on the ADU that is aligned with the roof pitch of the primary dwelling unit.

2. **Prohibiting development standards that preclude 800 square foot ADUs.** Under AB 2221<sup>6</sup>, local agencies are prohibited from establishing lot coverage, floor area ratio, open space, or minimum lot size standards that would physically preclude construction of an 800 square foot ADU, including a minimum front setback.
3. **Required connections between a Junior ADU and the main dwelling unit.** SB 897 requires both a separate entrance to the Junior ADU from the main entrance to the structure and an interior connection to the main living area of the

<sup>4</sup> Councilmember Kesarwani's amendments included protection for non-habitable space in multi-family buildings, clarified rules that apply to Accessory Structures being converted into ADUs, clarified owner occupancy requirements for JADUs, and modified noticing requirements for tenants and neighbors. <https://berkeleyca.gov/sites/default/files/city-council-meetings/2022-01-18%20Agenda%20Packet%20-%20Council%20-%20WEB.pdf>

<sup>5</sup> Senate Bill 897, [https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=202120220SB897](https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220SB897).

<sup>6</sup> Assembly Bill 2221, [https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill\\_id=202120220AB2221](https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202120220AB2221).

single family dwelling if a Junior ADU shares sanitation facilities with the primary dwelling unit.

- 4. Changes to off-street parking related to ADUs.** While parking may be provided voluntarily, per AB 2097<sup>7</sup> no off-street parking may be required for an ADU or a Junior ADU if the lot is located within a 0.5 mile of public transit, as defined in PRC Section 21155. Note, the existing ADU ordinance already has provisions for reduced parking requirements within a 0.5 mile walking distance of public transit.<sup>8</sup>

The proposed revisions to the zoning ordinance reflect these changes, which can be found in the Discussion section below.

#### 2022 Letter from HCD Requesting Amendments to the City's ADU Ordinance

On October 17, 2022, the City received a letter from HCD stating that they had reviewed the City's current ADU ordinances (BMC Sections 23.306 and 12.99, the "Ordinances") and found that the Ordinances do not comply with Government Code Section 65852.2 (see **Attachment 4**).

##### *Efficiency Kitchen Definition*

HCD found a discrepancy between the definition of "Efficiency Kitchen" contained within Ordinance No. 7,797-N.S. (Chapter 23.306) and Government Code §65852.22(a)(6)(A) and requested that the City remove the sink requirement from its zoning definition, as well as the reference to a working refrigerator in the definition of a "Junior Accessory Dwelling Unit."

##### *Wildfire Hazard Evacuation Risk Mitigation Ordinance*

Regarding Ordinance No. 7,799-N.S (Chapter 12.99), HCD found that the City did not make adequate findings with respect to ADU development impacts on traffic flow and public safety when the City adopted limitations on the quantity and size of ADU development in the Hillside Overlay.

HCD asserts that the traffic simulation study referenced in Chapter 12.99 is not specific to ADUs and Junior ADUs and therefore cannot be used to justify the restriction on the number of ADUs in the Hillside Overlay. Additionally, the traffic simulation study does not provide data on how many lots are likely to add ADUs, does not identify specific impacts new ADUs may have on evacuations, and does not account for the potential for ADUs to be excluded from requiring a parking space given the availability of public transit in the Hillside Overlay. Furthermore, HCD adds that even if the City adequately justified the restriction of ADUs under this subdivision, it may not justify restrictions on ADUs that fall under subdivision (e) because local development standards do not apply to ADUs created under Government Code section 65852.2, subdivision (e).

<sup>7</sup> Assembly Bill 2097, [https://leginfo.ca.gov/faces/billNavClient.xhtml?bill\\_id=202120220AB2097](https://leginfo.ca.gov/faces/billNavClient.xhtml?bill_id=202120220AB2097).

<sup>8</sup> GOV 65852.2(j)(11) "Public transit" means a location, including, but not limited to, a bus stop or train station, where the public may access buses, trains, subways, and other forms of transportation that charge set fares, run on fixed routes, and are available to the public.

Government code section 65852.2, subdivision (e) requires local agencies to ministerially approve building permit applications for the creation of ADUs within a residential or mixed-use zone.

Regarding Section 12.99.030 – *Total Number of Units Permitted*, HCD asserts that the City’s decision to limit the number of units allowed per lot in the Hillside Overlay to one ADU or one Junior ADU conflicts with Government Code Section 65852.2, subdivisions (e)(1)(A), (B), (C), and (D), which requires a local agency to ministerially approve an application for a building permit within a residential or mixed-use zone to create one ADU and one Junior ADU per lot.

## DISCUSSION

To conform to State ADU law and respond to HCD’s letter, staff recommend amendments to Title 23 of the BMC that achieve the following purposes:

1. Remove standards that provide a distinction between parcels within and outside of the Hillside Overlay, and apply non-Hillside Overlay ADU standards citywide where residential uses are permitted<sup>9</sup>;
2. Bring the City’s zoning code into compliance with current State ADU law and guidance, including SB 897, AB 2221, and AB 2097; and
3. Clarify and/or correct minor technical edits associated with the related ordinance sections, and edit for consistency with existing BMC style guidelines.

### 23.106 Rules of Measurement

Consistent with the State Exemption ADU provisions of Subdivision (c) in Government Code 65852.2, staff propose amending 23.106.020(B) and 23.106.030(D) to exclude up to 800 square feet of area associated with an existing or proposed ADU or Junior ADU from lot coverage and gross floor area calculations. Presently, once an ADU is built, it counts towards lot coverage, which can mean that even minor future additions would require a Use Permit. By amending 23.106.020(B) and 23.106.030(D) to exclude up to 800 square feet of area, the regulation is consistent with State law, removes a barrier to development, and aligns with the State’s goal of incentivizing the development of ADUs.

### 23.306 Accessory Dwelling Units (Organization)

The proposed ordinance simplifies the ADU Chapter by consolidating seven sections into four, maintaining consistency with other Chapters of Title 23 (**see Table 1**).

<sup>9</sup> Staff will also recommend to City Council to repeal BMC Section 12.99. However, as this public hearing is only pertaining to Title 23 of the BMC, this action is not up for discussion this evening.

*Table 1: Chapter 23.306 - Existing and Proposed Sections*

| Existing Sections                         | Proposed Sections                 |
|-------------------------------------------|-----------------------------------|
| 23.306.010– Purposes                      | 23.306.010– Purpose               |
| 23.306.020– Applicability and Definitions | 23.306.020– Applicability         |
| 23.306.030– Permit Procedures             | 23.306.030– Development Standards |
| 23.306.040– Development Standards         | 23.306.040– Permit Procedures     |
| 23.306.050– Deed Restrictions             |                                   |
| 23.306.060– Neighbor Noticing             |                                   |
| 23.306.070– Rooftop Decks and Balconies   |                                   |

23.306.010 Accessory Dwelling Units (Purpose)

The proposed ordinance adds a reference to the latest California Government Code Section 65852.1 and removes subsection (f) which states that the purpose of the chapter is to reduce potential impacts of new development in the Very High Fire Hazard Severity Zones (VHFHSZ), Wildland-Urban Interface Fire Areas, and Hillside Overlay. This allows for compliance with HCD's finding that the current ordinances do not meet the exceptions included in State law that allow for the creation of a separate set of regulations in the Hillside Overlay.

23.306.020 Accessory Dwelling Units (Applicability)

The proposed ordinance removes subsection (b), which defines the Hillside Overlay for the purposes of this chapter, and removes the reference to Chapter 12.99, to comply with HCD's finding that the City does not sufficiently justify the creation of a separate set of regulations in the Hillside Overlay.

The proposed amendment includes a new subsection clarifying that ADUs and Junior ADUs do not count towards density calculations established by the underlying zoning districts. This is consistent with HCD guidance in the HCD ADU Handbook Update.<sup>10</sup>

Staff also propose amending the maximum number of units permitted on a lot with a duplex or multi-family dwelling to allow for two detached ADUs *and* at least one interior ADU (**see Table 2**). In 2022 HCD changed its interpretation regarding the total number of ADUs that "must" be allowed by local governments on any given parcel. Whereas in the 2020 ADU Handbook, HCD wrote that "local governments are not required to allow (a) and (b) together or (c) and (d) together," in the 2022 ADU Handbook HCD rewrote that "local governments must allow (a) and (b) together or (c) and (d) together." Although this change in HCD's interpretation is not supported by any corresponding change in state law, the proposed ordinance is drafted to be consistent with HCD's new interpretation.

<sup>10</sup> HCD Accessory Dwelling Unit Handbook, <https://www.hcd.ca.gov/sites/default/files/2022-07/ADUHandbookUpdate.pdf>.

*Table 2: Existing and Proposed Maximum Density Standards on a Lot with a Duplex or Multi-Family Dwelling*

| Existing Maximum Density                                                                                                                                                                                                                                                                                                                                                                                                                                                   | Proposed Maximum Density                                                                                                                          |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------|
| Either:<br>a. Up to two detached ADUs; <u>or</u><br>b. At least one ADU converted from non-habitable portions of the existing Main Building that are not within the living space of a Dwelling Unit (e.g. basement, attic, garages storage room). The maximum number of ADUs converted from portions of the existing Main Building that are not within the living space of a Dwelling Unit shall not exceed 25% of the total number of existing Dwelling Units on the lot. | Two detached ADUs <u>and</u> at least one interior ADU up to 25% of the total number of existing duplex or multi-family dwelling units on the lot |

**23.306.030 Accessory Dwelling Units (Development Standards)**

In response to HCD’s letter and to bring the development standards section into compliance with State law, staff propose removing standards that are specific to parcels located in the Hillside Overlay. Instead, the development standards apply to ADUs and Junior ADUs citywide.

Staff also recommend a number of technical revisions to the development standards section, including: removing Junior ADU standards from the development standards table and including all relevant information in subsection (B), as well as replacing footnotes from the development table with a subsection for supplemental standards.

Within subsection (C), staff propose technical edits to amend the provisions related to projections to align with other sections of the code, including permitting bay windows and balconies on attached ADUs outside of the Hillside Overlay as long as there remains at least a two-foot setback from property lines, as the code allows for non-ADUs of the same placement and size to have both. However, because detached ADUs are permitted to be built much closer to the property line than primary dwelling units (and attached ADUs), staff propose continuing to prohibit the projections of bay windows and balconies into setbacks for those types of ADUs citywide.

In addition to these technical revisions, a number of the standards have been changed to match State law. **Table 3** provides the proposed development standards and the rationale informing the recommended changes. This table does not include all ADU development standards; it only includes the standards that are proposed to be amended.

**Table 3: Proposed Revisions to ADU Development Standards & Rationale**

| Basic Standard                                | Proposed Standards                                                                                                                                                                          | Rationale/Intent                                                                                                                                                                                                                                     |
|-----------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Building Height, Maximum                      | Detached, New Construction – 20 ft.                                                                                                                                                         | The maximum building height for Attached, New Construction has been increased from 20 ft. to 25 ft. to match State law (SB 897). The current maximum building height for Detached New Construction already exceeds the 18 ft. required by State law. |
|                                               | Attached, New Construction – 25 ft.                                                                                                                                                         |                                                                                                                                                                                                                                                      |
| Lot Line Setbacks, Minimum                    | Front of Interior Lot – Same as underlying district                                                                                                                                         | Staff propose adding a standard for front setbacks on through lots to ensure that there are standards for such parcels, consistent with existing regulations for Accessory Buildings.                                                                |
|                                               | Front of Through Lot - Same as underlying district or 10 ft. on the secondary frontage as determined by the Zoning Officer                                                                  |                                                                                                                                                                                                                                                      |
| Building Separation for Detached ADU, Minimum | 3 ft.                                                                                                                                                                                       | To conform with Building Code's definition of attached versus detached buildings, staff propose adding a minimum building separation standard (in addition to a Detached ADU supplemental standard – see below).                                     |
| Required Off-Street Parking Spaces            | See 23.322.030 – Required Parking Spaces                                                                                                                                                    | Move to BMC 23.322 – Parking and Loading to be consistent with other parking standards.                                                                                                                                                              |
| <b>Supplemental Standard</b>                  |                                                                                                                                                                                             |                                                                                                                                                                                                                                                      |
| State Exemption ADU                           | No lot coverage, floor area ratio, open space, front setback, or minimum lot size standard in the underlying district shall preclude at least an 800 square foot accessory dwelling unit.   | To match the State Law.                                                                                                                                                                                                                              |
| Junior ADU Shared Sanitation Facility         | If a Junior ADU shares a sanitary facility with a single family dwelling, an internal connection between the Junior ADU and the main living area of the single family dwelling is required. | To match the State Law.                                                                                                                                                                                                                              |
| Junior ADU Floor Area                         | The Junior ADU gross floor area calculation excludes any shared sanitation facility with the single family dwelling.                                                                        | To clarify the rules of measurement for gross floor area if a sanitation facility is shared.                                                                                                                                                         |
| Detached or Attached ADU                      | If an ADU is located within 3 feet of an exterior wall of a main building, it is considered attached.                                                                                       | See the rationale/intent for establishing a Building Separation, Minimum (above).                                                                                                                                                                    |

- **AUP for Addition over 14 feet.** While this section does not regulate residential additions, staff note that attached ADUs proposed as residential additions over 14 feet would be required to receive AUP approval in order to reach their maximum allowable height (they can now go up to 25 feet – see Table 3).<sup>11</sup> Removing the AUP process would be in keeping with the State's intent to streamline the ADU development process and further remove barriers to

<sup>11</sup> Residential additions can go up to 14 ft., but require an AUP to go up to 28 ft.

development. The Planning Commission is asked to consider removing the AUP requirement for residential additions for attached ADUs.

### 23.306.040 Accessory Dwelling Units (Permit Procedures)

Under the current procedure, it is required that notice of an ADU application shall be mailed to owners and tenants of the subject, adjacent, confronting and abutting properties within ten working days of submission of a building permit to the Planning Department, and shall include the project address, allowable hours of construction, a link to the City's ADU webpage, and information for tenants of the subject property on how to contact a Rent Board Housing Counselor. The cost of materials, postage, and staff time is paid for by the applicant – currently a fixed fee of \$460.

The requirement for neighbor noticing presents a number of challenges for staff, applicants, and members of the public. ADU permits are building permits, and cannot be printed out or shared online with members of the public (unlike zoning permits). For neighbors interested in seeing proposed ADU plans, this means that they must visit the Permit Service Center in-person and look at the plans accompanied by a staff member. Additionally, ADU permits are non-discretionary permits, so members of the public ultimately do not have a means of providing feedback on or appealing a proposed ADU. Staff have found there is often an expectation from public posting or receiving notice of a proposed ADU that there is a public review process involved, and there is not.

- **Neighbor Noticing.** While staff made no changes to Neighbor Noticing, with the exception of moving it to the Permit Procedures section, staff are asking Planning Commission to consider removing the Neighbor Noticing requirement.

### 23.322.020 Parking and Loading (Applicability)

Per AB 2097, no off-street parking may be required for an ADU or a Junior ADU if the lot is located within a 0.5 mile of public transit, as defined in PRC Section 21155. The City of Berkeley's existing ADU ordinance already has provisions for reduced parking requirements within a 0.5 mile walking distance of public transit. To comply with AB 2097, staff recommend adding a location exemption for parking, which would state that "Off-street parking spaces are not required for new uses or buildings, or an enlargement or intensification of an existing use or structure, that is located within 0.5 miles of a major transit stop, as defined by Section 21155 of the California Public Resources Code, unless otherwise authorized by Government Code Section 65863.2." This change will also be brought as a part of the State Law Technical Edits ordinance amendments package, which is why it is shown in blue in **Attachment 1**.

Staff propose amending BMC Tables 23.322-1, 23.322-2, and 23.322-4 to specify off-street parking standards for ADUs in Residential, Commercial, and Manufacturing Districts (previously specified in Chapter 23.306). Staff also propose amending Table 23.322-1 to bring the residential off-street parking standards into compliance with State law by allowing for one parking space per ADU unless it is located within 0.5 miles of

public transit as defined in Section 21155 of the Public Resources Code or it satisfies the criteria defined in subdivision (d) of Government Code Section 65852.2.

### BMC 23.322.080(E)(2) Other Setback Areas

This section, formerly referred as BMC 23.322.080(D)(2), is recommended to be amended to include the following standards:

- a. On a lot with an existing or proposed ADU, replacement of off-street parking for the main building or required off-street parking for an ADU, is allowed in any configuration on the lot, including within the front yard setback; or
- b. Within the Hillside Overlay on a lot with an existing or proposed ADU, where no legal off-street parking exists for the main building, required parking provided for the main building is allowed in any configuration on the lot, including within the front yard setback.

Currently, parking flexibility only applies to replacement parking for main dwelling units and new parking provided for an ADU. To account for ADU projects seeking to provide new parking spaces for both the main dwelling and the ADU, staff propose allowing for the same flexibility in lot configuration for the main dwelling unit's proposed new parking space as is allowed for the ADU's parking space. Encouraging off-street parking in the Hillside Overlay can mitigate safety and evacuation access concerns.

### 23.324.060 Exemptions to Nonconforming Uses, Structures, and Buildings

Notably, in the current ADU ordinance, minor alterations in nonconforming setbacks, such as for windows and doors, as well as minor excavations, require an AUP. To reduce the amount of process, time, and money for staff and applicants seeking to make minor alterations to their ADUs, staff propose allowing "by-right" alterations to nonconforming existing structures or buildings that are proposed to be converted to an ADU. Staff proposes to add BMC 23.324.060(C) to include the following standards:

*C. Accessory Dwelling Units.* The following additions or enlargements of a lawful nonconforming existing structure or building that is an existing ADU or proposed to be converted to an ADU are permitted with a Zoning Certificate:

1. Alterations of a portion of a building or structure (including windows and other openings) within a minimum required setback.
2. Alterations of a portion of a building or structure (including windows and other openings) exceeding the height limit.

### 23.502.020 Defined Terms

*Junior ADU.* Staff proposes relocating the definition for "Junior Accessory Dwelling Unit" within the definition of "Accessory Dwelling Unit" and striking out the reference to a working refrigerator in response to HCD's findings.



*Addition, Major Residential.* The definition for “Addition, Major Residential” is recommended to be amended to add a subsection that exempts the floor area associated with an existing or proposed accessory dwelling unit or junior accessory dwelling unit, up to 800 square feet, from qualifying. This would eliminate the requirement for an AUP to add an ADU or Junior ADU to a house, thus matching the State’s intent of streamlining the processing of ADU development locally.

*Efficiency Kitchen.* The proposed ordinance amends the definition of an “Efficiency Kitchen” by removing the requirement for a sink in response to HCD’s findings.

## **ENVIRONMENTAL REVIEW**

The project is statutorily exempt from the California Environmental Quality Act by Guidelines Section 15282(h).

## **NEXT STEPS**

Staff recommend that Planning Commission adopt the proposed revisions. The next step will be to advance these proposed revisions – as well as repeal of Chapter 12.99 – to City Council.

Public safety remains a significant concern regarding increasing density in the Hillside Overlay. As stated in California Government Code Section 51175, the Legislature has found that wildfires pose a serious threat to the preservation of the public peace, health and safety. The legislature has determined that it is necessary that all levels of government work to implement preventive measures to ensure the preservation of the public peace, health, and safety.

Due to these state- and locally-recognized safety concerns, staff are working with the Fire Department to collect additional data on the health and safety impacts of increased development in the Hillside Overlay. On March 14, 2022, the Fire Department was authorized by the City Manager to execute a contract with KLD Engineering, P.C., for Evacuation and Response Time Modeling from April 1, 2023 through June 30, 2024 as part of an effort to collect data and forecast the number of vehicles and people that may need to be evacuated during a wildfire or other emergency.<sup>12</sup> The study will also be analyzing how major evacuation routes will operate under emergency conditions, and whether there would be any public safety impacts resulting from projected development of new ADUs, Junior ADUs, and their associated extra vehicles in the Very High Fire Hazard Severity Zone.

In addition to this study, the City is in the process of updating the Disaster and Safety Plan, which will similarly provide an opportunity to collect data and engage community

<sup>12</sup> Revised Agenda, Berkeley City Council Meeting, March 14, 2023. Item 4: Contract: KLD Engineering, P.C. for Evacuation and Response Time Modeling From: City Manager. <https://berkeleyca.gov/sites/default/files/city-council-meetings/2023-03-14%20REVISED%20Agenda%20Packet%20-%20Council%20%28WEB%29.pdf>

members, which could inform the making of findings to support the reinstatement of provisions or other controls on ADU production in the hills.

Staff plan to bring the Fire Department's study findings, as well as other potential research and community engagement findings, back to Planning Commission and City Council by summer 2024.

## **ATTACHMENTS**

1. Draft Amended Ordinance
2. Ordinance No. 7,797-N.S. (Chapter 23.306), dated January 18, 2022.
3. Ordinance No. 7,799-N.S. (Chapter 12.99), dated January 25, 2022.
4. Letter from HCD - Review of Berkeley's Accessory Dwelling Unit (ADU) Ordinance under State ADU Law (Gov. Code, § 65852.2), dated October 17, 2022.
5. Public Hearing Notice

**NOTICE OF PUBLIC HEARING – BERKELEY CITY COUNCIL****Adoption of Zoning Ordinance Amendments to Title 23 and Repeal of Chapter 12.99 of the Berkeley Municipal Code to bring the Accessory Dwelling Unit (ADU) Ordinance into Compliance with State Law & Guidance**

The Department of Planning and Development is proposing Zoning Ordinance Amendments to Title 23 and the repeal of Chapter 12.99 of the Berkeley Municipal Code to respond to recent changes in Accessory Dwelling Unit (ADU) and Junior Accessory Dwelling Unit (Junior ADU) State laws that took effect on January 1, 2023 and a letter from the California Department of Housing and Community Development (HCD) requiring the City of Berkeley take action to bring its Ordinance into compliance with State ADU Law. The amendments would modify the following sections: BMC Chapter 12.99 and Sections 23.106 (Rules of Measurement), 23.306 (Accessory Dwelling Unit (ADU) Ordinance), 23.322 (Parking and Loading), 23.324.060 (Exemptions to Nonconforming Uses, Structures, and Buildings), and 23.502.020 (Defined Terms) relating to ADUs. The proposed amendments also include conforming technical edits to the BMC (for example, renumbering of tables and figures).

The project is statutorily exempt from the California Environmental Quality Act by Guidelines Section 15282(h), the adoption of an ordinance regarding second units in a single-family or multifamily residential zone by a city or county to implement the provisions of Sections 65852.1 and 65852.2 of the Government Code as set forth in Section 21080.17 of the Public Resources Code.

The hearing will be held on **Tuesday, July 25, 2023 at 6:00 PM.** in the Berkeley Unified School District Board Room located at 1231 Addison Street, Berkeley CA 94702.

A copy of the agenda material for this hearing will be available on the City's website at [www.berkeleyca.gov](http://www.berkeleyca.gov) as of **July 13, 2023.** **Once posted, the agenda for this meeting will include a link for public participation using Zoom video technology, as well as any health and safety requirements for in-person attendance.**

For further information, please contact Zoe Covello, Assistant Planner, at 510-981-7418.

Written comments should be mailed or delivered directly to the City Clerk, 2180 Milvia Street, Berkeley, CA 94704, or e-mailed to [council@berkeleyca.gov](mailto:council@berkeleyca.gov) in order to ensure delivery to all Councilmembers and inclusion in the agenda packet.

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

or in person to the City Clerk. If you do not want your contact information included in the public record, please do not include that information in your communication. Please contact the City Clerk at 981-6900 or [clerk@berkeleyca.gov](mailto:clerk@berkeleyca.gov) for further information.

**Published:** July 14, 2023 – The Berkeley Voice

**Public Hearing required by BMC 23.412.050 and Govt Code 65853; notice provided according to Govt Code 65090 and BMC 23.404.040.**

~~~~~

I hereby certify that the Notice for this Public Hearing of the Berkeley City Council was posted at the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way, as well as on the City's website, on July 13, 2023.

Mark Numainville, City Clerk



Office of the City Manager

ACTION ITEM
July 25, 2023

To: Honorable Mayor and Members of the City Council
 From: Dee Williams-Ridley, City Manager
 Submitted by: Lisa Warhuus, Director, Health, Housing, and Community Services
 Subject: Adopting the Affordable Housing Framework for Development at the North Berkeley BART Station Area

RECOMMENDATION

Adopt a Resolution:

1. Adopting the framework for City subsidy of affordable housing at the North Berkeley BART station area.
2. Authorizing the City Manager or her designee to execute all original or amended documents or agreements to effectuate this action.

FISCAL IMPACTS OF RECOMMENDATION

City Council reserved \$53M in funding for the BART sites at their April 27, 2021 meeting through Resolution 69,833-N.S.

The actions in the above recommendations under consideration by the City Council do not result in direct fiscal impacts, since future funding commitments will return to Council for action. Staff will provide more detail about these potential fiscal impacts in advance of possible future actions.

CURRENT SITUATION AND ITS EFFECTS

The City has engaged Street Level Advisors, a housing economics firm, to develop the general framework that the City of Berkeley will use to evaluate affordable housing project proposals at the North Berkeley BART station (Attachment 2). The framework outlines expectations regarding the share of affordable units and their income requirements, the phasing of various components of the project, the conditions for award of City subsidy funds, and expectations regarding the contribution to affordable housing from market rate components of the projects.

Spurred by the requirements of Assembly Bill 2923 and the opportunity to achieve mutual objectives of creating housing, including substantial amounts of deed-restricted affordable housing adjacent to transit to help reduce greenhouse gas emissions, the City and BART have embarked on a process to redevelop the Ashby and North Berkeley BART station areas. The City and BART entered into a Memorandum of

Agreement (MOA) in June 2022 to address additional aspects of the collaboration, and both agencies adopted the Joint Vision and Priorities for Transit-Oriented Development for Ashby and North Berkeley Stations (JVP) in June 2022. The JVP articulates the shared goals of the City and BART, including the goal of achieving at least 35% affordability at each site.

On December 1, 2022, the San Francisco Bay Area Rapid Transit District (“BART”) Board approved the selection of a development team to build housing at the North Berkeley BART station site. The team is comprised of lead nonprofit developer BRIDGE, nonprofit development partners East Bay Asian Local Development Corporation (EBALDC) and Insight Housing (formerly Berkeley Food and Housing Project), and market-rate developer Avalon Bay Communities. The BRIDGE team proposes to provide 50% of the units as affordable to households earning up to 60% of Area Median Income (AMI), which exceeds the requirement that at least 35% of new housing be affordable to households earning an average of 60% of AMI. The preliminary design concept includes three affordable housing buildings for low-income families (up to 60% AMI) and one permanent supportive housing project. The BRIDGE team is currently engaged in community outreach and planning activities that will inform the project design.

The proposed framework is not intended to address all potentially relevant questions or provide detailed guidelines. Unless otherwise indicated in the framework or approved by the City Manager, BART projects requesting City funding will be expected to comply with the requirements of the City’s Housing Trust Fund (HTF) Guidelines.

Advancing affordable housing development at the North Berkeley BART station supports the Strategic Plan Priority to create affordable housing and housing support service for our most vulnerable community members.

BACKGROUND

The Berkeley City Council and BART Board of Directors approved a Memorandum of Understanding (MOU) to plan for TOD at the stations in December 2019 and January 2020, respectively

Since then, the City has been working closely with BART on the development of the North Berkeley and Ashby BART sites. The City created a BART Community Advisory Group (CAG), made up of 15 members of the public to develop a vision for affordable housing, land use, station access, building form, and new public spaces. The CAG met throughout 2020 and 2021 at public meetings and community workshops, and provided feedback on the new zoning regulations impacting the North Berkeley BART site.

The CAG was instrumental in shaping the City - BART Joint Vision and Priorities for Transit-Oriented Development for Ashby and North Berkeley Stations (JVP). The JVP establishes baseline requirements and aspirational goals for housing development, including the total number of housing units, affordability levels, 10-year time horizon to

deliver units, sequencing of affordable housing units, unit-type, and type of developers desired. This section was informed by financial feasibility analyses conducted by Street Level Advisors that estimated the City subsidy required to achieve varying levels of affordable housing.

Street Level Advisors' analysis also estimated the amounts of City subsidy that would be required to achieve higher levels of affordability at each site. As the share of affordable housing increases and the number of market rate units decreases, the amount of developer contribution from market rate buildings will decline. This means that the required level of City subsidy per unit will increase at the same time that the number of funded units rises, resulting in increases in the amount of funding needed from the City.

To support the shared affordable housing goal at the BART sites, City Council set aside \$53M through Resolution 69,833-N.S. on April 27, 2021. At their respective March 2021 meetings, the Measure O Bond Oversight Committee (MOBOC) and the Housing Advisory Commission (HAC) unanimously recommended the funding reservation for affordable housing at the Ashby and North Berkeley BART stations.

BART issued a Request for Qualifications (RFQ) in July 2022 to select a team to develop housing at the North Berkeley BART station site. Through the RFQ, the City offered up to \$2M in predevelopment funding authorized by Resolution 69,833-N.S. A selection panel with equal representation of City and BART staff reviewed the qualifications of all teams, interviewed the team leads, and attended the public presentations on November 10, 2022. Based on their cumulative score, the panel recommended the selection of the BRIDGE team to the BART Board of Supervisors.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

Creating new affordable housing in Berkeley that allows lower-income individuals and families to live closer to transit will advance the goal of making the City more economically and racially equitable, and reduces greenhouse gas emissions by reducing vehicle-miles-traveled and decreasing reliance on personal vehicles. New affordable housing developments are typically built to third-party green building standards (either GreenPoint or LEED Gold).

RATIONALE FOR RECOMMENDATION

Development at the North Berkeley BART station will consist of multiple phases and projects, which requires a defined framework beyond our standard Inclusionary and Housing Trust Fund regulations and guidelines. The proposed framework will ensure that the City and community goals for affordable housing at the North Berkeley BART site are met. The framework also ensures effective leveraging of the City's resources to achieve the maximum number of affordable units.

ALTERNATIVE ACTIONS CONSIDERED

Staff did not identify alternative actions that are consistent with City priorities and past actions.

CONTACT PERSON

Margot Ernst, Housing and Community Services Manager, HHCS, 510-981-5427

Attachments:

1: Resolution

Exhibit A: North Berkeley BART Affordable Housing Framework

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

ADOPTING THE AFFORDABLE HOUSING FRAMEWORK FOR DEVELOPMENT AT
THE NORTH BERKELEY BART STATION AREA

WHEREAS, City Council established a Housing Trust Fund Program (HTF) to assist in the development and expansion of housing affordable to low- and moderate-income persons and authorized the City Manager to implement the Program; and

WHEREAS, there is a great need for affordable and special needs housing in the City of Berkeley as stated in the General Plan Housing Element and the City of Berkeley's Consolidated plan; and

WHEREAS, the City and BART are collaborating on the development of the North Berkeley BART site, and articulated shared goals in a Memorandum of Understanding, Memorandum of Agreement, and Joint Vision and Priorities for Transit-Oriented Development for Ashby and North Berkeley Stations; and

WHEREAS, the City and BART are committed to achieving a minimum of 35% affordable housing at each BART site; and

WHEREAS, on April 27, 2021, with Resolution 69,883-N.S., the City Council reserved \$53 million, to be divided between the two BART sites, as the subsidy needed to achieve 35% affordability, and allowed for a portion of that funding to be considered for predevelopment costs associated with affordable housing; and

WHEREAS, in July 2022, BART issued a Request for Qualifications (RFQ) to select a team to develop new housing at the North Berkeley BART site and created an RFQ selection panel with equal representation from the City and BART; and

WHEREAS, on December 1, 2022, the BART Board of Supervisors approved the RFQ panel's recommendation to select a development team made up of BRIDGE Housing Corporation (BRIDGE), East Bay Asian Local Development Corporation, Berkeley Food and Housing Project, and Avalon Bay Communities; and

WHEREAS, the BRIDGE lead development team proposed to develop 50% of the residential units at the North Berkeley BART as affordable to lower-income persons.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that it adopts the North Berkeley BART Affordable Housing Framework document (Exhibit A).

BE IT FURTHER RESOLVED that the City Manager, or her designee, is hereby authorized to execute all original or amended documents or agreements to effectuate this action; a signed copy of said documents, agreements, and any amendments will be kept on file in the Office of the City Clerk.

North Berkeley BART Project

Affordable Housing Framework

June 2023

This document is intended to outline the general framework that the City of Berkeley will use to evaluate affordable housing project proposals at the North Berkeley BART station. The framework outlines expectations regarding the share of affordable units and their income requirements, the phasing of various components of the project, the conditions for award of City subsidy funds and expectations regarding the contribution to affordable housing from market rate components of the projects.

The framework is not intended to address all potentially relevant questions or provide detailed guidelines. Unless otherwise indicated below or approved by the City Manager, BART projects requesting City Subsidy must comply with the requirements of the City's Housing Trust Fund ("HTF") Guidelines. The City Manager is authorized to provide additional requirements which expand on and modify the general principles outlined here in order to ensure a project that meets the City's ambitious goals of this critical site.

I. Project Affordable Housing Requirements

A. Affordable Unit Mix

The City, BART and the project Master Developer will strive to maximize the number of permanently affordable, rent-restricted housing units on-site, within the funding that can be identified in a timely manner. Based on the selected project proposal for North Berkeley BART, the City expects the Master Developer to pursue a development concept that exceeds minimum affordability requirements and includes a goal of 50% restricted affordable housing units. This total will include units built to satisfy the City's Affordable Housing Requirements Ordinance as well as any units that may be added as a result of a density bonus. Affordable units will be rent-restricted as affordable for the duration of the ground lease(s) with BART (at least 60 years), and any extensions thereon, in accordance with the income targets identified in the adopted Joint Vision and Priorities ("JVP") as follows:

1. At least 35% of new on-site housing must be affordable to households earning an average of up to 60% of Area Median Income ("AMI").
2. At least 20% of the required 35% on-site affordable units must be affordable to Extremely Low-Income ("ELI") households, those earning up to 30% of AMI.
3. Additional affordable units aside from the ELI units should prioritize Very Low Income (up to 50% of AMI) households and Low Income (up to 80%) households but may include some housing rent-restricted to households with moderate incomes (up to 120% of AMI).

B. Phasing

Affordable units should be built prior to, or along with, any market rate housing. No market rate housing will receive its notice to proceed until an affordable housing project receives its notice to proceed. In the event there are multiple phases of market rate or affordable housing, the City must approve a phasing plan to ensure consistency with the JVP goal of affordable housing being built on pace with market rate housing. The City must approve any changes to the phasing plan, including those caused by changing market conditions or availability of state and federal affordable housing funds.

As described below, under certain market conditions, it may make sense for the affordable components of the project to be constructed in advance of the market rate elements. If necessary, the City will make every effort to support this approach. The City expects the market rate projects to contribute proportionally to the shared costs (net of any sitewide infrastructure funding) related to master planning, site preparation and certain infrastructure. As a multi-phased development with multiple projects and partners, the City expects that each project will contribute its share of sitewide costs prior to receiving its notice to proceed, according to the schedule outlined in the Affordable Housing Compliance Plan. In addition, the City expects market rate projects to make significant financial contributions to support the development of affordable housing on the site. As a condition for any funding committed to an affordable project that proceeds in advance of the market rate development, the City will require a commitment that the future market rate developments contribute their share of sitewide costs prior to issuance of the market rate notice to proceed.

C. Clustering

Affordable units at the site may be integrated into mixed-income buildings or may be clustered into one or more 100% affordable housing buildings or any combination of the two. Stand-alone affordable buildings must be designed in a way that integrates with the larger project and shares the comparable design standards and quality.

The quality of exterior design and overall quality of construction of the Clustered Units must be consistent with the exterior design of the Market Rate Units. Clustered Units may have different interior finishes and features than the Market Rate Units in the Residential Development, provided the finishes and features are functionally equivalent to the Market Rate Units and are durable and of good quality.

D. Monitoring

The City will monitor all restricted affordable units at the site. Units that are included within mixed income buildings without City subsidy will be subject to a regulatory agreement which requires compliance with the City's BMR Rental Program Guidelines even if the total number exceeds the number that would be required under the Inclusionary Housing Ordinance. The City will collect an annual monitoring fee for these units as it does for other BMR units.

All affordable units in 100% affordable buildings will be subject to City loan and regulatory agreements and will be monitored according to the City's Housing Trust Fund guidelines.

E. Occupancy Preferences

The Joint Vision and Priorities (JVP) adopted by the City and BART after extensive public engagement calls for affordable housing units at the Ashby and North Berkeley BART sites to provide a preference for residents who have been displaced or are at risk of displacement. The Berkeley City Council is currently considering a city-wide preference policy which would address this need for all projects, and the City has commenced a Fair Housing Analysis to determine how each preference can be applied to the maximum percentage of units permitted. The preference policy will apply to the maximum number of units at the site that the City finds consistent with fair housing goals.

F. Inclusionary Housing Requirements

Berkeley currently has local Inclusionary Housing Ordinance for housing development projects (Berkeley Municipal Code [BMC] Chapter 23.328) which require new residential projects to either dedicate 20% of the onsite units as Below Market Rate (BMR) affordable units, with half affordable to households earning 50% or less of Area Median Income and half to households earning 80% or less, or to pay a fee in lieu of some or all of the unit provision. The City expects the North Berkeley BART project to exceed these citywide requirements and provide a total of 35-50% affordable housing units inclusive of units which would satisfy the Affordable Housing Requirements Ordinance requirements. It is the City's expectation that the North Berkeley BART project will request Council approval of an alternative means of compliance under the Inclusionary Housing Ordinance in order to cluster some or all of the required affordable units into 100% affordable housing projects. This clustering would not normally be allowed under the Inclusionary Housing Ordinance.

G. Outside Financing Sources

The Master Developer is expected to utilize all standard sources of debt and equity commonly available for similar projects including the potential use of Low-Income Housing Tax credits for eligible affordable units as well as other funding sources offered by the State of California. The City will work with the selected developers to seek public financing resources not obtainable without City support.

H. City Subsidy Funds

The City has provisionally reserved \$53 million of City-controlled funds to facilitate a higher share of affordable housing units at the North Berkeley Project and the Ashby Project than would be financially feasible without local public support. The funds will be used to support the development of on-site affordable units in excess of the current

requirement under the City's Affordable Housing Requirements of 20%. Up to \$26.5 million of this total is available to be invested in the North Berkeley Project. These City Subsidy Funds may be used for funding affordable housing units that exceed the City's inclusionary requirements. Any commitment of City funds to the project shall comply with the City's Housing Trust Fund Guidelines and the maximum per unit subsidy included below.

The City subsidy will be available to buildings which are 100% affordable housing and to affordable units dispersed amongst mixed-income housing buildings which meet the Housing Trust Fund Guidelines. The Developers may include additional moderate-income units in their overall affordable housing mix but may not request City subsidy for those units.

1. Development Funding

Developers meeting the threshold requirements in the HTF Guidelines for experience may apply for development funding for HTF affordable units following the predevelopment period. Staff anticipates Measure O funds will be available after the third and fourth bond issuances, currently projected for 2025 and 2027.

In addition to the HTF guidelines, the operation of the HTF program must comply with City procurement and contracting requirements as well as state or federal requirements when state or federal funds are used. In case of a conflict, City, State, and Federal requirements will prevail over the HTF Guidelines and the Project Guidelines.

2. Predevelopment Funding

a) Phase I Predevelopment Loan Funding Awarded through the Request for Qualifications (RFQ)

Up to \$500,000 in City predevelopment loan funds were awarded to the Master Developer at the time of RFQ selection. The selected developer executed an Exclusive Negotiating Agreement (ENA) with BART effective June 23, 2023, meeting the City's requirement that it do so prior to drawing upon predevelopment loan funds. Eligible predevelopment costs include: ENA deposit, fees related to the station access study, and other costs related to the development of the Property, to be approved by the City. City funds may only pay a prorated share of reasonable Property soft costs, in proportion to the percentage of the proposed residential square footage dedicated to stand alone affordable housing.

b) Phase II Predevelopment Loan Funding

The Master Developer may apply to the City for Phase II predevelopment loan funding of up to \$1.5 million, for a total of \$2 million in predevelopment funding. In addition to the nonprofit development team members' collective share of the early costs to the station access study and other master planning and predevelopment activities, the

funds may be used to pay for architectural and engineering costs related to the design of the affordable buildings.

Predevelopment loans will have a five-year term and will accrue interest at a rate of 3% per year. If development funding is provided through the Housing Trust Fund, the predevelopment loan will be added to the permanent loan, extending the term.

In the event the developer team does not proceed with development of the Project, the City shall have the option to cause borrower to assign, transfer and deliver to the City, all third party written reports which borrower has commissioned with Phase I or Phase II loan proceeds with respect to the development and entitlement, including any architect or consulting agreements with any third parties providing design or development services with respect to the North Berkeley affordable units and all work product produced under any such agreements.

3. Maximum Per Unit City Subsidy

The City will limit its subsidy to no more than an average of \$200,000 per rent-restricted lower income unit, counting only units provided beyond the 20% which would be required by the City's Affordable Housing Requirements.

The City subsidy will be available to buildings which are 100% affordable housing or HTF affordable units dispersed amongst mixed income housing buildings, which meet the Housing Trust Fund Guidelines. Projects may include additional moderate-income units in their overall affordable housing mix but may not request City subsidy for those units.

I. Minimum Developer Contribution for Affordable Housing

To ensure that City subsidy is increasing the commensurate level of on-site affordability that would otherwise be provided, any developer applying for City Affordable Housing Subsidy shall demonstrate a developer capital contribution equal to the greater of:

- a. The then-current City housing mitigation and/or inclusionary in-lieu housing fee amount per unrestricted market rate unit (or aggregate square footage of the market rate units) to be developed on the Property (including any bonus units available as a result of the density bonus), or
- b. \$200,000 per on-site affordable unit required by the City's affordable housing regulations (inclusionary unit).

The project's Affordable Housing Compliance Plan must include a schedule for the timing of payment of these contributions and an indication of how they will be allocated among multiple affordable housing buildings within the project. The City's expectation is that Developer Contributions will be paid to affordable projects prior to the close of construction financing for each affordable project, but the City may approve alternative timelines provided that there is adequate assurance that the payments will be made

prior to the issuance of a notice to proceed for market rate units. The City will regulate and secure all developer funded units in the same way that it would affordable units funded directly through the City's Housing Trust Fund.

The developer capital contribution may be provided by the market rate developer of record towards the affordable housing units or in the form of one or more cash contributions to nonprofit sponsors developing affordable housing at North Berkeley or through documented in-kind expenditures approved by the City on behalf of the affordable housing projects. The value of any land discount (e.g., ground rent) provided by BART may not be counted toward the developer in-kind contribution.

The City's expectation is that market rate developer contribution funds will be allocated between affordable buildings roughly in proportion to the share of low and very low-income units in each building. However, in the event that one or more of the affordable housing projects receive building permits prior to the issuance of building permits for the corresponding market rate projects, the City may approve a plan which allocates a higher share of City Subsidy and a lower share of market rate Developer Contribution to the initial project provided that:

1. The project is able to provide security satisfactory to the City Attorney's Office to ensure that future phases of the market portion of the project will contribute the required amounts to remaining affordable projects, and
2. At least 1/3 of the allocated City Subsidy amount (or another amount approved by the City) is reserved and not committed until 100% of the required Developer Contribution has been paid to either the City or the Affordable Housing Sponsors or approved by the City as in-kind expenditures on behalf of the affordable housing projects.

J. Process for Award of Development Subsidy

Each affordable housing project's sponsor may apply for City development subsidy in compliance with the City's maximum per unit subsidy limits included below. The City has reserved \$26.5 million for affordable housing at the North Berkeley BART site, including both development and predevelopment funding.

To access development funding, the developer must submit an application for each affordable housing project through the City's HTF program. The application must include the items listed below if not already provided through a predevelopment application:

- An Affordable Housing Compliance Plan, as described below, covering the entire development site (including all market and affordable buildings), and describing the specific strategy that will be used to meet BART and the City's Affordable Housing Requirements

- Evidence that that the market rate portions of the Project are contributing financially to the provision of Affordable Housing in an amount at least equal to the Developer Minimum Contribution Standard (defined above)
- Evidence that the request for City Affordable Housing Subsidy complies with the City's existing Housing Trust Fund Guidelines which may be found at [Housing-Trust-Fund-Guidelines.pdf \(berkeleyca.gov\)](#)
- Evidence that the request for City Affordable Housing Subsidy does not exceed the Maximum Per Unit City Subsidy (defined above)

Development subsidy funds will not be disbursed prior to complete project entitlement and execution of BART ground lease. Staff will fully underwrite each development funding application using HTF Guidelines and any supplemental guidance for affordable housing development at North Berkeley BART as approved by the City Manager.

Any commitment for City funding beyond the predevelopment stage will require an Affordable Housing Compliance Plan ("AHCP") approved by the Berkeley City Council. The developer will be required to submit a revised plan for approval if project plans change after the AHCP is approved.

II. Appendix: Affordable Housing Compliance Plan

The Affordable Housing Compliance Plan must provide a comprehensive overview of the proposed affordable housing strategy with enough detail to enable the City to evaluate requests for funding for individual components within the context of the whole project. An initial outline of the requirements of the AHCP is included below. HHCS staff may make additions and modifications to this outline before finalizing the list of required elements.

Affordable Housing Compliance plan – Required Elements:

- a. A description of the proposed means of compliance with the City's Inclusionary Housing Ordinance, including any request for alternative means of compliance such as clustering of the inclusionary units
- b. Site Plan identifying the location of the market rate and affordable housing units/developments
- c. Unit and bedroom count for the market rate units and the affordable units, including the specific affordability restrictions (depth of affordability) for each set of units
- d. Phasing Plan covering the entire site and demonstrating that affordable units will be constructed in advance of or concurrent with the market rate units
- e. A description of any site amenities including open space or exterior amenities
- f. A description of the proposed developer contribution to affordable housing. This description will identify specific in-kind and cash contributions as well as their likely timing. The land discount granted by BART cannot be included as an in-kind contribution for the purposes of the developer contribution
- g. A report completed by a third-party economic analysis firm approved by the City of Berkeley which:
 - i. Compares the proposed level of affordability (number of units and depth of AMI affordability) to the level that would be provided by a hypothetical development project on the Property that complied with the City's Inclusionary Housing Requirements through the on-site compliance option;
 - ii. Provides a financial analysis estimating the developer capital contribution that would be required to provide the City's inclusionary units on-site and comparing that to the developer's proposed affordable housing capital contribution as part of their finance plan; and
 - iii. Reviews individual and combined project return metrics, economics, and annual cash flow to validate project feasibility and to ensure a customary market rate return.



Office of the City Manager

ACTION CALENDAR

July 25, 2023

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Jennifer Louis, Chief of Police

Subject: Surveillance Ordinance items related to Fixed Automated License Plate Readers (ALPRs)

RECOMMENDATION

Adopt a Resolution accepting the proposed policies and acquisition report for the use of fixed automated license plate readers (ALPRs).

FISCAL IMPACTS OF RECOMMENDATION

BPD expects the individual camera costs to range from \$2500-\$5000 each, with the installation to vary. BPD believes that for the proposed 52-camera deployment the cost to purchase and install to not exceed an initial cost of \$250,000. The yearly subscription cost may fluctuate but is expected to range from \$125,000 to \$175,000 a year.

INTRODUCTION

The City of Berkeley enacted the Surveillance Ordinance in 2018 to establish a thoughtful process regarding the procurement and use of Surveillance Technology that carefully balances the City's interest in protecting public safety with its interest in protecting the privacy and civil rights of its community members. To ensure that our general policies maintained consistent format with other department policies the Department developed parallel 'use' policies where appropriate so that the 'Surveillance Use Policy' could directly follow all the requirements explicitly set forth in BMC 2.99.020(4). Both policies are equally important, and all members are required to abide by the legal parameter of both policies. Thereby in nearly every piece of equipment that the Department has that is reportable under BMC 2.99, there are generally two nearly identical policies, a Use Policy, and a Surveillance Use Policy. Recognizing the importance of the Surveillance Use Policies, the Department has a chapter in our Departmental Policies dedicated to the Surveillance Use Policies.

CURRENT SITUATION AND ITS EFFECTS

There is existing automated license plate reader (ALPR) technology at use in the City, however, Council approved that technology for a different use and effective purpose than is proposed in this item. This new use of ALPR technology is fixed automated license plate readers (ALPRs). As part of the Surveillance Ordinance process, the department must complete acquisition and use policies which must undergo review by the Police Accountability Board and ultimately receive Council approval. These items were also presented to the Public Safety Policy Committee for review and guidance.

The Department is bringing this item forward in response to the Council's approved budget referral on ALPRs for community safety improvement on November 30th, 2021. The Department was tasked with the creation of policies and identifying costs associated with such a program.

The Department has identified and provided several examples in the Acquisition Report wherein this technology could have potentially benefited the Department in its efforts of precision-based policing, and potentially aided the community in the mutual efforts to keep the City of Berkeley safe.

The City of Berkeley currently has ALPR technology with the Department's Parking Enforcement. However, this technology is intentionally focused on the mission as it relates to parking enforcement operations. The proposed fixed ALPR policies are intended to aid investigations, improve community safety and aid the Department in its efforts of precision-based policing.

Crime trends regionally and in the City of Berkeley indicate there has been a steady increase in shootings in the City over the last five years and Part 1 Crimes reached their highest level in ten years in 2022. The Department believes that fixed ALPRs support our mission to safeguard our diverse community through proactive law enforcement and problem-solving, treating all people with dignity and respect. This law enforcement tool enhances policing practices and creates greater safeguards toward fair and impartial policing and safer outcomes during law enforcement interactions.

The Fixed Automated License Plate Reader Policies are covered by three policies:

1. Policy 422 – The policy that will establish guidelines for the Police Department on the use of Fixed Automated License Plate Readers
2. Policy 1305 - The Surveillance Use Policy related to Fixed Automated License Plate Readers
3. Surveillance Acquisition Report – Citywide Report regarding Fixed Automated License Plate Readers

These policies are attached to this report.

On May 12th, 2023, the above policies are currently undergoing review by the City Attorney's Office.

Pursuant to the Surveillance Ordinance, BMC Section 2.99.030.2, upon receipt of acquisition and use policies from the Police Department, the Police Accountability Board (PAB) has a 30-day deadline "to recommend approval of the policy, object to the proposal, recommend modifications, or take no action." BPD shared the policies with DPA on May 11th, 2023.

The Police Accountability Board held a Special Meeting on June 16th, 2023 wherein they objected to the proposed policies and outlined concerns. These concerns and correspondence are attached to this item.

The Public Safety Policy Committee held a Special Meeting on June 20th, 2023. Both the Police Department and Police Accountability Board/ODPA presented the proposed policies. In conclusion, the Public Safety Policy Committee made a qualified positive recommendation to the City Council with the understanding that the Berkeley Police Department (BPD) and the Police Accountability Board (PAB) will be submitting supplemental materials for consideration; requesting that BPD provide a line-by-line response to the amendments and revisions proposed by the PAB clarifying why they are being accepted or rejected. It was also requested that the Department provide an Informational Item to Council upon the final recommendation of placement of the ALPR cameras after consulting with the vendor.

The Department is bringing before the Council a revised red-line version of the policies that address concerns identified by PAB. These updates are explained in greater detail ("line by line") in the attached memorandum.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

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

CONTACT PERSON

Captain Mike Durbin, Police, Professional Standards Division (510) 981-5760

ATTACHMENTS:

1. Resolution
2. Police Accountability Board's June 16th, 2023 Objection to the BPD Acquisition and Proposed Policies.
3. BPD Policy 422
4. BPD Policy 1305
5. BPD Acquisition Report
6. BPD response to Police Accountability Board

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

SURVEILLANCE ORDINANCE ITEMS: FIXED AUTOMATED LICENSE PLATE
READERS (ALPRS)

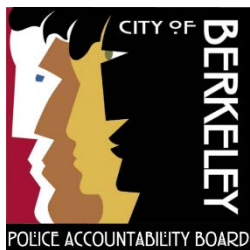
WHEREAS, the Berkeley City Council adopted Ordinance NO. 7,592-N.S., the Surveillance Technology Use and Community Safety Ordinance on March 13, 2018; and

WHEREAS, BMC section 2.99.020 (4) mandates a Surveillance Use Policy for use of Surveillance Technology; and

WHEREAS, Fixed Automated License Plate Readers (ALPRs) are considered Surveillance Technology per BMC section 2.99.020 (1); and

WHEREAS, per BMC section 2.99.030 (1)(b), requires the City Manager to obtain City Council approval for the acquisition of new Surveillance Technology, Fixed Automated License Plate Readers (ALPRs), by placing an item on the Action Calendar.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that it approves the acquisition and Use Policies for the Fixed Automated License Plate Readers (ALPRs).



John “Chip” Moore, Chair
Police Accountability Board
dpa@cityofberkeley.info

June 16, 2023

VIA ELECTRONIC MAIL

Chief Jennifer Louis
Berkeley Police Department
2100 Martin Luther King Jr. Way
Berkeley, CA 94704

Re: Objection to the Berkeley Police Department Surveillance Acquisition Report – Fixed Automated License Plate Readers (ALPR) and Proposed Policies 422 and 1305

Dear Chief Jennifer Louis,

I am writing to you as the Chair of the Police Accountability Board (PAB) regarding the recent proposal for the acquisition of fixed automated license plate readers (ALPRs) and the corresponding proposed policies (422 and 1305). Pursuant to our authority under BMC 2.99.030, the PAB has conducted a thorough review of the Berkeley Police Department Surveillance Acquisition Report – Fixed Automated License Plate Readers and the proposed policies (422 and 1305). On June 16, 2023, at a Special Meeting, the Board voted to object to the proposal of the acquisition and the policies as written.

We acknowledge the importance of maintaining public safety and recognize the Berkeley Police Department's dedication to serving and protecting our community. Our aim is to balance public safety and the protection of civil liberties and privacy without compromising one for the other. By addressing and clarifying the concerns we raise in this letter, we can work together to create a safe and secure environment for all members of the Berkeley community while upholding their rights and privacy.

Our decision to object to the proposal was based on careful consideration of various factors. We considered the comments and observations from individual Board members, an independent report authored by the Office of the Director of Police Accountability (ODPA) expressing concerns about the technology and lack of clarity in the drafted policies, input from community members

who participated in the public forum of the Board, and insights from subject matter experts who cautioned us about approving the acquisition and corresponding policies without a careful analysis of the community implications.

In the analysis, the PAB identified four specific areas where the acquisition report and proposed policies lack clarity and may run contrary to the values of our community and the work underway to reimagine public safety in the City of Berkeley:

- 1) **Civil Liberties Protections**¹: The proposed acquisition report and policies need to provide stronger safeguards and assurances for protecting civil liberties and privacy rights. It is essential to ensure that the acquisition and use of ALPRs do not infringe upon the rights of individuals in our community. For example:
 - a. One of our Board members expressed concerns that the acquisition report or the policies don't provide safeguards for this surveillance technology or its data being used in a way that could run afoul of reproductive rights by recording movements or location patterns of individuals seeking medical attention or health services for reproductive rights.
 - b. We are concerned that the Department indicates "*Reasonable suspicion or probable cause is not required before using an ALPR*", but provides no clear examples of a scenario where the technology may be required to be used without reaching these important legal thresholds.
 - c. There appears to be unclear language about retention periods. In one section the Department indicates, "*The ALPR vendor will purge their data at the end of the 30 days of storage.*" Then, the Department includes seemingly contradictory language in its policy: "*However, this will not preclude Berkeley Police Department from maintaining any relevant vehicle data obtained from the system after that period pursuant to the established City of Berkeley retention schedule mentioned above or outlined elsewhere.*" (see Section 1305.4 of the proposed policy)

¹ As indicated by BPD Sergeant LeDoux at the June 16, 2023 Special Meeting of the Board, the Department is considering acquiring cameras from a specific vendor. Watchdogs like the ACLU have raised civil liberties concerns about the potential vendor. For your consideration please consider this article from the ACLU regarding Flock's surveillance systems:

Chad Marlow, J. S. (2023, June 13). *How to pump the brakes on your police department's use of Flock's mass surveillance license plate readers*: ACLU. American Civil Liberties Union. <https://www.aclu.org/news/privacy-technology/how-to-pump-the-brakes-on-your-police-departments-use-of-flocks-mass-surveillance-license-plate-readers>

- 2) **Lack of Empirical Support or Data justifying the need or its intended use:** We have noted a lack of empirical evidence or data demonstrating the effectiveness of the technology in achieving its intended goals here in the City of Berkeley. While the PAB is aware the BPD has reported² an increase in crime in specific categories over the years, comparable jurisdictions with or without this technology have not been analyzed to determine potential effectiveness for those crime categories. Before moving forward with the acquisition, it is crucial to have solid evidence that ALPRs will significantly contribute to solving criminal investigations and enhancing public safety beyond the highlighted cases the Department cites in the Acquisition Report.
- a. The ODPa's report cited the IACP (2022) survey³ which indicated, "*Although research is sparse, there is some evidence that suggests LPR use is effective at preventing crime.*" However, the Acquisition Report fails to adequately provide a data-based justification for why the City of Berkeley needs to adopt this technology.
 - b. As noted in the ODPa report, as currently written, the *Purpose* section of the BPD's Acquisition Report does not explicitly mention a data-based justification for the use of ALPRs (beyond the highlighted cases of interest). To strengthen the justification for the acquisition, the BPD needs to provide statistical analyses (or other data analyses) demonstrating the effectiveness of ALPRs in reducing the specific crime problems the City would like to resolve.
- 3) **Concerns about True Financial Costs:** The PAB has concerns about the true costs associated with the technology, including potential hidden costs, maintenance expenses, and long-term financial commitments. It is essential to have a comprehensive understanding of the financial implications and ensure that the benefits outweigh the costs.
- 4) **Lack of Completeness of the Acquisition Report and Proposed Policies:** The proposed policies require further clarity, elaboration, and editing. Particularly, the Department should clearly outline the intended uses of the data, retention periods, access controls, and measures to protect against potential misuse or unauthorized access (to include more information about minimum training requirements for the users of the technology). For example:

² Gecan, A. N. (2023, March 20). Berkeley crime on the rise following pandemic "anomalies." Berkeleyside. <https://www.berkeleyside.org/2023/03/17/crime-reports-berkeley-police>

³ "IACP LPR Survey Results." International Association of Chiefs of Police (IACP). Accessed June 15, 2023. https://www.theiacp.org/sites/default/files/IACP_LPR_Survey_Results_5.16.22.pdf

- a. In the proposed policies, the Department uses language to emphasize the importance of data privacy, protection of civil liberties, and accountability but has a weak approach to misuse in Section 422.5 of the proposed policy, “ *Anyone who engages in an impermissible use of the ALPR system or associated scan files or hot lists **may be subject to administrative sanctions**, up to and including termination, pursuant to and consistent with the relevant collective bargaining agreements and departmental policies.*” (emphasis added). Adherence to the policy needs to be non-negotiable, therefore the Department needs to modify the language to indicate that impermissible uses **SHALL** be subject to administrative sanctions.
- b. Section 422.10 of the proposed policy mentions the requirement for training but does not specify what that will look like. As noted in the ODPa report, the BPD should outline the minimum training requirements provided to officers on the proper use of ALPRs and adherence to privacy and civil rights standards.
- c. Without clear articulation of the minimum training requirements, the Board has concerns regarding Sections 422.5 and 1305.3 of the proposed policies which encapsulate conditions for use, standards to be observed for various circumstances (stop of car vs. stop of person for example), and required verification before certain activities can be taken.

We sincerely appreciate your attentiveness to this matter. We eagerly anticipate continued dialogue and collaboration on this significant issue. We firmly believe that addressing complex and intricate problems requires consideration of multiple, and at times conflicting, perspectives, which may yield various potential solutions.

Sincerely,



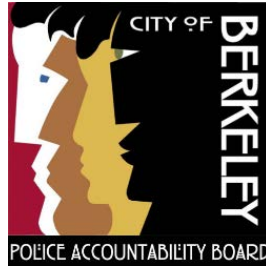
John "Chip" Moore

John “Chip” Moore, Chair
Police Accountability Board

cc: **Via Email Only**
Terry Taplin, City Councilor (Chair of Public Safety Committee)
Police Accountability Board
Dee Williams-Ridley, City Manager
Mark Numainville, City Clerk
Farimah Brown, Berkeley City Attorney

Attachments:

- JUNE 16, 2023 - POLICE ACCOUNTABILITY BOARD SPECIAL MEETING
_PACKET
- JUNE 16, 2023 - POLICE ACCOUNTABILITY BOARD SPECIAL MEETING
_SUPPLEMENTAL PACKET



**POLICE ACCOUNTABILITY BOARD
SPECIAL MEETING PACKET**

**Friday, June 16, 2023
10:00 A.M.**

Board Members:

JOHN MOORE III. (CHAIR)
KITTY CALAVITA

JULIE LEFTWICH

REGINA HARRIS (VICE-CHAIR)
LEAH WILSON

MEETING LOCATION

Multipurpose Room
1947 Center Street,
Berkeley, CA 94704

Item	Page
Health and Safety Protocols for In-Person Meetings of Berkeley Boards and Commissions	1
June 16, 2023 Special Meeting Agenda	3
<i>November 30, 2021 Budget Referral Re Automatic License Plate Readers For Community Safety Improvements As Submitted By Councilmember Taplin, Vice Mayor Droste (Former), And Councilmember Wengraf.</i>	4
<i>Draft of BPD Policy 422 "Fixed Automated License Plate Readers (ALPRs)"</i>	46
<i>Draft of BPD Policy 1305 "Surveillance Use Policy – Fixed ALPRs"</i>	53
<i>Draft of BPD Policy 1305 Appendix A "Berkeley Police Department Surveillance Acquisition Report – Fixed Automated License Plate Readers"</i>	61

Health and Safety Protocols for In-Person Meetings of Berkeley Boards and Commissions February 2023

The policy below applies to in-person meetings of Berkeley Boards and Commissioners held in accordance with the Government Code (Brown Act) after the end of the State-declared emergency on February 28, 2023.

Issued By: City Manager's Office

Date: February 14, 2023

I. **Vaccination Status**

All attendees are encouraged to be fully up to date on their vaccinations, including any boosters for which they are eligible.

II. **Health Status Precautions**

For members of the public who are feeling sick, including but not limited to cough, shortness of breath or difficulty breathing, fever or chills, muscle or body aches, vomiting or diarrhea, or new loss of taste or smell, it is recommended that they do not attend the meeting in-person as a public health precaution. In these cases, the public may submit comments in writing in lieu of attending in-person.

If an in-person attendee has been in close contact, as defined below, with a person who has tested positive for COVID-19 in the past five days, they are advised to wear a well-fitting mask (N95s, KN95s, KF94s are best), test for COVID-19 3-5 days from last exposure, and consider submitting comments in writing in lieu of attending in-person.

Close contact is defined as someone sharing the same indoor airspace, e.g., home, clinic waiting room, airplane, etc., for a cumulative total of 15 minutes or more over a 24-hour period within 2 days before symptoms of the infected person appear (or before a positive test for asymptomatic individuals); or having contact with COVID-19 droplets (e.g., being coughed on while not wearing recommended personal protective equipment).

A voluntary sign-in sheet will be available at the meeting entry for in-person attendees. This will assist with contact tracing in case of COVID-19 contact resulting from the meeting.

Members of City Commissions are encouraged to take a rapid COVID-19 test on the day of the meeting.

Health and Safety Protocols for In-Person Meetings of Berkeley Boards and Commissions February 2023

III. **Face Coverings/Mask**

Face coverings or masks that cover both the nose and mouth are encouraged for all commissioners, staff, and attendees at an in-person City Commission meeting. Face coverings will be provided by the City and available for attendees to use at the meeting. Members of Commissions, city staff, and the public are encouraged to wear a mask at all times, except when speaking publicly from the dais or at the public comment podium, although masking is encouraged even when speaking.

IV. **Physical Distancing**

Currently, there are no physical distancing requirements in place by the State of California or the Local Health Officer for an indoor event similar to a Commission meeting.

Audience seating capacity will be at regular allowable levels per the Fire Code. Capacity limits will be posted at the meeting location. However, all attendees are requested to be respectful of the personal space of other attendees. An area of the public seating area will be designated as “distanced seating” to accommodate persons that need to distance for personal health reasons.

Distancing will be implemented for the dais as space allows.

V. **Protocols for Teleconference Participation by Commissioners**

Upon the repeal of the state-declared emergency, all standard Brown Act requirements will be in effect for Commissioners participating remotely due to an approved ADA accommodation. For Commissioners participating remotely, the agenda must be posted at the remote location, the remote location must be accessible to the public, and the public must be able to participate and give public comment from the remote location.

- A Commissioner at a remote location will follow the same health and safety protocols as in-person meetings.
- A Commissioner at a remote location may impose reasonable capacity limits at their location.

VI. **Hand Washing/Sanitizing**

Hand sanitizing stations are available at the meeting locations. The bathrooms have soap and water for handwashing.

VII. **Air Flow/Circulation/Sanitizing**

Air filtration devices are used at all meeting locations. Window ventilation may be used if weather conditions allow.



POLICE ACCOUNTABILITY BOARD SPECIAL MEETING AGENDA

**Friday, June 16, 2023
10:00 A.M.**

Board Members:

JOHN MOORE III. (CHAIR)
KITTY CALAVITA

JULIE LEFTWICH

REGINA HARRIS (VICE-CHAIR)
LEAH WILSON

MEETING LOCATION

Multipurpose Room
1947 Center Street,
Berkeley, CA 94704

PUBLIC NOTICE

The PAB has resumed in-person meetings and encourages community members to attend in person. Community members attending in person should observe the “Health and Safety Protocols for In-person Meetings of Berkeley Boards and Commissions” as outlined by the City of Berkeley.

***The PAB acknowledges that physical attendance may not be feasible for all community members. To this end, the Office of the Director of Police Accountability (ODPA) has been exploring the option of allowing for remote participation at the PAB meetings. Please note that the ODPA and PAB are in the early stages of implementing this hybrid meeting format so there is a possibility for technical glitches and errors. Your patience and understanding are greatly appreciated. ***

To access the meeting remotely: join from a PC, Mac, iPad, iPhone, or Android device using this URL: <https://us02web.zoom.us/j/82136328053>. If you do not wish for your name to appear on the screen, use the drop-down menu and click on “rename” to rename yourself to be anonymous. To request to speak, use the “raise hand” icon on the screen. To join by phone: Dial **1 669 900 6833** and enter Meeting ID **821 3632 8053**. If you wish to comment during the public comment portion of the agenda, press *9 and wait to be recognized.

LAND ACKNOWLEDGEMENT

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

AGENDA

1. **CALL TO ORDER & ROLL CALL (2 MINUTES)**
2. **APPROVAL OF AGENDA (2 MINUTES)**
3. **PUBLIC COMMENT (15 MINUTES)**
(Public comment at special meetings is limited to the items on the agenda. Speakers are generally allotted up to three minutes, but may be allotted less time if there are many speakers.)
4. **POLICY REVIEW OF BERKELEY POLICE DEPARTMENT'S PROPOSED POLICIES: POLICY 422 "FIXED AUTOMATED LICENSE PLATE READERS (ALPRs)" AND POLICY 1305 "SURVEILLANCE USE POLICY – FIXED ALPRs" (90 MINUTES)**
(The objective of this agenda item is to conduct a comprehensive policy review of the Berkeley Police Department's proposed policies regarding the use of ALPRs. The PAB may vote to recommend approval of the policies, object to the proposal, recommend modifications, or take no action.)
5. **PUBLIC COMMENT (10 MINUTES)**
(Public comment at special meetings is limited to the items on the agenda. Speakers are generally allotted up to three minutes, but may be allotted less time if there are many speakers.)
6. **ADJOURNMENT (1 MINUTE)**

Communications Disclaimer

Communications to the Police Accountability Board, like all communications to Berkeley boards, commissions, or committees, are public records and will become part of the City's electronic records, which are accessible through the City's website. Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to a City board, commission, or committee, will become part of the public record. If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service or in person to the Board Secretary. If you do not want your contact information included in the public record, do not include that information in your communication. Please contact the Board Secretary for further information.



Communication Access Information (A.R. 1.12)

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

SB 343 Disclaimer

Any writings or documents provided to a majority of the Board regarding any item on this agenda will be made available for public inspection at the Office of the Director of Police Accountability, located at 1947 Center Street, 5th Floor, Berkeley, CA.

Contact the Director of Police Accountability (Board Secretary) at:

1947 Center Street, 5th Floor, Berkeley, CA 94704
TEL: 510-981-4950 TDD: 510-981-6903 FAX: 510-981-4955
Website: www.cityofberkeley.info/dpa/ Email: dpa@cityofberkeley.info

Internal

**November 30, 2021 Budget Referral
Re Automatic License Plate Readers
for Community Safety Improvements
as Submitted by Councilmember
Taplin, Vice Mayor Droste (Former),
And Councilmember Wengraf.**



Action CALENDAR
DATE: November 30, 2021

To: Honorable Mayor and Members of the City Council

From: Councilmember Taplin, Vice Mayor Droste (co-sponsor), Councilmember Wengraf (co-sponsor)

Subject: Budget referral: Automated license plate readers for community safety improvement

RECOMMENDATION

That the Berkeley City Council take the following actions to enable and deploy tactical technologies in strategic public spaces and the public ROW for the improvement of community safety and determent, intervention, prevention of illegal dumping and/or investigation of violent crime and traffic violations:

- Authorize the City Manager to install Automatic License Plate Readers (ALPRs) at strategic locations including public facilities, entrances to the city and the public right-of-way in areas impacted by violent crime, traffic violations including infractions pertaining to bicycle and pedestrian safety, illegal dumping, Schedule II drug offenses, and other criminal activity; **and refer to the FY 23-24 budget process cost of ALPRs.**
- Refer to the City Manager the development of a policy pursuant and subject to City of Berkeley Surveillance Ordinance and Sanctuary City Contracting Ordinance enabling the use of ALPRs in fixed locations, mobile trailers, and vehicles by the Berkeley Police Department; consider a data retention period of no greater than one year, no less than sixty days to account for reporting lag, and study the feasibility of shorter data retention periods for non-hit scans with final discretion resting with the City Manager; consider comparable and applicable standards in the ALPRs policies of local governments including: the City of Alameda, The city of Emeryville, The City of Hayward, The City of Oakland, The City of Piedmont, The City of Richmond, The City of San Leandro, and The City of Vallejo; and consider provisions to safeguard efficacy against plate counterfitting, plate switching, and other methods of detection evasions.

POLICY COMMITTEE RECOMMENDATION

On November 1, 2021, the Public safety Policy Committee took the following action: M/S/C (Kesarwani/Bartlett) to refer the item to Council with a qualified positive recommendation of the item to reflect the Policy Committee's desire for consideration of the costs and benefits of this proposed expenditure against other public safety investments in the two-year FY 2022-23 &

2023-24 budget and the need to first develop a policy related to addressing data retention and other issues in accordance with the City of Berkeley Surveillance Ordinance and Sanctuary City Contracting Ordinance.

CURRENT SITUATION AND ITS EFFECTS

According to the Berkeley Police Department's 2019/2020 Crime Report, Berkeley has seen marked increases in aggravated assault, homicides, auto theft and larceny over the past two years.¹ While the overall crime rate remained relatively flat, specific categories of property crimes increased sharply—especially vehicle thefts, which increased by 66% in 2020. Homicides decreased to zero in 2021, but reports of gunfire and auto theft increased.

Currently, the police department's Parking Enforcement Bureau uses Automated License Plate Readers (ALPRs)² for time zone parking and scofflaw enforcement, replacing the practice of physically "chalking" car tires, but ALPR technology has not been implemented in the city for other law enforcement purposes. According to the City Manager's 2020 Surveillance Technology Report, there were an average of 12,059 successful license plate "reads" per day in the month of September, 2020. From October 2019 to October 2020, there were 44,068 "hits" detecting a positive violation, roughly 25% (14,945) of which resulted in enforcement by citation issuance.³

Pursuant to Berkeley Municipal Code Chapter 2.99 Section 2.99.070, the City Manager's office is required to report on surveillance technology on an annual basis.

BACKGROUND

According to a 2018 study⁴ by the Center for Policing Equity, Black people comprise only 8% of Berkeley's population, but a disproportionate 46% of people subject to police uses of force. In light of this evidence, and in the wake of the national outcry over the death of George Floyd, the City Council adopted a resolution⁵ on July 14, 2020 directing the City Manager in part to "identify elements of police work that could be achieved through alternative programs, policies, systems, and community investments."

Some research has found that ALPRs contribute to marginal improvements in public safety outcomes with respect to vehicle thefts and traffic safety. The use of LPR technology has

¹ https://www.cityofberkeley.info/Clerk/City_Council/2020/10_Oct/Documents/2020-10-13_Presentations_Item_19_Pres_Police_pdf.aspx

²

³ https://www.cityofberkeley.info/Clerk/City_Council/2020/11_Nov/Documents/2020-11-10_Item_19_Resolution_Accepting_the_Surveillance.aspx

⁴ Buchanan, K.S., Pouget, E., Goff, P.A. (2018). The Science of Justice: Berkeley Police Department. *Center for Policing Equity*. Retrieved from <https://www.berkeleyside.org/wp-content/uploads/2018/05/Berkeley-Report-May-2018.pdf>

⁵ https://www.cityofberkeley.info/Clerk/City_Council/2020/07_Jul/Documents/2020-07-14_Item_18d_Transform_Community_Safety_pdf.aspx

increased significantly in law enforcement agencies across the US in the past decade, but outcomes have been inconsistently tracked, which limits available research.⁶ One qualitative case study found that criminal investigators adapted LPR technology to a broader range of investigative work, such as rapid responses and corroborating suspect alibis.⁷

An analysis of a randomized control trial in the City of Vallejo found that ALPRs attached to police vehicles enabled a 140% increase in detection of stolen vehicles, while arrests were more efficient with stationary ALPRs in fixed locations.⁸ A study on LPR technology in Mesa, AZ found that LPRs resulted in an eightfold increase in the number of plates scanned, more positive scans, arrests and recovery of stolen vehicles, and a reduction in calls for drug offenses. However, the study did not find a statistically significant reduction in vehicle thefts in hot spots compared to manual checks, possibly because the presence of law enforcement officers performing manual checks had a more preventative effect.⁹ Another study of the Charlotte-Mecklenburg Police Department found that “LPR use may have contributed to modest improvements in case closures for auto theft and robbery”—the former in the long term, and the latter both short- and long term.¹⁰

According to recent analysis by the National Highway Traffic Safety Administration, one law enforcement agency found that drivers with suspended, revoked, or restricted licenses were 2.2 times more likely to be involved in serious or fatal crashes than other drivers, and that identifying these drivers with ALPRs “could affect traffic safety positively by targeting violator vehicles that are more prone to crash risk.”¹¹ A quasi-experimental survey of data from Buffalo, NY found a reduction in violent crime and traffic accidents associated with roadblocks using LPRs.¹²

RATIONALE FOR RECOMMENDATION

Reimagining public safety necessitates significant improvements in public safety outcomes, including practical solutions to traffic safety and property crime. California law currently

⁶ Lum, C., Koper, C.S., Willis, J., Happeny, S., Vovak, H. and Nichols, J. (2019). The rapid diffusion of license plate readers in US law enforcement agencies. *Policing: An International Journal*, (42)3, pp. 376-393. <https://doi.org/10.1108/PIJPSM-04-2018-0054>

⁷ James J. Willis, Christopher Koper & Cynthia Lum (2018). The Adaptation of License-plate Readers for Investigative Purposes: Police Technology and Innovation Re-invention, *Justice Quarterly*, 35:4, 614-638, DOI: 10.1080/07418825.2017.1329936

⁸ Potts, J. (2018). Research in brief: assessing the effectiveness of automatic license plate readers. *POLICE CHIEF*. Retrieved from <http://www.theiacp.org/sites/default/files/2018-08/March%202018%20RIB.pdf>

⁹ Taylor, B., Koper, C. S., & Woods, D. J. (2012). Combatting auto theft in Arizona: A randomized experiment with license plate recognition technology. *Criminal Justice Review*, 37, 24-50.

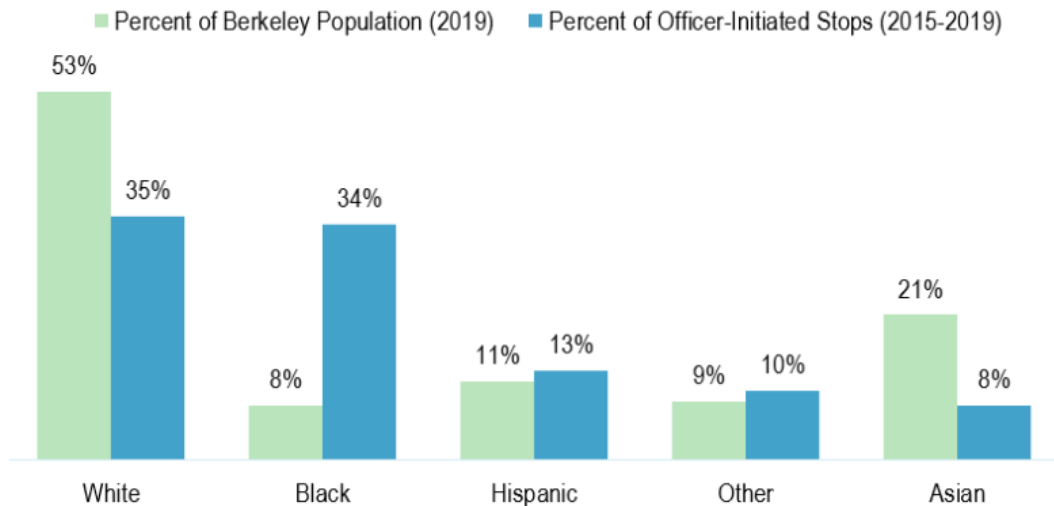
¹⁰ Koper, C. S., & Lum, C. (2019). The Impacts of Large-Scale License Plate Reader Deployment on Criminal Investigations. *Police Quarterly*, 22(3), 305–329. <https://doi.org/10.1177/1098611119828039>

¹¹ Zmud, J., Walden, T., Ettelman, B., Higgins, L. L., Graber, J., Gilbert, R., & Hodges, D. (2021). State of Knowledge and Practice for Using Automated License Plate Readers for Traffic Safety Purposes. Retrieved from https://rosap.nhtl.gov/view/dot/55586/dot_55586_DS1.pdf

¹² Wheeler, A.P., Phillips, S.W. (2018). A quasi-experimental evaluation using roadblocks and automatic license plate readers to reduce crime in Buffalo, NY. *Secur J* 31, 190–207. <https://doi.org/10.1057/s41284-017-0094-1>

preempts municipalities from transferring traffic enforcement to civilian duties or automated speed cameras.

While auto thefts in Berkeley increased by 64% from 2019 to 2020, and increased 54% year-over-year in the first half of 2021¹³, a 2021 City Auditor analysis¹⁴ of the Berkeley Police Department found that Officer-Initiated Stops disproportionately target Black and Latino drivers relative to their share of the city's population.



Note: For the purposes of this figure for Berkeley populations, the U.S. Census categories of American Indian and Alaska Native alone, Native Hawaiian and Other Pacific Islander alone, and Two or More Races are summed for Other; White is White alone, not Hispanic or Latino.

Source: Auditor's analysis of Berkeley Police Department Computer Aided Dispatch data and 2019 US Census data

ALPRs therefore present an opportunity to reduce property crimes and improve traffic safety while also reducing civilian encounters with police officers conducting ad hoc traffic enforcement, which the 2021 audit found to have a significant racial bias against Black and Latino drivers. ALPRs could make enforcement more fair, impartial, and effective. In 2015, the Berkeley Police Department used ALPR technology on a mobile trailer to investigate five attempted kidnappings by Willard Middle School.¹⁵

However, ALPR data storage gives rise to several privacy concerns. In *Carpenter v. United States*, the U.S. Supreme Court ruled that accessing location data tracking an individual's

¹³ https://www.cityofberkeley.info/Clerk/City_Council/2021/10_Oct/Documents/2021-10-19_Item_01_BPD_Annual_Report_pdf.aspx

¹⁴ Berkeley City Auditor. (2021, Apr. 22). Data Analysis of the City of Berkeley's Police Response. Retrieved from https://www.cityofberkeley.info/uploadedFiles/Auditor/Level_3_-_General/Data%20Analysis%20of%20the%20City%20of%20Berkeley's%20Police%20Response.pdf

¹⁵ Raguso, E. (2015, Oct. 30). Berkeley police use license plate reader in kidnapping attempt investigations. Berkeleyside. Retrieved from <https://www.berkeleyside.org/2015/10/30/berkeley-police-use-license-plate-reader-in-kidnapping-attempt-investigation>

movements from their cell phone constitutes a search under the Fourth Amendment and requires a search warrant.¹⁶ While ALPR scans are subject to reasonableness standards for searches under Fourth Amendment jurisprudence, state courts have found that ALPR alerts are sufficient to establish a reasonable suspicion, though there are situations that require further intervention to establish reasonableness or avoid error.¹⁷

In *Neal v. Fairfax County Police Department*, the Virginia Supreme Court ruled that GPS data and images associated with license plate numbers were private personal information (PPI), but license plate numbers themselves stored in ALPR databases were not.¹⁸ The California Supreme Court has also underscored such a distinction between “bulk data collection” of license plate numbers that did not “produce records of investigations” for particular crimes.¹⁹ By contrast, U.S. Supreme Court Justice Sotomayor argued in *United States v. Jones* that government agencies collecting “private aspects of identity” could be “susceptible to abuse.”²⁰ This calls into question the so-called third party doctrine of the Fourth Amendment—the longstanding precedent that individuals may be reasonably considered to waive their right to privacy and assume any information provided to third parties may eventually be accessed by the government—given the vast array of information government agencies can now access through surveillance technology. To carefully balance privacy and policing efficacy under this new paradigm, Newell (2013) recommends strictly limiting data retention for non-“hit” scans, and maintaining anonymized ALPR data subject to public disclosure laws.²¹

California Vehicle Code Section 2413(b) restricts the California Highway Patrol (CHP)’s retention LPR data for 60 days unless it is being used as evidence in a felony investigation. Subsection (c) restricts the distribution of this data strictly to law enforcement agencies or officers and “only for purposes of locating vehicles or persons when either are reasonably suspected of being involved in the commission of a public offense.”

In 2015, Senate Bill 34 imposed additional security and privacy requirements on the use of ALPR data.²² Unfortunately, a State Auditor report in 2020 surveying four local law enforcement agencies in California found that ALPR policies were out of compliance with SB34, retained images for far longer than needed or allowed, and had no processes in place to safeguard local compliance. For example, the State Auditor “did not find evidence that the agencies had always

¹⁶ *Carpenter v. United States*, 138 S. Ct. 2206 (2018).

¹⁷ Fash, L. (2018). Automated License Plate Readers: The Difficult Balance of Solving Crime and Protecting Individual Privacy. *Md. L. Rev. Endnotes*, 78, 63.

¹⁸ *Neal v. Fairfax County Police Dept.*, 812 S.E.2d 444, 295 Va. 334 (2018).

¹⁹ *Am. Civil Liberties Union Found. of S. Cal. v. Super. Ct. of L.A. Cty.*, 400 P.3d 432 (Cal. 2017).

²⁰ *United States v. Jones*, 565 U.S. 400, 415 (2012) (Sotomayor, J., concurring);

²¹ Newell, B. C. (2013). Local law enforcement jumps on the big data bandwagon: Automated license plate recognition systems, information privacy, and access to government information. *Me. L. Rev.*, 66, 397.

²² https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520160SB34

determined whether an entity receiving shared images had a right and a need to access the images or even that the entity was a public agency.”²³

In 2018, a lawsuit by the American Civil Liberties Union of Northern California revealed that Immigration and Customs Enforcement (ICE) had purchased access to private databases containing ALPR data with 5 billion individual data points for civil immigration enforcement, and had obtained ALPR data from over 80 local law enforcement agencies.²⁴ However, in 2017, Senate Bill 54 greatly restricted the ability of California law enforcement agencies to share information with ICE.²⁵

Berkeley Parking Enforcement uses PCS Mobile ALPR units using Genentech ALPR technology regulated by BPD Administrative Order #001-2016, which limits storage of reads to 30 days and hits to 365 days. Images of reads are not stored on the server, and data may only be used for legitimate law enforcement purposes. Police Departments in the cities of Vallejo and Piedmont utilize the Flock Safety Operating System, which comes with a transparency portal listing permitted and prohibited uses, data storage, access provided to outside agencies, numbers of hits and scans, and other relevant metadata.^{26,27}

ALTERNATIVES CONSIDERED

1. Gun buyback programs have not demonstrated significant efficacy except in limited circumstances within more holistic community-based violence prevention programs.²⁸
2. With the stalling of Assembly Bill 550²⁹ in this year’s legislative session, automated speeding cameras are not currently permitted in the state of California.
3. On October 27, 2020, the City Council referred to the Community Engagement Process for Reimagining Public Safety the creation of a Group Violence Intervention Program (GVI), or “Operation Ceasefire,” that will assemble a Berkeley-centered interjurisdictional working group of community members, law enforcement personnel, and supportive services providers to address gun violence. Current staffing capacity in the City Manager’s office is insufficient to develop such a program before the process is complete.

²³ Howle, E.M. (2020). Automated License Plate Readers: To Better Protect Individuals’ Privacy, Law Enforcement Must Increase Its Safeguards for the Data It Collects. *Auditor of the State of California*. Retrieved from <https://www.auditor.ca.gov/reports/2019-118/index.html>

²⁴ Talla, V. (2019). Documents Reveal ICE Using Driver Location Data From Local Police for Deportations. *ACLU Northern California*. Retrieved from <https://www.aclunc.org/blog/documents-reveal-ice-using-driver-location-data-local-police-deportations>

²⁵ https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201720180SB54

²⁶ <https://transparency.flocksafety.com/vallejo-ca-pd>

²⁷ <https://transparency.flocksafety.com/vallejo-ca-pd>

²⁸ Makarios, M. D., & Pratt, T. C. (2012). The Effectiveness of Policies and Programs That Attempt to Reduce Firearm Violence: A Meta-Analysis. *Crime & Delinquency*, 58(2), 222–244. <https://doi.org/10.1177/0011128708321321>.

²⁹ https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202120220AB550

ENVIRONMENTAL IMPACTS

None.

FISCAL IMPACTS

In 2017, an amendment to Contract No. 9977³⁰ from the City Manager's Office itemized a unit cost of \$78,363 for each ALPR system. Costs for this referral may be different because this contract was only for mobile ALPRs used for parking enforcement, not in fixed locations or mobile trailers.

CONTACT

Councilmember Terry Taplin, District 2, (510) 981-7120, ttaplin@cityofberkeley.info

ATTACHMENTS

1. City of Vallejo ALPR Policy,
2. City of Alameda,
3. City of Emeryville,
4. City of Hayward,
5. City of Oakland,
6. City of Piedmont,
7. City of Richmond,
8. City of San Leandro.

³⁰https://ci.berkeley.ca.us/Clerk/City_Council/2017/07_Jul/Documents/2017-07-11_Item_13_Contract_No_9977_Amendment.aspx

Policy

426

Automated License Plate Readers (ALPRs)

426.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance for the capture, storage, and use of digital data obtained through the use of Automated License Plate Reader (ALPR) technology.

426.2 DEFINITIONS

- (a) **Automated License Plate Reader (ALPR):** A device that uses cameras and computer technology to compare digital images to lists of known information of interest.
- (b) **ALPR Operator:** Trained Department members who may utilize ALPR system/equipment. ALPR operators may be assigned to any position within the Department, and the ALPR Administrator may order the deployment of the ALPR systems for use in various efforts.
- (c) **ALPR Administrator:** The Investigations Bureau Captain or the Chief's designee, serves as the ALPR Administrator for the Department.
- (d) **Hot List:** A list of license plates associated with vehicles of interest compiled from one or more databases including, but not limited to, NCIC, CA DMV, Local BOLO's, etc.
- (e) **Vehicles of Interest:** Including, but not limited to vehicles which are reported as stolen; display stolen license plates or tags; vehicles linked to missing and/or wanted persons and vehicles flagged by the Department of Motor Vehicle Administration or law enforcement agencies.
- (f) **Detection:** Data obtained by an ALPR of an image (such as a license plate) within public view that was read by the device, including potential images (such as the plate and description of vehicle on which it was displayed), and information regarding the location of the ALPR system at the time of the ALPR's read.
- (g) **Hit:** Alert from the ALPR system that a scanned license plate number may be in the National Crime Information Center (NCIC) or other law enforcement database for a specific reason including, but not limited to, being related to a stolen car, wanted person, missing person, domestic violation protective order or terrorist-related activity.

426.3 ADMINISTRATION

The ALPR technology, also known as License Plate Recognition (LPR), allows for the automated detection of license plates along with the vehicle make, model, color and unique identifiers through the Vallejo Police Department's ALPR's system and the vendor's vehicle identification technology. The technology is used by the Vallejo Police Department to convert data associated with vehicle license plates and vehicle descriptions for official law enforcement purposes, including identifying stolen or wanted vehicles, stolen license plates and missing persons. It may also be used to gather information related to active warrants, homeland security, electronic surveillance, suspect interdiction and stolen property recovery.

All installation and maintenance of ALPR equipment, as well as ALPR data retention and access, shall be managed by the Department Information Technology Manager. The Department Information Technology Manager will assign members under his/her command to administer the day-to-day operation of the ALPR equipment and data.

426.3.1 ALPR ADMINISTRATOR

The Investigations Bureau Captain shall be responsible for compliance with the requirements of Civil Code § 1798.90.5 et seq. This includes, but is not limited to (Civil Code § 1798.90.51; Civil Code § 1798.90.53):

- (a) Only properly trained sworn officers, crime analysts, and police assistants are allowed access to the ALPR system or to collect ALPR information.
- (b) Ensuring that training requirements are completed for authorized users.
- (c) ALPR system monitoring to ensure the security of the information and compliance with applicable privacy laws.
- (d) Ensuring that procedures are followed for system operators and to maintain records of access in compliance with Civil Code § 1798.90.52.
- (e) The title and name of the current designee in overseeing the ALPR operation is maintained. Continually working with the Custodian of Records on the retention and destruction of ALPR data.
- (f) Ensuring this policy and related procedures are conspicuously posted on the department's website.

426.4 OPERATIONS

Use of an ALPR is restricted to the purposes outlined below. Department members shall not use, or allow others to use the equipment or database records for any unauthorized purpose (Civil Code § 1798.90.51; Civil Code § 1798.90.53).

- (a) An ALPR shall only be used for official law enforcement business.
- (b) An ALPR may be used in conjunction with any routine patrol operation or criminal investigation; reasonable suspicion or probable cause is not required before using an ALPR.
- (c) Partial license plates and unique vehicle descriptions reported during major crimes should be entered into the ALPR system in an attempt to identify suspect vehicles.
- (d) No member of this department shall operate ALPR equipment or access ALPR data without first completing department-approved training.
- (e) If practicable, the officer should verify an ALPR response through the California Law Enforcement Telecommunications System (CLETS) before taking enforcement action that is based solely on an ALPR alert. Once an alert is received, the operator should confirm

that the observed license plate from the system matches the license plate of the observed vehicle. Before any law enforcement action is taken because of an ALPR alert, the alert will be verified through a CLETS inquiry via MDC or through Dispatch. Members will not take any police action that restricts the freedom of any individual based solely on an ALPR alert unless it has been validated. Because the ALPR alert may relate to a vehicle and may not relate to the person operating the vehicle, officers are reminded that they need to have reasonable suspicion and/or probable cause to make an enforcement stop of any vehicle. (For example, if a vehicle is entered into the system because of its association with a wanted individual, Officers should attempt to visually match the driver to the description of the wanted subject prior to making the stop or should have another legal basis for making the stop.)

- (f) Hot Lists. Designation of hot lists to be utilized by the ALPR system shall be made by the ALPR Administrator or his/her designee. Hot lists shall be obtained or compiled from sources as may be consistent with the purposes of the ALPR system set forth in this Policy. Hot lists utilized by the Department's LPR system may be updated by agency sources more frequently than the Department may be uploading them and thus the Department's LPR system will not have access to real time data. Occasionally, there may be errors in the LPR system's read of a license plate. Therefore, an alert alone shall not be a basis for police action (other than following the vehicle of interest). Prior to initiation of a stop of a vehicle or other intervention based on an alert, Department members shall undertake the following:

(1) **Verification of status on a Hot List.** An officer must receive confirmation, from a Vallejo Police Department Communications Dispatcher or other department computer device, that the license plate is still stolen, wanted, or otherwise of interest before proceeding (absent exigent circumstances).

(2) **Visual verification of license plate number.** Officers shall visually verify that the license plate of interest matches identically with the image of the license plate number captured (read) by the LPR, including both the alphanumeric characters of the license plate, state of issue, and vehicle descriptors before proceeding. Department members alerted to the fact that an observed motor vehicle's license plate is entered as a Hot Plate (hit) in a specific BOLO (be on the lookout) list are required to make a reasonable effort to confirm that a wanted person is actually in the vehicle and/or that a reasonable basis exists before a Department member would have a lawful basis to stop the vehicle.

(3) Department members will clear all stops from hot list alerts by indicating the positive ALPR Hit, i.e., with an arrest or other enforcement action. If it is not obvious in the text of the call as to the correlation of the ALPR Hit and the arrest, then the Department member shall update with the Communications Dispatcher and original person and/or a crime analyst inputting the vehicle in the hot list (hit).

(4) General Hot Lists (SVS, SFR, and SLR) will be automatically downloaded into the ALPR system a minimum of once a day with the most current data overwriting the old data.

(5) All entries and updates of specific Hot Lists within the ALPR system will be documented by the requesting Department member within the appropriate general offense report. As such, specific Hot Lists shall be approved by the ALPR

Administrator (or his/her designee) before initial entry within the ALPR system. The updating of such a list within the ALPR system shall thereafter be accomplished pursuant to the approval of the Department member's immediate supervisor. The hits from these data sources should be viewed as informational; created solely to bring the officers attention to specific vehicles that have been associated with criminal activity.

All Hot Plates and suspect information entered into the ALPR system will contain the following information as a minimum:

- Entering Department member's name
- Related case number.
- Short synopsis describing the nature of the originating call

(g) Training. No member of this Department shall operate ALPR equipment or access ALPR data without first completing Department-approved training.

(h) Login/Log-Out Procedure. To ensure proper operation and facilitate oversight of the ALPR system, all users will be required to have individual credentials for access and use of the systems and/or data, which has the ability to be fully audited.

Permitted/Impermissible Uses. The ALPR system, and all data collected, is the property of the Vallejo Police Department. Department personnel may only access and use the ALPR system for official and legitimate law enforcement purposes consistent with this Policy. The following uses of the ALPR system are specifically prohibited:

- (1) Invasion of Privacy: Except when done pursuant to a court order such as a search warrant, is a violation of this Policy to utilize the ALPR to record license plates except those of vehicles that are exposed to public view (e.g., vehicles on a public road or street, or that are on private property but whose license plate(s) are visible from a public road, street, or a place to which members of the public have access, such as the parking lot of a shop or other business establishment).
- (2) Harassment or Intimidation: It is a violation of this Policy to use the ALPR system to harass and/or intimidate any individual or group.
- (3) Use Based on a Protected Characteristic. It is a violation of this policy to use the LPR system or associated scan files or hot lists solely because of a person's, or group's race, gender, religion, political affiliation, nationality, ethnicity, sexual orientation, disability, or other classification protected by law.
- (4) Personal Use: It is a violation of this Policy to use the ALPR system or associated scan files or hot lists for any personal purpose.
- (5) First Amendment Rights. It is a violation of this policy to use the LPR system or associated scan files or hot lists for the purpose or known effect of infringing upon First Amendment rights.

Anyone who engages in an impermissible use of the ALPR system or associated scan files or hot lists may be subject to:

- criminal prosecution,
- civil liability, and/or
- administrative sanctions, up to and including termination, pursuant to and consistent with the relevant collective bargaining agreements and Department policies.

426.4 DATA COLLECTION AND RETENTION

The Investigations Bureau Captain is responsible for ensuring systems and processes are in place for the proper collection and retention of ALPR data. Data will be transferred from vehicles to the designated storage in accordance with department procedures.

All ALPR data downloaded to the server should be stored for no longer than one year, and in accordance with the established records retention schedule. Thereafter, ALPR data should be purged unless it has become, or it is reasonable to believe it will become, evidence in a criminal or civil action or is subject to a discovery request or other lawful action to produce records. In those circumstances the applicable data should be downloaded from the server onto portable media and booked into evidence.

ALPR vendor, Flock Safety will store the data (data hosting) and ensure proper maintenance and security of data stored in their data towers. Flock Safety will purge their data at the end of the 30 days of storage. However, this will not preclude VPD from maintaining any relevant vehicle data obtained from the system after that period pursuant to the established City of Vallejo retention schedule mentioned above or outlined elsewhere.

Restrictions on use of ALPR Data: Information gathered or collected, and records retained by Flock Safety cameras or any other VPD ALPR system will not be sold, accessed, or used for any purpose other than legitimate law enforcement or public safety purposes.

426.5 ACCOUNTABILITY and SAFEGUARDS

All data will be closely safeguarded and protected by both procedural and technological means. The Vallejo Police Department will observe the following safeguards regarding access to and use of stored data (Civil Code § 1798.90.51; Civil Code § 1798.90.53):

- (a) All non-law enforcement requests for access to stored ALPR data shall be processed in accordance with applicable law.
- (b) All ALPR data downloaded to the mobile workstation shall be accessible only through a login/password-protected system capable of documenting all access of information by name, date, and time.
- (c) Persons approved to access ALPR data under these guidelines are permitted to access the data for legitimate law enforcement purposes only, such as when the data relate to a specific criminal investigation or department-related civil or administrative action.

- (d) Such ALPR data may be released to other authorized and verified law enforcement officials and agencies for legitimate law enforcement purposes.
- (e) Every ALPR Detection Browsing Inquiry must be documented by either the associated Vallejo Police case number or incident number, and/or a reason for the inquiry.

For security or data breaches, see the Records Release and Maintenance Policy.

426.6 POLICY

The policy of the Vallejo Police Department is to utilize ALPR technology to capture and store digital license plate data and images while recognizing the established privacy rights of the public.

All data and images gathered by the ALPR are for the official use of this department. Because such data may contain confidential information, it is not open to public review.

The Vallejo Police Department does not permit the sharing of ALPR data gathered by the City or its contractors/subcontractors for purpose of federal immigration enforcement, pursuant to the California Values Act (Government Code § 7282.5; Government Code § 7284.2 et seq) – these federal immigration agencies include Immigrations and Customs Enforcement (ICE) and Customs and Border Patrol (CPB).

462.7 ALPR DATA DETECTION BROWSING AUDITS

It is the responsibility of the Professional Standards Division (PSD) Lieutenant or the Chief's designee to ensure that an audit is conducted of ALPR detection browsing inquiries at least once during each calendar year. The Department will audit a sampling of the ALPR system utilization from the prior 12-month period to verify proper use in accordance with the above-authorized uses. The audit shall randomly select at least 10 detection browsing inquiries conducted by department employees during the preceding six-month period and determine if each inquiry meets the requirements established in policy section 462.5(e).

The audit shall be documented in the form of an internal department memorandum to the Chief of Police. The memorandum shall include any data errors found so that such errors can be corrected. After review by the Chief of Police, the memorandum and any associated documentation shall be filed and retained by PSD.

426.8 RELEASING ALPR DATA

The ALPR data may be shared only with other law enforcement or prosecutorial agencies for official law enforcement purposes or as otherwise permitted by law.

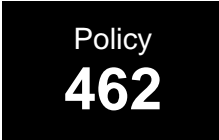
- (a) The agency makes a written request for the ALPR data that includes:
 - (1) The name of the agency.
 - (2) The name of the person requesting.
 - (3) The intended purpose of obtaining the information.

Page 14 of 40

- (b) The request is reviewed by the Chief of Police or the authorized designee and approved before the request is fulfilled.
- (c) The Chief of Police or the authorized designee will consider the California Values Act (Government Code § 7282.5; Government Code § 7284.2 et seq), before approving the release of ALPR data. The Vallejo Police Department does not permit the sharing of ALPR data gathered by the City or its contractors/subcontractors for purpose of federal immigration enforcement, these federal immigration agencies include Immigrations and Customs Enforcement (ICE) and Customs and Border Patrol (CPB).
- (d) The approved request is retained on file. Requests for ALPR data by non-law enforcement or non-prosecutorial agencies will be processed as provided in the Records Maintenance and Release Policy (Civil Code § 1798.90.55).

426.9 TRAINING

The Training Sergeant should ensure that members receive department-approved training for those authorized to use or access the ALPR system (Civil Code § 1798.90.51; Civil Code § 1798.90.53).



Automated License Plate Readers (ALPRs)

462.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for officers utilizing the Automated License Plate Reader (ALPR) system. This policy will further establish guidelines for the deployment and actions permissible when using the system. The policy shall remain in effect until it is superseded, amended, or withdrawn.

(a) An ALPR system is a computer-based system that utilizes special cameras to capture license plate information. The ALPR system captures an infrared image of a license plate and converts it to a text file using Optical Character Recognition ("OCR") technology. The text is compared to various hot lists generated by local, state, and federal law enforcement agencies, including the National Crime Information Center ("NCIC"), and generates an alert when there is a hit. The ALPR system identifies license plates and will not identify the person operating the motor vehicle. The Department may, as a separate step and for legitimate law enforcement purposes per the Federal Driver's Privacy Protection Act, and as set forth in this Policy, undertake to identify the owner of a vehicle in the event the ALPR system generates an alert, such as by running the license plate number through the State of California Department of Motor Vehicle (DMV) database.

(b) It shall be the policy of this Agency that all Department members abide by the policy and its procedures set forth when using the ALPR system, thereby increasing the efficiency and effectiveness of its public safety efforts in a manner that safeguards the privacy concerns of law abiding citizens.

(c) The ALPR system shall be restricted to legitimate law enforcement uses for the purpose of furthering legitimate law enforcement goals and enhancing public safety. Such uses and goals include, but are not limited to, providing information to officers that will assist in on-going criminal investigations, crime prevention, crime detection, the apprehension of wanted persons, ensuring the safety of vulnerable individuals through the recovery of missing and endangered persons, and improving the quality of life in our community through the identification and removal of stolen or unregistered motor vehicles.

(d) The Department shall utilize hot lists which further the above specified goals of the ALPR system, where there is a legitimate and specific law enforcement reason for identifying a vehicle associated with an outstanding arrest warrant, vehicles related to missing persons investigations, vehicles associated with AMBER Alerts, stolen vehicles, vehicles that are reasonably believed to be involved in the commission of a crime, vehicles which are registered to or are reasonably believed to be operated by persons who do not have a valid operator's license or who are on the

Page: 16 of 40
Alameda Police Department
Alameda Police Department Policy Manual

Automated License Plate Readers (ALPRs)

revoked or suspended list, vehicles with expired registrations, vehicles registered to persons who are subject to a restraining order issued by a court or by the Parole Board, or who are subject to any other duly issued order restricting their movements, vehicles registered to persons wanted by a law enforcement agency who are of interest in a specific investigation, or vehicles registered to persons who are on any watch list issued by a State or Federal agency responsible for homeland security when information has been received concerning a specific individual.

462.2 DEFINITIONS

ALPR – Automated License Plate Recognition System, or Automated License Plate Reader

ALPR System – The system in its entirety, including all ALPR cameras, software, and collected data

Alert – An audible and/or visual signal activated upon the read of a license plate by the ALPR system that has NOT BEEN VISUALLY VERIFIED by the officer against the photo in the ALPR system.

Tentative Hit – An alert by the ALPR system that HAS BEEN VISUALLY VERIFIED by the officer against the ALPR hotlist and photo but HAS NOT BEEN VALIDATED by the officer or dispatch as a live query transaction OR CONFIRMED AS VALID with the original entering agency.

Live Query Transaction – A hit by the ALPR system that HAS BEEN VALIDATED as active but HAS NOT BEEN CONFIRMED as valid by the entering agency.

Confirmation (Confirmed Hit) – A hit by the ALPR system that HAS BEEN CONFIRMED as valid and active by the original entering agency through secondary check.

Hotlist – Data files extracted from law enforcement databases which contain listings of stolen license plates, stolen vehicles, wanted persons, and other vehicles/persons actively being sought by a law enforcement agency such as Amber/Silver Alert vehicles/persons. These data extracts are generally facilitated numerous times per day in an effort to provide current data.

462.3 PROCEDURES

(a) Management

The Alameda Police Department, by and through the Chief of Police, is solely responsible for the day-to-day operation and management of the ALPR system and for all tasks ancillary to its operation and management. The Chief of Police shall assign Department personnel to operate and manage the ALPR system on a day-to-day basis.

The Chief of Police, through his or her designee, shall ensure that the ALPR system is operated in conformity with this Policy and other Department policies, procedures, rules and regulations. The Chief shall enforce this Policy and shall act as the Department Head for all disciplinary and enforcement actions for any violations by Department personnel.

(b) Operations

Page 17 of 40
Alameda Police Department
Alameda Police Department Policy Manual

Automated License Plate Readers (ALPRs)

1. Installation and Functioning. ALPR cameras may be mounted on a marked cruiser or unmarked vehicle. ALPR equipment will passively read the license plates of moving or parked motor vehicles using ALPR optical character recognition technology and compare them against various hot lists uploaded or created by the Alameda Police Department. Scanned data files collected by the system will, on an ongoing basis, be automatically uploaded from the ALPR camera to the Department's ALPR database.

2. Hot Lists. Designation of hot lists to be utilized by the ALPR system shall be made by the Chief or his/her designee. Hot lists shall be obtained or compiled from sources as may be consistent with the purposes of the ALPR system set forth in this Policy. These sources may include:

- NCIC Stolen Vehicle files, as available;
- NCIC Stolen plates and Stolen Canadian plates, as available;
- NCIC Wanted persons, as available;
- NCIC Missing or Endangered person files, as available;
- NCIC Supervised Release (Federal Probationers), as available;
- NCIC Nationwide Domestic Violence Protection Orders, as available;
- NCIC Violent Gang and Terrorist Organization File, as available;
- NCIC Sexual Offender;
- DMV Records of Suspended/Revoked Registrations.

3. Training. No member of this Department shall operate ALPR equipment or access ALPR data without first completing Department-approved training.

4. Login/Log-Out Procedure. To ensure proper operation and facilitate oversight of the ALPR system, all users will be required to have individual credentials for access and use of the systems and/or data. A routine check to ensure the equipment is working properly should be done at the beginning of each shift by the user logging into the system.

5. Auditing and Oversight. To ensure proper oversight into the use of the system and adherence to this policy, all activities (plate detections, queries, reports, etc.) are automatically recorded by the system for auditing purposes. System audits shall be conducted by the Inspectional Services Section supervisor at least every six months during the first two years subsequent to implementation and no less than annually thereafter. The audit report shall include an explanation regarding any data retained longer than six months (e.g. data retained as evidence in a criminal case).

6. Permitted/Impermissible Uses. The ALPR system, and all data collected, is the property of the Alameda Police Department. Department personnel may only access and use the ALPR system for official and legitimate law enforcement purposes consistent with this Policy.

The following uses of the ALPR system are specifically prohibited:

Page 18 of 40
Alameda Police Department
Alameda Police Department Policy Manual

Automated License Plate Readers (ALPRs)

- a. **Invasion of Privacy:** Except when done pursuant to a court order such as a search warrant, it is a violation of this Policy to utilize the ALPR to record license plates except those of vehicles that are exposed to public view (e.g., vehicles on a public road or street, or that are on private property but whose license plate(s) are visible from a public road, street, or a place to which members of the public have access, such as the parking lot of a shop or other business establishment).
- b. **Harassment or Intimidation:** It is a violation of this Policy to use the ALPR system to harass and/or intimidate any individual or group.
- c. **Personal Use:** It is a violation of this Policy to use the ALPR system or associated scan files or hot lists for any personal purpose.

Anyone who engages in an impermissible use of the ALPR system or associated scan files or hot lists may be subject to:

- criminal prosecution,
- civil liability, and/or
- administrative sanctions, up to and including termination, pursuant to and consistent with the relevant collective bargaining agreements and Department policies.

7. **Required Steps Preliminary to Police Action.** Hot lists utilized by the Department's ALPR system may be updated by agency sources more frequently than the Department may be uploading them, and the Department's ALPR system will not have access to real time data. Further, there may be errors in the ALPR's read of a license plate. Therefore, an alert alone shall not be a basis for police action (other than following the vehicle of interest). Prior to initiation of a stop of a vehicle or other intervention based on an alert, an officer shall undertake the following:

- a. **Verification of current status on hot list.** An officer must receive confirmation, from someone or some system within the Department that the license plate is still stolen, wanted, or otherwise of interest before proceeding.
- b. **Visual verification of license plate number.** Officers shall visually verify that the license plate on the vehicle of interest matches identically with the image of the license plate number captured (read) by the ALPR, including both the alphanumeric characters of the license plate and the state of issue, before proceeding with a traffic stop.

8. **Use in Connection With Serious Crimes/Incidents.** Use of the ALPR should be considered to conduct license plate canvasses in the immediate wake of any homicide, shooting, robbery, kidnapping, sexual assault or AMBER ALERT, or other major crime or incident.

(c) Database Access and Privacy Concerns

1. The ALPR system database and software resides in a data center featuring full redundancy and access controls. The data remains property of the Alameda Police Department, and is managed according to this Policy.
2. The ALPR system is governed by the Permitted/Impermissible Uses as outlined in this Policy.

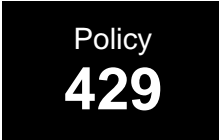
Page 19 of 40
Alameda Police Department
Alameda Police Department Policy Manual

Automated License Plate Readers (ALPRs)

3. The ALPR data contains no Personally Identifiable Information (PII) that may be used to connect license plate detection to an individual. It is only with permissible purpose that an investigator may make this connection (using other systems) and this access is already governed by the Federal Driver's Privacy Protection Act (DPPA).
4. All investigative queries into collected ALPR data are logged by user and available for auditing and review by the Department as outlined in this Policy.

(d) Data Retention

All data and images gathered by an ALPR are for the official use of the Alameda Police Department and because such data may contain confidential CLETS information, it is not open to public review. ALPR information gathered and retained by this Department may be used and shared with prosecutors or others only as permitted by law. All ALPR data downloaded to the server will be stored for a period of six months, and thereafter shall be purged unless it has become, or it is reasonable to believe it will become, evidence in a criminal or civil action or is subject to a lawful action to produce records. In those circumstances, the applicable data should be downloaded from the server onto portable media and booked into evidence.



Automated License Plate Readers (ALPRs)

429.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance for the capture, storage and use of digital data obtained through the use of Automated License Plate Reader (ALPR) technology.

429.2 ADMINISTRATION

The ALPR technology, also known as License Plate Recognition (LPR), allows for the automated detection of license plates. It is used by the Emeryville Police Department to convert data associated with vehicle license plates for official law enforcement purposes, including identifying stolen or wanted vehicles, stolen license plates and missing persons. It may also be used to gather information related to active warrants, homeland security, electronic surveillance, suspect interdiction and stolen property recovery.

All installation and maintenance of ALPR equipment, as well as ALPR data retention and access, shall be managed by the Professional Services and Standards Division Captain. The Professional Services and Standards Division Captain will assign members under his/her command to administer the day-to-day operation of the ALPR equipment and data.

429.2.1 ALPR ADMINISTRATOR

[The Professional Services and Standards Captain shall be responsible for developing guidelines and procedures to comply with the requirements of Civil Code § 1798.90.5 et seq. This includes, but is not limited to Civil Code §1798.90.51; Civil Code §1798.90.53:](#)

- (a) A description of the job title or other designation of the members and independent contractors who are authorized to use or access the ALPR system or to collect ALPR information.
- (b) Training requirements for authorized users.
- (c) A description of how ALPR system will be monitored to ensure the security of the information and compliance with applicable privacy laws.
- (d) Procedures for system operators to maintain records of access in compliance with Civil Code § 1798.90.52.
- (e) The title and name of the current designee in overseeing the ALPR operation.
- (f) Working with the Custodian of Records on the retention and destruction of ALPR data.
- (g) Ensuring this policy and related procedures are conspicuously posted on the departments website.

429.3 OPERATIONS

Use of an ALPR is restricted to the purposes outlined below. Department members shall not use, or allow others to use the equipment or database records for any unauthorized purpose (Civil Code § 1798.90.51; Civil Code § 1798.90.53).

- (a) An ALPR shall only be used for official law enforcement business.

Page 21 of 40
Emeryville Police Department
Emeryville PD Policy Manual

Automated License Plate Readers (ALPRs)

- (b) An ALPR may be used in conjunction with any routine patrol operation or criminal investigation. Reasonable suspicion or probable cause is not required before using an ALPR.
- (c) While an ALPR may be used to canvass license plates around any crime scene, particular consideration should be given to using ALPR-equipped cars to canvass areas around homicides, shootings and other major incidents. Partial license plates reported during major crimes should be entered into the ALPR system in an attempt to identify suspect vehicles.
- (d) No member of this department shall operate ALPR equipment or access ALPR data without first completing department-approved training.
- (e) No ALPR operator may access department, state or federal data unless otherwise authorized to do so.
- (f) If practicable, the officer should verify an ALPR response through the California Law Enforcement Telecommunications System (CLETS) before taking enforcement action that is based solely on an ALPR alert.

429.4 DATA COLLECTION AND RETENTION

The Professional Services and Standards Division Captain is responsible for ensuring systems and processes are in place for the proper collection and retention of ALPR data. Data will be transferred from vehicles to the designated storage in accordance with department procedures.

All ALPR data downloaded to the server should be stored for a minimum of one year (Government Code § 34090.6) and in accordance with the established records retention schedule. Thereafter, ALPR data should be purged unless it has become, or it is reasonable to believe it will become, evidence in a criminal or civil action or is subject to a discovery request or other lawful action to produce records. In those circumstances the applicable data should be downloaded from the server onto portable media and booked into evidence.

429.5 ACCOUNTABILITY

All data will be closely safeguarded and protected by both procedural and technological means. The Emeryville Police Department will observe the following safeguards regarding access to and use of stored data (Civil Code § 1798.90.51; Civil Code § 1798.90.53):

- (a) All ALPR data downloaded to the mobile workstation and in storage shall be accessible only through a login/password-protected system capable of documenting all access of information by name, date and time (Civil Code § 1798.90.52).
- (b) Members approved to access ALPR data under these guidelines are permitted to access the data for legitimate law enforcement purposes only, such as when the data relate to a specific criminal investigation or department-related civil or administrative action.

Page 22 of 40
Emeryville Police Department
Emeryville PD Policy Manual

Automated License Plate Readers (ALPRs)

- (c) ALPR system audits should be conducted on a regular basis.

For security or data breaches, see the Records Release and Maintenance Policy.

429.6 POLICY

The policy of the Emeryville Police Department is to utilize ALPR technology to capture and store digital license plate data and images while recognizing the established privacy rights of the public.

All data and images gathered by the ALPR are for the official use of this department. Because such data may contain confidential information, it is not open to public review.

429.7 RELEASING ALPR DATA

The ALPR data may be shared only with other law enforcement or prosecutorial agencies for official law enforcement purposes or as otherwise permitted by law, using the following procedures:

- (a) The agency makes a written request for the ALPR data that includes:
 - 1. The name of the agency.
 - 2. The name of the person requesting.
 - 3. The intended purpose of obtaining the information.
- (b) The request is reviewed by the Professional Services and Standards Division Captain or the authorized designee and approved before the request is fulfilled.
- (c) The approved request is retained on file.

Requests for ALPR data by non-law enforcement or non-prosecutorial agencies will be processed as provided in the Records Maintenance and Release Policy (Civil Code § 1798.90.55).

429.8 TRAINING

The Professional Services Officer should ensure that members receive department-approved training for those authorized to use or access the ALPR system (Civil Code § 1798.90.51; Civil Code § 1798.90.53).

Automated License Plate Readers (ALPRs)

429.1 PURPOSE AND SCOPE

Automated License Plate Reader (ALPR) technology, also known as License Plate Recognition, provides automated detection of license plates. ALPRs are used by the Hayward Police Department to convert data associated with vehicle license plates for official law enforcement purposes, including identifying stolen or wanted vehicles, stolen license plates and missing persons. ALPRs may also be used to gather information related to active warrants, homeland security, electronic surveillance, suspect interdiction and stolen property recovery.

429.1.1 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards: 41.3.9

429.2 ADMINISTRATION OF ALPR DATA

All installation and maintenance of ALPR equipment, as well as ALPR data retention and access shall be managed by the Support Services Division Commander. The Support Services Division Commander will assign personnel under his/her command to administer the day-to-day operation of the ALPR equipment and data.

429.3 ALPR OPERATION

Use of an ALPR is restricted to the purposes outlined below. Department personnel shall not use, or allow others to use the equipment or database records for any unauthorized purpose.

- (a) An ALPR shall only be used for official and legitimate law enforcement business.
- (b) An ALPR may be used in conjunction with any routine patrol operation or criminal investigation. Reasonable suspicion or probable cause is not required before using an ALPR.

Examples of authorized purposes include but are not limited to:

1. Locating stolen, wanted and subject of investigation vehicles;
2. Locating and apprehending individuals subject to arrest warrants or otherwise lawfully sought by law enforcement;
3. Locating witnesses and victims of violent crime;
4. Locating missing children and elderly individuals, including responding to Amber and Silver Alerts;
5. Supporting local, state, federal, and tribal public safety departments in the identification of vehicles associated with targets of criminal investigations, including investigations of serial crimes;
6. Protecting participants at special events; and
7. Protecting critical infrastructure sites.

Page 24 of 40
Hayward Police Department
Policy Manual

Automated License Plate Readers (ALPRs)

(c) While an ALPR may be used to canvass license plates around any crime scene, particular consideration should be given to using ALPR-equipped cars to canvass areas around homicides, shootings and other major incidents. Partial license plates reported during major crimes should be entered into the ALPR system in an attempt to identify suspect vehicles.

(d) No ALPR operator may access California Law Enforcement Telecommunications System (CLETS) data unless otherwise authorized to do so.

(e) If practicable, the officer should verify an ALPR response through CLETS before taking enforcement action that is based solely on an ALPR alert.

429.4 ALPR AUTHORIZED USERS AND TRAINING

(a) No member of this department shall operate ALPR equipment or access ALPR data without first completing department-approved training.

(b) The following classifications are authorized to be trained in the use of the ALPR system:

1. Duly sworn peace officers
2. Professional staff whose duties require or call for the use of the system or data; examples: Community Service Officers (assigned to investigative positions) or Crime Analysts

(c) Training in the use of the system shall consist of:

1. Privacy and civil liberties protections;
2. Legal authorities, developments and issues involving the use of ALPR Data and technology;
3. Current HPD Policy regarding appropriate use of ALPR Systems;
4. Technical, physical, administrative and procedural measures to protect the security of ALPR Data against unauthorized access or use; and
5. Practical exercises in the use of the ALPR system.

429.5 ALPR DATA COLLECTION, RETENTION AND DISSEMINATION

Information collected by ALPR is categorized as one of two types.

(a) **DETECTIONS:** Detections are the records including images and data (date, time and location) gathered by ALPR field units.

(b) **HITS:** Are the notices from the system alerting the operator of a match between the license plate captured and a listing on one of the hot lists.

Page 25 of 40
Hayward Police Department
Policy Manual

Automated License Plate Readers (ALPRs)

(c) RETENTION OF DATA: All data and images gathered by an ALPR are for the official use of the Hayward Police Department and because such data may contain confidential CLETS information, it is not open to public review. ALPR information gathered and retained by this department may be used and shared with prosecutors or others only as permitted by law.

The Support Services supervisor is responsible to ensure proper collection and retention of ALPR data, and for transferring ALPR data stored in department vehicles to the department server on a regular basis, not to exceed 30 days between transfers.

All ALPR data downloaded to the server should be stored for a minimum of one year (Government Code § 34090.6), and thereafter may be purged unless it has become, or it is reasonable to believe it will become, evidence in a criminal or civil action or is subject to a lawful action to produce records. In those circumstances the applicable data should be downloaded from the server onto portable media and booked into evidence.

All ALPR HIT records are maintained indefinitely.

(d) DISSEMINATION: The Hayward Police Department may disseminate ALPR data to any government entity with an authorized law enforcement or public safety purpose for access to such data. The Hayward Police Department assumes no responsibility or liability for the acts or omissions of other agencies in making use of the ALPR data properly disseminated. Though the Hayward Police Department will make every reasonable effort to ensure the quality of shared ALPR Data and hotlists, it cannot make absolute guarantees of the accuracy of information provided.

429.6 ACCOUNTABILITY AND SAFEGUARDS

All saved data will be closely safeguarded and protected by both procedural and technological means. The Hayward Police Department will observe the following safeguards regarding access to and use of stored data:

(a) All non-law enforcement requests for access to stored ALPR data shall be referred to the Records Administrator and processed in accordance with applicable law.

(b) All ALPR data downloaded to the mobile workstation and server shall be accessible only through a login/password-protected system capable of documenting all access of information by name, date and time.

Page 26 of 40
Hayward Police Department
Policy Manual

Automated License Plate Readers (ALPRs)

(c) Persons approved to access ALPR data under these guidelines are permitted to access the data for legitimate law enforcement purposes only, such as when the data relate to a specific criminal investigation or department-related civil or administrative action.

(d) Such ALPR data may be released to other authorized and verified law enforcement officials and agencies at any time for legitimate law enforcement purposes.

(e) ALPR system audits should be conducted on a regular basis.

429.7 REVISIONS

Enacted: March 31, 2015

Policy

430

Oakland Police Department

Policy Manual

Automated License Plate Readers (ALPRs)

430.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance for the capture, storage and use of digital data obtained through the use of Automated License Plate Reader (ALPR) technology.

430.2 POLICY

The policy of the Oakland Police Department is to utilize ALPR technology to capture and store digital license plate data and images while recognizing the established privacy rights of the public.

All data and images gathered by the ALPR are for the official use of this department. Because such data may contain confidential information, it is not open to public review.

430.3 ADMINISTRATION

The ALPR technology, also known as License Plate Recognition (LPR), allows for the automated detection of license plates. It is used by the Oakland Police Department to convert data associated with vehicle license plates for official law enforcement purposes, including identifying stolen or wanted vehicles, stolen license plates and missing persons. It may also be used to gather information related to active warrants, suspect interdiction and stolen property recovery.

All installation and maintenance of ALPR equipment, as well as ALPR data retention and access, shall be managed by the Bureau of Services Deputy Chief. The Deputy Chief will assign members under his/her command to administer the day-to-day operation of the ALPR equipment and data.

430.3.1 ALPR ADMINISTRATOR

The Bureau of Services Deputy Chief shall be the administrator of ALPR program, and shall be responsible for developing guidelines and procedures to comply with the requirements of Civil Code § 1798.90.5 et seq. This includes, but is not limited to Civil Code §§ 1798.90.51 through 1798.90.53:

- (a) A description of the job title or other designation of the members and independent contractors who are authorized to use or access the ALPR system or to collect ALPR information.
- (b) Training requirements for authorized users.
- (c) A description of how the ALPR system will be monitored to ensure the security of the information and compliance with applicable privacy laws.
- (d) Procedures for system operators to maintain records of access in compliance with Civil Code § 1798.90.52.
- (e) The title of the current designee overseeing the ALPR operation.
- (f) Working with the Custodian of Records on the retention and destruction of ALPR data.

Page 28 of 40
Oakland Police Department
Policy Manual

Automated License Plate Readers (ALPRs)

- (g) Ensuring this policy and related procedures are conspicuously posted on the department's website.

430.4 ALPR USERS

Personnel authorized to use ALPR equipment or access information collected through the use of such equipment shall be specifically trained in such technology and authorized by the Chief of Police or designee. Such personnel shall be limited to designated sergeants, officers, police service technicians, and parking enforcement personnel unless otherwise authorized.

430.5 PURPOSES FOR ACCESSING AND USING ALPR INFORMATION

Use of an ALPR is restricted to the purposes outlined below. The title of the official custodian of the ALPR system, responsible for implementing this section, is the ALPR Coordinator. Department members shall not use, or allow others to use the equipment or database records for any unauthorized purpose (Civil Code § 1798.90.51; Civil Code § 1798.90.53).

- (a) No member of this department shall operate ALPR equipment or access ALPR data without first completing department-approved training.
- (b) No ALPR operator may access department, state or federal data unless otherwise authorized to do so.
- (c) While an ALPR may be used to canvass license plates around any crime scene, particular consideration should be given to using ALPR-equipped cars to canvass areas around homicides, shootings and other major incidents. Partial license plates reported during major crimes should be entered into the ALPR system in an attempt to identify suspect vehicles.
- (d) An ALPR shall only be used for official law enforcement business.
- (e) An ALPR may be used in conjunction with any routine patrol operation or criminal investigation. Reasonable suspicion or probable cause is not required before using an ALPR.
- (f) If practicable, the officer should verify an ALPR response through the California Law Enforcement Telecommunications System (CLETS) before taking enforcement action that is based solely on an ALPR alert.

430.6 DATA COLLECTION AND RETENTION

The Bureau of Services Deputy Chief is responsible for ensuring systems and processes are in place for the proper collection, accuracy and retention of ALPR data. Data will be transferred from vehicles to the designated storage in accordance with department procedures.

All ALPR data downloaded to the server shall be stored for six months. Thereafter, ALPR data shall be purged unless it has become, or it is reasonable to believe it will become, evidence in a criminal or civil action or is subject to a discovery request or other lawful action to produce records. In those circumstances the applicable data shall be downloaded from the server onto portable media and booked into evidence.

Page 29 of 40
Oakland Police Department
Policy Manual

Automated License Plate Readers (ALPRs)

430.7 SYSTEM MONITORING AND SECURITY

All data will be closely safeguarded and protected by both procedural and technological means. The Oakland Police Department will observe the following safeguards regarding access to and use of stored data (Civil Code § 1798.90.51; Civil Code § 1798.90.53):

- (a) All ALPR data downloaded to the mobile workstation and in storage shall be accessible only through a login/password-protected system capable of documenting all access of information by username, license number or other data elements used in the search, name, date, time and purpose (Civil Code § 1798.90.52).
- (b) Members approved to access ALPR data under these guidelines are permitted to access the data for legitimate law enforcement purposes only, such as when the data relate to a specific criminal investigation or department-related civil or administrative action.
- (c) ALPR system audits shall be conducted on a regular basis by the Bureau of Services. The purpose of these audits is to ensure the accuracy of ALPR Information and correct data errors.

For security or data breaches, see the Records Release and Maintenance Policy.

430.8 RELEASING OR SHARING ALPR DATA

The ALPR data may be shared only with other law enforcement or prosecutorial agencies for official law enforcement purposes or as otherwise permitted by law, using the following procedures:

- (a) The agency makes a written request for the ALPR data that includes:
 1. The name of the agency.
 2. The name of the person requesting.
 3. The intended purpose of obtaining the information.
- (b) The request is reviewed by the Bureau of Services Deputy Chief or the authorized designee and approved before the request is fulfilled.
- (c) The approved request is retained on file.

Requests for ALPR data by non-law enforcement or non-prosecutorial agencies will be processed as provided in the Records Maintenance and Release Policy (Civil Code § 1798.90.55).

430.9 TRAINING

The Training Section shall ensure that members receive department-approved training for those authorized to use or access the ALPR system and shall maintain a record of all completed trainings. (Civil Code § 1798.90.51; Civil Code § 1798.90.53).

Training requirements for employees authorized in ALPR Users Section include completion of training by the ALPR Coordinator or appropriate subject matter experts as designated by the Oakland Police Department. Such training shall include:

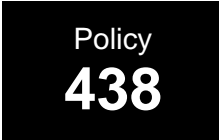
- Applicable federal and state law
- Applicable policy

Page 30 of 40
Oakland Police Department
Policy Manual

Automated License Plate Readers (ALPRs)

- Memoranda of understanding
- Functionality of equipment
- Accessing data
- Safeguarding password information and data
- Sharing of data
- Reporting breaches
- Implementing post-breach procedures

Training updates are required annually.



Automated License Plate Readers (ALPRs)

438.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance for the capture, storage and use of digital data obtained through the use of Automated License Plate Reader (ALPR) technology.

438.2 ADMINISTRATION

The ALPR technology, also known as License Plate Recognition (LPR), allows for the automated detection of license plates. It is used by the Piedmont Police Department to convert data associated with vehicle license plates for official law enforcement purposes, including identifying stolen or wanted vehicles, stolen license plates and missing persons. It may also be used to gather information related to active warrants, homeland security, electronic surveillance, suspect interdiction and stolen property recovery.

All installation and maintenance of ALPR equipment, as well as ALPR data retention and access, shall be managed by the Administration Operations Commander. The Administration Operations Commander will assign members under his/her command to administer the day-to-day operation of the ALPR equipment and data.

438.2.1 ALPR ADMINISTRATOR

The Administration Operations Commander shall be responsible for developing guidelines and procedures to comply with the requirements of Civil Code § 1798.90.5 et seq. This includes, but is not limited to (Civil Code § 1798.90.51; Civil Code § 1798.90.53):

- (a) A description of the job title or other designation of the members and independent contractors who are authorized to use or access the ALPR system or to collect ALPR information.
- (b) Training requirements for authorized users.
- (c) A description of how the ALPR system will be monitored to ensure the security of the information and compliance with applicable privacy laws.
- (d) Procedures for system operators to maintain records of access in compliance with Civil Code § 1798.90.52.
- (e) The title and name of the current designee in overseeing the ALPR operation.
- (f) Working with the Custodian of Records on the retention and destruction of ALPR data.
- (g) Ensuring this policy and related procedures are conspicuously posted on the department's website.

438.3 OPERATIONS

Use of an ALPR is restricted to the purposes outlined below. Department members shall not use, or allow others to use the equipment or database records for any unauthorized purpose (Civil Code § 1798.90.51; Civil Code § 1798.90.53).

- (a) An ALPR shall only be used for official law enforcement business.

Page 32 of 40
Piedmont Police Department
Piedmont PD Policy Manual

Automated License Plate Readers (ALPRs)

- (b) An ALPR may be used in conjunction with any routine patrol operation or criminal investigation. Reasonable suspicion or probable cause is not required before using an ALPR.
- (c) While an ALPR may be used to canvass license plates around any crime scene, particular consideration should be given to using ALPR-equipped cars to canvass areas around homicides, shootings and other major incidents. Partial license plates reported during major crimes should be entered into the ALPR system in an attempt to identify suspect vehicles.
- (d) No member of this department shall operate ALPR equipment or access ALPR data without first completing department-approved training.
- (e) No ALPR operator may access department, state or federal data unless otherwise authorized to do so.
- (f) If practicable, the officer should verify an ALPR response through the California Law Enforcement Telecommunications System (CLETS) before taking enforcement action that is based solely on an ALPR alert.

438.4 DATA COLLECTION AND RETENTION

The Administration Operations Commander is responsible for ensuring systems and processes are in place for the proper collection and retention of ALPR data. Data will be transferred from vehicles to the designated storage in accordance with department procedures.

All ALPR data downloaded to the server should be stored for a minimum of one year (Government Code § 34090.6) and in accordance with the established records retention schedule. Thereafter, ALPR data should be purged unless it has become, or there is a reason to believe it will become, evidence in a criminal or civil action or is subject to a discovery request or other lawful action to produce records. In those circumstances the applicable data should be downloaded from the server onto portable media and booked into evidence.

438.5 ACCOUNTABILITY

All data will be closely safeguarded and protected by both procedural and technological means. The Piedmont Police Department will observe the following safeguards regarding access to and use of stored data (Civil Code § 1798.90.51; Civil Code § 1798.90.53):

- (a) All ALPR data downloaded to the mobile workstation and in storage shall be accessible only through a login/password-protected system capable of documenting all access of information by name, date and time (Civil Code § 1798.90.52).
- (b) Members approved to access ALPR data under these guidelines are permitted to access the data for legitimate law enforcement purposes only, such as when the data relate to a specific criminal investigation or department-related civil or administrative action.

Page 33 of 40
Piedmont Police Department
Piedmont PD Policy Manual

Automated License Plate Readers (ALPRs)

- (c) The Support Services Division Commander will be responsible for directing and ensuring that ALPR system audits are conducted on a regular basis.

For security or data breaches, see the Records Release and Maintenance Policy.

438.6 AUTHORIZED DESIGNEE FOR CERTAIN ALPR SERVICES

The Chief of Police may enter into an agreement with another law enforcement agency or authority, through contract or memorandum of understanding, to receive, provide, or share ALPR services that meet the minimum standards of this policy.

438.7 TRAINING

Only persons trained in the use of the ALPR system, including its privacy and civil liberties protections, shall be allowed access to the ALPR data. Training shall consist of:

- Legal authorities, developments, and issues involving the use of ALPR data and technology
- Current policy regarding appropriate use of ALPR systems
- Evolution of ALPR and related technologies, including new capabilities and associated risks
- Technical, physical, administrative, and procedural measures to protect the security of ALPR data against unauthorized access or use
- Practical exercises in the use of the current ALPR system

Training shall be updated as technological, legal, and other changes that affect the use of the ALPR system occur. In no case shall a person utilize the ALPR system if he/she has not completed training in more than a year.

438.8 POLICY

The policy of the Piedmont Police Department is to utilize ALPR technology to capture and store digital license plate data and images while recognizing the established privacy rights of the public.

All data and images gathered by the ALPR are for the official use of this department. Because such data may contain confidential information, it is not open to public review.

438.9 RELEASING ALPR DATA

The ALPR data may be shared only with other law enforcement or prosecutorial agencies for official law enforcement purposes or as otherwise permitted by law.

Any requests for ALPR data by non-law enforcement or non-prosecutorial agencies will be processed as provided in the Records Maintenance and Release Policy (Civil Code § 1798.90.55).

Department personnel who receive requests for ALPR data will accept the request in accordance with our Records Maintenance and Release Policy and forward the request to the Support Services Division Commander.

Page 34 of 40
Piedmont Police Department
Piedmont PD Policy Manual

Automated License Plate Readers (ALPRs)

438.10 TRAINING

The Training Sergeant should ensure that members receive department-approved training for those authorized to use or access the ALPR system (Civil Code § 1798.90.51; Civil Code § 1798.90.53).



Richmond Police Department
Policy Manual

Automated License Plate Readers (ALPRs)

462.1 PURPOSE AND SCOPE

Automated License Plate Reader (ALPR) technology, also known as License Plate Recognition, provides automated detection of license plates. ALPRs are used by the Richmond Police Department to convert data associated with vehicle license plates for official law enforcement purposes, including identifying stolen or wanted vehicles, stolen license plates and missing persons. ALPRs may also be used to gather information related to active warrants, homeland security, electronic surveillance, suspect interdiction and stolen property recovery.

462.2 ADMINISTRATION OF ALPR DATA

All installation and maintenance of ALPR equipment, as well as ALPR data retention and access shall be managed by the Administration Division Commander. The Administration Division Commander will assign personnel under his/her command to administer the day-to-day operation of the ALPR equipment and data.

462.3 ALPR OPERATION

Use of an ALPR is restricted to the purposes outlined below. Department personnel shall not use, or allow others to use the equipment or database records for any unauthorized purpose.

- (a) An ALPR shall only be used for official and legitimate law enforcement business.
- (b) An ALPR may be used in conjunction with any routine patrol operation or criminal investigation. Reasonable suspicion or probable cause is not required before using an ALPR.
- (c) While an ALPR may be used to canvass license plates around any crime scene, particular consideration should be given to using ALPR-equipped cars to canvass areas around homicides, shootings and other major incidents. Partial license plates reported during major crimes should be entered into the ALPR system in an attempt to identify suspect vehicles.
- (d) No member of this department shall operate ALPR equipment or access ALPR data without first completing department-approved training.
- (e) No ALPR operator may access California Law Enforcement Telecommunications System (CLETS) data unless otherwise authorized to do so.
- (f) Absent exigent circumstances, the officer shall verify an ALPR response through CLETS before taking enforcement action that is based solely on an ALPR alert.

462.4 ALPR DATA COLLECTION AND RETENTION

All data and images gathered by an ALPR are for the official use of the Richmond Police Department and because such data may contain confidential CLETS information, it is not open to public review. ALPR information gathered and retained by this department may be used and shared with prosecutors or others only as permitted by law.

Richmond Police Department
Policy Manual

Automated License Plate Readers (ALPRs)

The Administration supervisor is responsible to ensure proper collection and retention of ALPR data.

All ALPR data downloaded to the server will be stored for ninety (90) days, and thereafter will be purged unless it has become, or it is reasonable to believe it will become, evidence in a criminal or civil action or is subject to a lawful action to produce records. In those circumstances the applicable data should be downloaded from the server onto portable media and booked into evidence.

462.5 ACCOUNTABILITY AND SAFEGUARDS

All saved data will be closely safeguarded and protected by both procedural and technological means. The Richmond Police Department will observe the following safeguards regarding access to and use of stored data:

- (a) All non-law enforcement requests for access to stored ALPR data shall be referred to the Records Supervisor and processed in accordance with applicable law.
- (b) All ALPR data downloaded to the mobile workstation and server shall be accessible only through a login/password-protected system capable of documenting all access of information by name, date and time.
- (c) Persons approved to access ALPR data under these guidelines are permitted to access the data for legitimate law enforcement purposes only, such as when the data relate to a specific criminal investigation or department-related civil or administrative action.
- (d) Such ALPR data may be released to other authorized and verified law enforcement officials and agencies at any time for legitimate law enforcement purposes.
- (e) ALPR system audits should be conducted on a regular basis.



Automated License Plate Readers (ALPRs)

418.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance for the capture, storage and use of digital data obtained through the use of Automated License Plate Reader (ALPR) technology.

418.2 POLICY

The policy of the San Leandro Police Department is to utilize ALPR technology to capture and store digital license plate data and images while recognizing the established privacy rights of the public.

All data and images gathered by the ALPR are for the official use of this department. Because such data may contain confidential information, it is not open to public review.

In accordance with a Memorandum of Understanding (MOU) between the San Leandro Police Department and the Northern California Regional Intelligence Center (NCRIC), the Department shall work in cooperation and coordination with NCRIC in providing a standardized approach and method of collecting and sharing ALPR systems' data.

418.3 ADMINISTRATION

The ALPR technology, also known as License Plate Recognition (LPR), allows for the automated detection of license plates. It is used by the San Leandro Police Department to convert data associated with vehicle license plates for official law enforcement purposes, including identifying stolen or wanted vehicles, stolen license plates and missing persons. It may also be used to gather information related to active warrants, homeland security, electronic surveillance, suspect interdiction and stolen property recovery.

All installation and maintenance of ALPR equipment, as well as ALPR data retention and access, shall be managed by the Bureau of Services Captain, or his/her designee. The Bureau of Services Captain, or his/her designee, will assign members under their command to administer the day-to-day operation of the ALPR equipment and data.

418.3.1 ALPR ADMINISTRATOR

The Bureau of Services Captain, or his/her designee, shall be responsible for developing guidelines and procedures to comply with the requirements of Civil Code § 1798.90.5 et seq. This includes, but is not limited to (Civil Code § 1798.90.51; Civil Code § 1798.90.53):

- (a) A description of the job title or other designation of the members and independent contractors who are authorized to use or access the ALPR system or to collect ALPR information.
- (b) Training requirements for authorized users.
- (c) A description of how the ALPR system will be monitored to ensure the security of the information and compliance with applicable privacy laws.

Page 38 of 46
San Leandro Police Department
Policy Manual

Automated License Plate Readers (ALPRs)

- (d) Procedures for system operators to maintain records of access in compliance with Civil Code § 1798.90.52.
- (e) The title and name of the current designee in overseeing the ALPR operation.
- (f) Working with the Custodian of Records on the retention and destruction of ALPR data.
- (g) Ensuring this policy and related procedures are conspicuously posted on the department's website.

418.4 OPERATIONS

Use of an ALPR is restricted to the purposes outlined below. Department members shall not use, or allow others to use the equipment or database records for any unauthorized purpose (Civil Code § 1798.90.51; Civil Code § 1798.90.53).

- (a) An ALPR shall only be used for official law enforcement business.
- (b) An ALPR may be used in conjunction with any routine patrol operation or criminal investigation. Reasonable suspicion or probable cause is not required before using an ALPR.
- (c) While an ALPR may be used to canvass license plates around any crime scene, particular consideration should be given to using ALPR-equipped cars to canvass areas around homicides, shootings and other major incidents. Partial license plates reported during major crimes should be entered into the ALPR system in an attempt to identify suspect vehicles.
- (d) No member of this department shall operate ALPR equipment or access ALPR data without first completing department-approved training.
- (e) No ALPR operator may access department, state or federal data unless otherwise authorized to do so.
- (f) If practicable, the officer should verify an ALPR response through the California Law Enforcement Telecommunications System (CLETS) before taking enforcement action that is based solely on an ALPR alert.

418.4.1 AUTHORIZED PURPOSES, COLLECTION, AND USE OF ALPR DATA

Sworn peace officers with a need and right to know may utilize ALPR technology for the following reasons, but are not limited to:

- (a) Locate stolen, wanted, and subject of investigation vehicles.
- (b) Locate and apprehend individuals subject to arrest warrants or otherwise lawfully sought by law enforcement.
- (c) Locate witnesses and victims of violent crime.
- (d) Locate missing children and elderly individuals, including responding to Amber and Silver Alerts.

Page 39 of 46
San Leandro Police Department
Policy Manual

Automated License Plate Readers (ALPRs)

- (e) Support local, state, federal and tribal public safety departments in the identification of vehicles associated with targets of criminal investigations, including investigations of serial crimes.
- (f) Protect participants at local events.
- (g) Protect critical infrastructure sites.

418.5 ALPR DATA COLLECTION AND RETENTION

The City of San Leandro Information Technology division is responsible for ensuring the collection of ALPR data is transferred from department vehicles to the Northern California Regional Intelligence Center (NCRIC) server on an automatic basis, transferring immediately upon utilization of the system.

All data and images gathered by an ALPR are for the official use only, and because such data may contain confidential CLETS information, it is not open to public review. ALPR information gathered and retained by this NCRIC may be used and shared with prosecutors or others only as permitted by law.

All ALPR data downloaded to the NCRIC server shall be stored for one year (Government Code § 34090.6) and thereafter will be purged on the 366th day unless it has become, or it is reasonable to believe it will become evidence in a criminal or civil action or is subject to a lawful action to produce records. In those circumstances the applicable data should be downloaded from the NCRIC server onto portable media and booked into evidence.

418.6 ACCOUNTABILITY

All data will be closely safeguarded and protected by both procedural and technological means by NCRIC. The San Leandro Police Department will observe the following safeguards regarding access to and use of stored data (Civil Code § 1798.90.51; Civil Code § 1798.90.53):

- (a) All ALPR data downloaded to the mobile workstation and in storage shall be accessible only through a login/password-protected system capable of documenting all access of information by name, date and time (Civil Code § 1798.90.52).
- (b) Members approved to access ALPR data under these guidelines are permitted to access the data for legitimate law enforcement purposes only, such as when the data relate to a specific criminal investigation or department-related civil or administrative action.
- (c) ALPR system audits should be conducted by the ALPR Administrator on a quarterly basis.
- (d) The ALPR Administrator shall report any errors to NCRIC for correction.

418.7 RELEASING ALPR DATA

The ALPR data may be shared only with other law enforcement or prosecutorial agencies for official law enforcement purposes or as otherwise permitted by law, using the following procedures:

- (a) The agency makes a written request for the ALPR data that includes:

Page 40 of 46
San Leandro Police Department
Policy Manual

Automated License Plate Readers (ALPRs)

1. The name of the agency.
 2. The name of the person requesting.
 3. The intended purpose of obtaining the information.
- (b) The request is reviewed by the Bureau of Services Captain or the authorized designee and approved before the request is fulfilled.
- (c) The approved request is retained on file.

Requests for ALPR data by non-law enforcement or non-prosecutorial agencies will be processed as provided in the Records Maintenance and Release Policy (Civil Code § 1798.90.55).

418.8 TRAINING

The Professional Standards and Training Unit should ensure that members receive department-approved training for those authorized to use or access the ALPR system (Civil Code § 1798.90.51; Civil Code § 1798.90.53). This training shall be consistent with the training outlined in the NCRIC ALPR Policy.

418.9 NCRIC ALPR POLICY

[NCRIC ALPR Policy](#)

Internal

Draft of BPD Policy 422 “Fixed Automated License Plate Readers (ALPRs)”

Fixed Automated License Plate Readers (ALPRs)-

422.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance for the capture, storage and use of digital data obtained through the use of Automated License Plate Reader (ALPR) technology. Department Personnel shall adhere to the requirements of Fixed ALPRs in this policy as well as the corresponding Surveillance Use-Fixed ALPRs policy-1305.

422.2 POLICY

The policy of the Berkeley Police Department is to utilize ALPR technology to capture and store digital license plate data and images while recognizing the established privacy rights of the public.

All data and images gathered by the ALPR are for the official use of this department. Because such data may contain confidential information, it is not open to public review.

The Berkeley Police Department does not permit the sharing of ALPR data gathered by the City or its contractors/subcontractors for federal immigration enforcement, pursuant to the California Values Act (Government Code § 7282.5; Government Code § 7284.2 et seq) – these federal immigration agencies include Immigrations and Customs Enforcement (ICE) and Customs and Border Patrol (CBP).

422.3 DEFINITIONS

- (a) Automated License Plate Reader (ALPR): A device that uses cameras and computer technology to compare digital images to lists of known information of interest.
- (b) ALPR Operator: Trained Department members who may utilize ALPR system/equipment. ALPR operators may be assigned to any position within the Department, and the ALPR Administrator may order the deployment of the ALPR systems for use in various efforts.
- (c) ALPR Administrator: The Investigations Bureau Captain or the Chief's designee, serves as the ALPR Administrator for the Department.
- (d) Hot List: A list of license plates associated with vehicles of interest compiled from one or more databases including, but not limited to, NCIC, CA DMV, Local BOLO's, etc.
- (e) Vehicles of Interest: Including, but not limited to vehicles which are reported as stolen, display stolen license plates or tags; vehicles linked to missing and/or wanted persons and vehicles flagged by the Department of Motor Vehicle Administration or law enforcement agencies.

-
- (f) Detection: Data obtained by an ALPR of an image (such as a license plate) within public view that was read by the device, including potential images (such as the plate and description of vehicle on which it was displayed), and information regarding the location of the ALPR system at the time of the ALPR's read.
 - (g) Hit Alert from the ALPR system that a scanned license plate number may be in the National Crime Information Center (NCIC) or other law enforcement database for a specific reason including, but not limited to, being related to a stolen car, wanted person, missing person, domestic violation protective order or terrorist-related activity.

422.4 ADMINISTRATION

The ALPR technology, also known as License Plate Recognition (LPR), allows for the automated detection of license plates. It is used by the Berkeley Police Department to convert data associated with vehicle license plates for official law enforcement purposes, including identifying stolen or wanted vehicles, stolen license plates and missing persons. It may also be used to gather information related to active warrants, suspect apprehension and stolen property recovery. Any installation and maintenance of ALPR equipment, as well as ALPR data retention and access, shall be managed by the Investigations Division Captain. The Investigations Division Captain will assign members under his/her command to administer the day-to-day operation of the ALPR equipment and data.

422.4.1 ALPR ADMINISTRATOR

The Investigations Division Captain, or his/her designee, shall be responsible for compliance with the requirements of Civil Code § 1798.90.5 et seq. This includes, but is not limited to (Civil Code § 1798.90.51; Civil Code § 1798.90.53):

- (a) Only properly trained sworn officers, crime analysts, communication operators, records clerks, parking enforcement officers, and police assistants are allowed access to the ALPR system or to collect ALPR information.
- (b) Ensuring that training requirements are completed for authorized users.
- (c) ALPR system monitoring to ensure the security of the information and compliance with applicable privacy laws.
- (d) Ensuring procedures are followed for system operators to maintain records of access in compliance with Civil Code § 1798.90.52.
- (e) The title and name of the current designee in overseeing the ALPR operation.
- (f) Working with the Custodian of Records, or vendor on the retention and destruction of ALPR data.ensuring this policy and related procedures are conspicuously posted on the City's website.

422.5 OPERATIONS

An ALPR shall only be used for official law enforcement business.

Use of an ALPR is restricted to the purposes outlined below. Department members shall not use, or allow others to use the equipment or database records for any unauthorized purpose (Civil

Code § 1798.90.51; Civil Code § 1798.90.53).

- (a) An ALPR shall only be used for official law enforcement business.
- (b) An ALPR may be used in conjunction with any routine patrol operation or to support criminal investigations. Reasonable suspicion or probable cause is not required before using an ALPR.
- (c) Partial license plates and unique vehicle descriptions reported during crimes may be entered into the ALPR system in an attempt to identify suspect vehicles.
- (d) No member of this department shall operate ALPR equipment or access ALPR data without first completing department-approved training.
- (e) If practicable, the officer should verify an ALPR response through the California Law Enforcement Telecommunications System (CLETS) before taking enforcement action that is based solely on an ALPR alert. Once an alert is received, the operator should confirm that the observed license plate from the system matches the license plate of the observed vehicle. Before any law enforcement action is taken because of an ALPR alert, the alert will be verified through a CLETS inquiry via MDT or through Dispatch. Members will not take any police action that restricts the freedom of any individual based solely on an ALPR alert unless it has been validated. Because the ALPR alert may relate to a vehicle and may not relate to the person operating the vehicle, officers are reminded that they need to have reasonable suspicion and/or probable cause to make an enforcement stop of any vehicle. (For example, if a vehicle is entered into the system because of its association with a wanted individual, Officers should attempt to visually match the driver to the description of the wanted subject prior to making the stop or should have another legal basis for making the stop.)
- (f) Hot Lists. Designation of hot lists to be utilized by the ALPR system shall be made by the ALPR Administrator or his/her designee. Hot lists shall be obtained or compiled from sources as may be consistent with the purposes of the ALPR system set forth in this Policy. Hot lists utilized by the Department's LPR system may be updated by agency sources more frequently than the Department may be uploading them and thus the Department's LPR system will not have access to real time data. Occasionally, there may be errors in the LPR system's read of a license plate. Therefore, an alert alone shall not be a basis for police action (other than following the vehicle of interest). Prior to initiation of a stop of a vehicle or other intervention based on an alert, Department members shall undertake the following:
 - (1) Verification of status on a Hot List. An officer must receive confirmation, from a Berkeley Police Department Communications Dispatcher or other department computer device, that the license plate is still stolen, wanted, or otherwise of interest before proceeding (absent exigent circumstances).
 - (2) Visual verification of license plate number. Officers shall visually verify that the license plate of interest matches identically with the image of the license plate number captured (read) by the LPR, including both the alphanumeric characters of the license

plate, state of issue, and vehicle descriptors before proceeding. Department members alerted to the fact that an observed motor vehicle's license plate is entered as a Hot Plate (hit) in a specific BOLO (be on the lookout) list are required to make a reasonable effort to confirm that a wanted person is actually in the vehicle and/or that a reasonable basis exists before a Department member would have a lawful basis to stop the vehicle.

(3) Department members will clear all stops from hot list alerts by indicating the positive ALPR Hit, i.e., with an arrest or other enforcement action. If it is not obvious in the text of the call as to the correlation of the ALPR Hit and the arrest, then the Department member shall update with the Communications Dispatcher and original person and/or a crime analyst inputting the vehicle in the hot list (hit).

(4) General Hot Lists (SVS, SFR, and SLR) will be automatically downloaded into the ALPR system a minimum of once a day with the most current data overwriting the old data.

(5) All entries and updates of specific Hot Lists within the ALPR system will be documented by the requesting Department member within the appropriate general offense report. As such, specific Hot Lists shall be approved by the ALPR Administrator.

(6) Administrator (or his/her designee) before initial entry within the ALPR system. The updating of such a list within the ALPR system shall thereafter be accomplished pursuant to the approval of the Department member's immediate supervisor. The hits from these data sources should be viewed as informational; created solely to bring the officers attention to specific vehicles that have been associated with criminal activity.

All Hot Plates and suspect information entered into the ALPR system will contain the following information as a minimum:

- Entering Department member's name
- Related case number.
- Short synopsis describing the nature of the originating call

(g) Login/Log-Out Procedure. To ensure proper operation and facilitate oversight of the ALPR system, all users will be required to have individual credentials for access and use of the systems and/or data, which has the ability to be fully audited.

Permitted/Impermissible Uses. The ALPR system, and all data collected, is the property of the Berkeley Police Department. Department personnel may only access and use the ALPR system for official and legitimate law enforcement purposes consistent with this Policy. The following uses of the ALPR system are specifically prohibited:

1. Invasion of Privacy: Except when done pursuant to a court order such as a search warrant, is a violation of this Policy to utilize the ALPR to record license plates except those of vehicles that are exposed to public view (e.g., vehicles on a public road or street, or that are on private property but whose license plate(s) are visible from a public road, street, or a place to which members of the public have access, such as the parking lot of a shop or other business establishment).
2. Harassment or Intimidation: It is a violation of this Policy to use the ALPR system to harass and/or intimidate any individual or group.

-
3. Use Based on a Protected Characteristic. It is a violation of this policy to use the LPR system or associated scan files or hot lists solely because of a person's, or group's race, gender, religion, political affiliation, nationality, ethnicity, sexual orientation, disability, or other classification protected by law.
 4. Personal Use: It is a violation of this Policy to use the ALPR system or associated scan files or hot lists for any personal purpose.
 5. First Amendment Rights. It is a violation of this policy to use the LPR system or associated scan files or hot lists for the purpose or known effect of infringing upon First Amendment rights.
- (h) Anyone who engages in an impermissible use of the ALPR system or associated scan files or hot lists may be subject to administrative sanctions, up to and including termination, pursuant to and consistent with the relevant collective bargaining agreements and departmental policies. Partial license plates reported during crimes may be entered into the ALPR system in an attempt to identify suspect vehicles.

No ALPR operator may access California Law Enforcement Telecommunications System (CLETS) data unless otherwise authorized to do so. If practicable, the officer should verify an ALPR response through the California Law Enforcement Telecommunications System (CLETS) before taking enforcement action that is based solely on an ALPR alert.

422.6 DATA COLLECTION AND RETENTION

The Investigations Division Captain is responsible for ensuring systems and processes are in place for the proper collection and retention of ALPR data. Data will be transferred from vehicles to the designated storage in accordance with department procedures. The Department should if feasible find a solution to transfer evidentiary hit data into it's digital evidence repository through secure integration.

All ALPR data downloaded to the ALPR server should be stored for no longer than 30 days, and in accordance with the established records retention schedule. Thereafter, ALPR data should be purged unless it has become, or it is reasonable to believe it will become, evidence in a criminal or civil action or is subject to a discovery request or other lawful action to produce records. In those circumstances the applicable data should be downloaded from the server and uploaded into BPD's digital evidence repository.

ALPR vendor, will store the data (data hosting) and ensure proper maintenance and security of data stored in their data towers. The ALPR vendor will purge their data at the end of the 30 days of storage. However, this will not preclude Berkeley Police Department from maintaining any relevant vehicle data obtained from the system after that period pursuant to the established City of Berkeley retention schedule mentioned above or outlined elsewhere. Relevant vehicle data are scans corresponding to the vehicle of interest on a hot list. The ALPR vendor and Department shall ensure that the necessary data is captured and stored to accurately report the relevant data required in the Annual Surveillance Technology report. Once the City Council approves the Annual Surveillance Technology report all said data may be purged so long as it doesn't violate the Retention guidelines.

Restrictions on use of vendor Data: Information gathered or collected, and records retained by the vendor's cameras or any other Berkeley Police Department ALPR system will not be sold, accessed, or used for any purpose other than legitimate law enforcement or public safety purposes.

422.7 ACCOUNTABILITY

All saved data will be safeguarded and protected by both procedural and technological means. The Berkeley Police Department will observe the following safeguards regarding access to and use of stored data (Civil Code § 1798.90.51; Civil Code § 1798.90.53):

- (a) Non-law enforcement requests for access to stored ALPR data shall be processed according to the Records Maintenance and Release Policy in accordance with applicable law.
- (b) All ALPR data downloaded to any workstation or server shall be accessible only through a login/password-protected system capable of documenting all access of information by name, date and time (Civil Code § 1798.90.52).
- (c) Berkeley Police Department members approved to access ALPR data under these guidelines are permitted to access the data for legitimate law enforcement purposes only, such as when the data relate to a specific criminal investigation or department-related civil or administrative action.
- (d) Aggregated ALPR data not related to specific criminal investigations shall not be released to any local, state or federal agency or entity without the consent of the Chief of Police or City Manager (i.e. If transportation department requested volume of vehicular traffic associated with specific events, it could conceivably be provided with the count of vehicles, but not the specific license plates with appropriate permissions).
- (e) Measures will be taken to ensure the accuracy of ALPR information. Errors discovered in ALPR data collected by ALPR units shall be marked, corrected or deleted in accordance with the type and severity of the error in question.
- (f) ALPR system audits will be conducted by the Professional Standards Bureau's Audit and Inspections Sergeant on a regular basis, at least biennial.
- (g) Such ALPR data may be released to other authorized and verified law enforcement officials and agencies for legitimate law enforcement purposes.
- (h) Every ALPR Detection Browsing Inquiry must be documented by either the associated Berkeley Police case number or incident number, and/or a reason for the inquiry

For security or data breaches, see the Records Release and Maintenance Policy.

422.8 ALPR DATA DETECTION BROWSING AUDITS

It is the responsibility of the Sergeant of Audit and Inspections or the Chief's designee to ensure that an audit is conducted of ALPR detection browsing inquiries at least biennial. The Department

will audit a sampling of the ALPR system utilization from the prior 24-month period to verify proper use in accordance with the above- authorized uses. The audit shall randomly select at least 10 detection browsing inquiries conducted by department employees during the preceding 24-month period and determine if each inquiry meets the requirements established in policy section 462.6(e).

The audit shall be documented in the form of an internal department memorandum to the Chief of Police. The memorandum shall include any data errors found so that such errors can be corrected. After review by the Chief of Police, the memorandum and any associated documentation shall be filed and retained by the Professional Standards Bureau Captain. This audit should be shared in the Surveillance Ordinance reporting.

422.9 RELEASING ALPR DATA

The ALPR data may be shared only with other law enforcement or prosecutorial agencies for official law enforcement purposes or as otherwise permitted by law.

(a) A supervisor at the requesting agency will sign an acknowledgement letter stating that the shared data will only be used for the purposes that are aligned with the Berkeley Police Department's policy. The Berkeley Police Department does not permit the sharing of ALPR data gathered by the City or its contractors/subcontractors for purpose of federal immigration enforcement, these federal immigration agencies include Immigrations and Customs Enforcement (ICE) and Customs and Border Patrol (CBP). *See attached letter.*

(b) The signed letter is retained on file. Requests for ALPR data by non-law enforcement or non-prosecutorial agencies will be processed as provided in the Records Maintenance and Release Policy (Civil Code § 1798.90.55).

(c) All signed letters shall be routed to the Audit and Inspection Sergeant for compliance and reporting.

ALPR data is subject to the provisions of the Berkeley Police Department's Immigration Law Policy, and hence may not be shared with federal immigration enforcement officials.

422.10 TRAINING

The Personnel and Training Sergeant shall ensure that members receive department-approved training in order to be authorized to use or access the ALPR system (Civil Code § 1798.90.51; Civil Code § 1798.90.53)

Internal

Draft of BPD Policy 1305 “Surveillance Use Policy – Fixed ALPRs”

Policy
1305

Berkeley Police Department
Law Enforcement Services Manual

Surveillance Use Policy-Fixed ALPRs

1305.1 PURPOSE

The purpose of this policy is to provide guidance for the capture, storage and use of digital data obtained through the use of Automated License Plate Reader (ALPR) technology. Department Personnel shall adhere to the requirements of the Surveillance Use-Fixed ALPRs in this policy as well as the corresponding Use Policy -422.

The policy of the Berkeley Police Department is to utilize ALPR technology to capture and store digital license plate data and images while recognizing the established privacy rights of the public.

All data and images gathered by the ALPR are for the official use of this department. Because such data may contain confidential information, it is not open to public review.

The Berkeley Police Department does not permit the sharing of ALPR data gathered by the City or its contractors/subcontractors for federal immigration enforcement, pursuant to the California Values Act (Government Code § 7282.5; Government Code § 7284.2 et seq) – these federal immigration agencies include Immigrations and Customs Enforcement (ICE) and Customs and Border Patrol (CBP).

1305.2 DEFINITIONS

- (a) Automated License Plate Reader (ALPR): A device that uses cameras and computer technology to compare digital images to lists of known information of interest.
- (b) ALPR Operator: Trained Department members who may utilize ALPR system/equipment. ALPR operators may be assigned to any position within the Department, and the ALPR Administrator may order the deployment of the ALPR systems for use in various efforts.
- (c) ALPR Administrator: The Investigations Bureau Captain or the Chief's designee, serves as the ALPR Administrator for the Department.
- (d) Hot List: A list of license plates associated with vehicles of interest compiled from one or more databases including, but not limited to, NCIC, CA DMV, Local BOLO's, etc.
- (e) Vehicles of Interest: Including, but not limited to vehicles which are reported as stolen, display stolen license plates or tags; vehicles linked to missing and/or wanted persons and vehicles flagged by the Department of Motor Vehicle Administration or law enforcement agencies.
- (f) Detection: Data obtained by an ALPR of an image (such as a license plate) within public view that was read by the device, including potential images (such as the plate and description of vehicle on which it was displayed), and information regarding the location of the ALPR system at the time of the ALPR's read.

- (g) Hit Alert from the ALPR system that a scanned license plate number may be in the National Crime Information Center (NCIC) or other law enforcement database for a specific reason including, but not limited to, being related to a stolen car, wanted person, missing person, domestic violation protective order or terrorist-related activity.

1305.3 AUTHORIZED AND PROHIBITED USES

An ALPR shall only be used for official law enforcement business.

Use of an ALPR is restricted to the purposes outlined below. Department members shall not use, or allow others to use the equipment or database records for any unauthorized purpose (Civil Code § 1798.90.51; Civil Code § 1798.90.53).

- (a) An ALPR shall only be used for official law enforcement business.
- (b) An ALPR may be used in conjunction with any routine patrol operation or to support criminal investigations. Reasonable suspicion or probable cause is not required before using an ALPR.
- (c) Partial license plates and unique vehicle descriptions reported during crimes may be entered into the ALPR system in an attempt to identify suspect vehicles.
- (d) No member of this department shall operate ALPR equipment or access ALPR data without first completing department-approved training.
- (e) If practicable, the officer should verify an ALPR response through the California Law Enforcement Telecommunications System (CLETS) before taking enforcement action that is based solely on an ALPR alert. Once an alert is received, the operator should confirm that the observed license plate from the system matches the license plate of the observed vehicle. Before any law enforcement action is taken because of an ALPR alert, the alert will be verified through a CLETS inquiry via MDT or through Dispatch. Members will not take any police action that restricts the freedom of any individual based solely on an ALPR alert unless it has been validated. Because the ALPR alert may relate to a vehicle and may not relate to the person operating the vehicle, officers are reminded that they need to have reasonable suspicion and/or probable cause to make an enforcement stop of any vehicle. (For example, if a vehicle is entered into the system because of its association with a wanted individual, Officers should attempt to visually match the driver to the description of the wanted subject prior to making the stop or should have another legal basis for making the stop.)
- (f) Hot Lists. Designation of hot lists to be utilized by the ALPR system shall be made by the ALPR Administrator or his/her designee. Hot lists shall be obtained or compiled from sources as may be consistent with the purposes of the ALPR system set forth in this Policy. Hot lists utilized by the Department's LPR system may be updated by agency sources more frequently than the Department may be uploading them and thus the Department's LPR system will not have access to real time data. Occasionally, there may be errors in the LPR system's read of a license plate. Therefore, an alert alone shall not be a basis for police action (other than following the vehicle of interest). Prior to initiation of a stop of a vehicle or other intervention based on an alert, Department members shall undertake the following:

- (1) Verification of status on a Hot List. An officer must receive confirmation, from a Berkeley Police Department Communications Dispatcher or other department computer device, that the license plate is still stolen, wanted, or otherwise of interest before proceeding (absent exigent circumstances).
- (2) Visual verification of license plate number. Officers shall visually verify that the license plate of interest matches identically with the image of the license plate number captured (read) by the LPR, including both the alphanumeric characters of the license plate, state of issue, and vehicle descriptors before proceeding. Department members alerted to the fact that an observed motor vehicle's license plate is entered as a Hot Plate (hit) in a specific BOLO (be on the lookout) list are required to make a reasonable effort to confirm that a wanted person is actually in the vehicle and/or that a reasonable basis exists before a Department member would have a lawful basis to stop the vehicle.
- (3) Department members will clear all stops from hot list alerts by indicating the positive ALPR Hit, i.e., with an arrest or other enforcement action. If it is not obvious in the text of the call as to the correlation of the ALPR Hit and the arrest, then the Department member shall update with the Communications Dispatcher and original person and/or a crime analyst inputting the vehicle in the hot list (hit).
- (4) General Hot Lists (SVS, SFR, and SLR) will be automatically downloaded into the ALPR system a minimum of once a day with the most current data overwriting the old data.
- (5) All entries and updates of specific Hot Lists within the ALPR system will be documented by the requesting Department member within the appropriate general offense report. As such, specific Hot Lists shall be approved by the ALPR Administrator.
- (6) Administrator (or his/her designee) before initial entry within the ALPR system. The updating of such a list within the ALPR system shall thereafter be accomplished pursuant to the approval of the Department member's immediate supervisor. The hits from these data sources should be viewed as informational; created solely to bring the officers attention to specific vehicles that have been associated with criminal activity.
All Hot Plates and suspect information entered into the ALPR system will contain the following information as a minimum:
 - Entering Department member's name
 - Related case number.
 - Short synopsis describing the nature of the originating call
- (g) Login/Log-Out Procedure. To ensure proper operation and facilitate oversight of the ALPR system, all users will be required to have individual credentials for access and use of the systems and/or data, which has the ability to be fully audited.

Permitted/Impermissible Uses. The ALPR system, and all data collected, is the property of the Berkeley Police Department. Department personnel may only access and use the ALPR system for official and legitimate law enforcement purposes consistent with this Policy. The following uses of the ALPR system are specifically prohibited:

1. Invasion of Privacy: Except when done pursuant to a court order such as a search warrant, is a violation of this Policy to utilize the ALPR to record license plates except those of vehicles that are exposed to public view (e.g., vehicles on a public road or street, or that are on private property but whose license plate(s) are visible

from a public road, street, or a place to which members of the public have access, such as the parking lot of a shop or other business establishment).

2. Harassment or Intimidation: It is a violation of this Policy to use the ALPR system to harass and/or intimidate any individual or group.
3. Use Based on a Protected Characteristic. It is a violation of this policy to use the LPR system or associated scan files or hot lists solely because of a person's, or group's race, gender, religion, political affiliation, nationality, ethnicity, sexual orientation, disability, or other classification protected by law.
4. Personal Use: It is a violation of this Policy to use the ALPR system or associated scan files or hot lists for any personal purpose.
5. First Amendment Rights. It is a violation of this policy to use the LPR system or associated scan files or hot lists for the purpose or known effect of infringing upon First Amendment rights.

- (h) Anyone who engages in an impermissible use of the ALPR system or associated scan files or hot lists may be subject to administrative sanctions, up to and including termination, pursuant to and consistent with the relevant collective bargaining agreements and departmental policies. Partial license plates reported during crimes may be entered into the ALPR system in an attempt to identify suspect vehicles.

No ALPR operator may access California Law Enforcement Telecommunications System (CLETS) data unless otherwise authorized to do so. If practicable, the officer should verify an ALPR response through the California Law Enforcement Telecommunications System (CLETS) before taking enforcement action that is based solely on an ALPR alert.

1305.4 DATA COLLECTION

The Investigations Division Captain is responsible for ensuring systems and processes are in place for the proper collection and retention of ALPR data. Data will be transferred from vehicles to the designated storage in accordance with department procedures. The Department should if feasible find a solution to transfer evidentiary hit data into its digital evidence repository through secure integration.

All ALPR data downloaded to the ALPR server should be stored for no longer than 30 days, and in accordance with the established records retention schedule. Thereafter, ALPR data should be purged unless it has become, or it is reasonable to believe it will become, evidence in a criminal or civil action or is subject to a discovery request or other lawful action to produce records. In those circumstances the applicable data should be downloaded from the server and uploaded into BPD's digital evidence repository.

ALPR vendor, will store the data (data hosting) and ensure proper maintenance and security of data stored in their data towers. The ALPR vendor will purge their data at the end of the 30 days of storage. However, this will not preclude Berkeley Police Department from maintaining any relevant vehicle data obtained from the system after that period pursuant to the established City of Berkeley retention schedule mentioned above or outlined elsewhere. Relevant vehicle data are scans corresponding to the vehicle of interest on a hot list. The ALPR vendor and Department shall ensure that the necessary data is captured and stored to accurately report the relevant data required in the Annual Surveillance Technology report. Once the City Council approves the Annual Surveillance Technology report all said data may be purged so long as it doesn't violate the Retention guidelines.

Restrictions on use of vendor Data: Information gathered or collected, and records retained by the vendor's cameras or any other Berkeley Police Department ALPR system will not be sold, accessed, or used for any purpose other than legitimate law enforcement or public safety purposes.

1305.5 DATA ACCESS

- (a) No member of this department shall operate ALPR equipment or access ALPR data without first completing department-approved training.
- (b) No ALPR operator may access California Law Enforcement Telecommunications System (CLETS) data unless otherwise authorized to do so.
- (c) If practical, an operator should verify an ALPR response through the California Law Enforcement Telecommunications System (CLETS) before taking enforcement action that is based solely on an ALPR alert.

1305.6 DATA PROTECTION

Internal

Berkeley Police Department

Law Enforcement Services Manual

Surveillance Use Policy-Fixed ALPRs

All saved data will be safeguarded and protected by both procedural and technological means. The Berkeley Police Department will observe the following safeguards regarding access to and use of stored data (Civil Code § 1798.90.51; Civil Code § 1798.90.53):

- (a) Non-law enforcement requests for access to stored ALPR data shall be processed according to the Records Maintenance and Release Policy in accordance with applicable law.
- (b) All ALPR data downloaded to any workstation or server shall be accessible only through a login/password-protected system capable of documenting all access of information by name, date and time (Civil Code § 1798.90.52).
- (c) Berkeley Police Department members approved to access ALPR data under these guidelines are permitted to access the data for legitimate law enforcement purposes only, such as when the data relate to a specific criminal investigation or department-related civil or administrative action.
- (d) Aggregated ALPR data not related to specific criminal investigations shall not be released to any local, state or federal agency or entity without the consent of the Chief of Police or City Manager (i.e. If transportation department requested volume of vehicular traffic associated with specific events, it could conceivably be provided with the count of vehicles, but not the specific license plates with appropriate permissions).
- (e) Measures will be taken to ensure the accuracy of ALPR information. Errors discovered in ALPR data collected by ALPR units shall be marked, corrected or deleted in accordance with the type and severity of the error in question.
- (f) ALPR system audits will be conducted by the Professional Standards Bureau's Audit and Inspections Sergeant on a regular basis, at least biennial.
- (g) Such ALPR data may be released to other authorized and verified law enforcement officials and agencies for legitimate law enforcement purposes.
- (h) Every ALPR Detection Browsing Inquiry must be documented by either the associated Berkeley Police case number or incident number, and/or a reason for the inquiry

For security or data breaches, see the Records Release and Maintenance Policy.

1305.7 CIVIL LIBERTIES AND RIGHTS PROTECTION

The Berkeley Police Department is dedicated to the most efficient utilization of its resources and services in its public safety endeavors. The Berkeley Police Department recognizes the need to protect its ownership and control over shared information and to protect the privacy and civil liberties of the public, in accordance with federal and state law. The procedures described within this policy (Data Access, Data Protection, Data Retention, Public Access and Third-Party Data Sharing) protect against the unauthorized use of ALPR data. These policies ensure the data is not used in a way that would violate or infringe upon anyone's civil rights and/or liberties, including but not limited to potentially disparate or adverse impacts on any communities or groups.

Internal

Berkeley Police Department

Law Enforcement Services Manual

Surveillance Use Policy-Fixed ALPRs

1305.8 DATA RETENTION

All ALPR data belongs to the Department. All ALPR data downloaded to the ALPR server should be stored for no longer than 30 days, and in accordance with the established records retention schedule. Thereafter, ALPR data should be purged unless it has become, or it is reasonable to believe it will become, evidence in a criminal or civil action or is subject to a discovery request or other lawful action to produce records. In those circumstances the applicable data should be downloaded from the server and uploaded into BPD's digital evidence repository.

ALPR vendor, will store the data (data hosting) and ensure proper maintenance and security of data stored in their data towers. The ALPR vendor will purge their data at the end of the 30 days of storage. However, this will not preclude Berkeley Police Department from maintaining any relevant vehicle data obtained from the system after that period pursuant to the established City of Berkeley retention schedule mentioned above or outlined elsewhere. Relevant vehicle data are scans corresponding to the vehicle of interest on a hot list. The ALPR vendor and Department shall ensure that the necessary data is captured and stored to accurately report the relevant data required in the Annual Surveillance Technology report. Once the City Council approves the Annual Surveillance Technology report all said data may be purged so long as it doesn't violate the Retention guidelines.

1305.9 PUBLIC ACCESS

All data and images gathered by the ALPR are for the official use of this department. Because such data may contain confidential information, it is not open to public review.

The Department shall to the extent feasible aim to offer a transparency portal wherein the number of scans, hits, and queries is available to the public in real-time, or as near as real-time as feasible. All data shall be reported in the Annual Surveillance Technology Report.

1305.10 THIRD PARTY DATA-SHARING

The ALPR data may be shared only with other law enforcement or prosecutorial agencies for official law enforcement purposes or as otherwise permitted by law.

(a) A supervisor at the requesting agency will sign an acknowledgement letter stating that the shared data will only be used for the purposes that are aligned with the Berkeley Police Department's policy. The Berkeley Police Department does not permit the sharing of ALPR data gathered by the City or its contractors/subcontractors for purpose of federal immigration enforcement, these federal immigration agencies include Immigrations and Customs Enforcement (ICE) and Customs and Border Patrol (CBP). *See attached letter.*

(b) The signed letter is retained on file. Requests for ALPR data by non-law enforcement or non-prosecutorial agencies will be processed as provided in the Records Maintenance and Release Policy (Civil Code § 1798.90.55).

(c) All signed letters shall be routed to the Audit and Inspection Sergeant for compliance and reporting.

ALPR data is subject to the provisions of the Berkeley Police Department's Immigration Law Policy, and hence may not be shared with federal immigration enforcement officials.

1305.11 TRAINING

Training for the operation of ALPR Technology shall be provided by BPD personnel. All BPD

Internal

Berkeley Police Department

Law Enforcement Services Manual

Surveillance Use Policy-Fixed ALPRs

employees who utilize ALPR Technology shall be provided a copy of this Surveillance Use Policy.

1305.12 AUDITING AND OVERSIGHT

ALPR system audits will be conducted by the Professional Standards Bureau's Audit and Inspections Sergeant on a regular basis, at least biannually. The data from the fixed ALPRs shall be reported annually in the Surveillance Technology Report.

1305.13 MAINTENANCE

Any installation and maintenance of ALPR equipment, as well as ALPR data retention and access, shall be managed by the Investigations Division Captain or his or her designee. The Investigations Division Captain will assign members under his/her command to administer the day-to-day operation of the ALPR equipment and data. Equipment maintenance shall be provided by the vendor.

Internal

Draft of BPD Policy 1305 Appendix A
“Berkeley Police Department
Surveillance Acquisition Report – Fixed
Automated License Plate Readers”

1305 APPENDIX A

BERKELEY POLICE DEPARTMENT SURVEILLANCE ACQUISITION REPORT – FIXED AUTOMATED LICENSE PLATE READERS

FIXED AUTOMATED LICENSE PLATE READERS (ALPR)

A. DESCRIPTION

Fixed Automated License Plate Readers (ALPRs) are cameras systems with software designed for license plate recognition. The camera systems are typically mounted on street poles, street lights, and highway overpasses.

ALPRs are designed to capture license plate numbers which come into view, along with the location, date and time. The data, which includes an image of the front or the back of the car displaying the license plate, is then uploaded to a central server operated by the vendor. The license plate data is cross referenced with systems such as Stolen Vehicle Systems (SVS), and other lists like Amber alerts to notice police of vehicles with hits.

This technology does not have facial recognition, and is not tied to any personal identifying information or used for traffic enforcement.

B. PURPOSE

Berkeley Police Department will utilize a network of fixed automated license plate readers. The ALPRs will be affixed to street poles, street lights, or other similar objects that are either owned by the City of Berkeley or wherein a right-of-way agreement has been established.

The use of ALPRs to alert police of a wanted or vehicle of interest entering into their respective jurisdiction has become increasingly more commonplace. This technology is being utilized on our local freeways, bridges, and in some instances in private parking lots.

Berkeley Police Department investigators have identified the following instances wherein the use of an effective deployment of ALPRs could have aided the Berkeley Police Department in its efforts to focus on the wanted vehicle prior to a crime occurring in the City of Berkeley, and potentially avoided an instance of victimization from happening.

RECENT CASES OF INTEREST

1.) BPD had an armed robbery in which the victim was pistol-whipped. The suspects fled in a vehicle. BPD officers located the vehicle and a pursuit ensued. The license plate on the vehicle was reported as a wanted vehicle for an armed robbery in San Ramon. Had this vehicle entered the City of Berkeley, and the vehicle passed an ALPR- BPD Officers could have been focused on finding this offender in an advance of this violent robbery.

2.) Victim was carjacked of his Toyota Rav-4. The suspect vehicle two days later was used in a murder that occurred in a nearby East Bay City. This same vehicle was used in a robbery in Oakland. The stolen property in the Oakland robbery was tracked back into Berkeley. Then this same vehicle was used to commit a robbery in Berkeley at Woolsey

1305 APPENDIX A

BERKELEY POLICE DEPARTMENT SURVEILLANCE ACQUISITION REPORT – FIXED AUTOMATED LICENSE PLATE READERS

and Telegraph. The vehicle was listed as a car-jacking vehicle from the initial crime, ALPRs could have alerted BPD prior to the property being discarded in Berkeley, as well as the final robbery listed in this synopsis.

3.) Home invasion robbery in Berkeley wherein the suspect came in a stolen vehicle, listed in SVS as a wanted vehicle. The suspect violently attacked the resident. The suspect was arrested shortly after in San Pablo due to an ALPR hit. Suspect was unknown but identified due to having the victims stolen property.

4.) An armed robbery occurred in Berkeley the suspects fled in a cold plated stolen vehicle, meaning the vehicle was listed as wanted in SVS. San Pablo PD stopped the suspect vehicle due to the want associated to the license plate. Suspect was arrested and was in possession of a firearm. Suspect was eventually also linked to a stranger sexual assault case.

5.) A robbery of Valero in Berkeley occurred. The suspect arrived in stolen vehicle. The suspect was subsequently arrested by San Mateo PD due to an ALPR hit.

6.) A Victim called BPD to report his carjacked/stolen vehicle (from Union City), was tracking in South Berkeley. The victim was originally carjacked via gun by a group of suspects in Union City a few days prior. Moreover, Officers responded to South Berkeley but were unable to locate the victim's vehicle. The victim later tracked his carjacked/stolen vehicle to 1370 University Ave. Officers responded to this location and located the victim's vehicle. Three juveniles and one adult fled from the vehicle but were captured by the Officers. A search of the vehicle yielded a concealed/loaded firearm.

CATALYTIC CONVERTER THEFTS WITH GUNFIRE

7.) A theft of a catalytic converter took place at 5th and Hearst. The suspect vehicle's license plate was captured on video surveillance. BPD put a felony stop on the vehicle. San Pablo PD located the vehicle using their ALPR system and arrested the driver who was in possession of a loaded handgun.

8.) A catalytic converter theft occurred at 145 Hillcrest Road. The suspect vehicle's license plate was captured on video surveillance. BPD put a felony stop on the vehicle. Pinole PD located the vehicle. During a search of the vehicle, BPD located an assault rifle (ghost gun) and arrested the suspect.

9.) A pickup truck, wanted in SVS due to it being reported as a stolen vehicle, entered Berkeley. The aforementioned was caught in the act of cutting a catalytic converter

1305 APPENDIX A

BERKELEY POLICE DEPARTMENT SURVEILLANCE ACQUISITION REPORT – FIXED AUTOMATED LICENSE PLATE READERS

from a vehicle on the 1800 block of 4th Street. Witnesses and a Security guard confronted the suspects. The suspects fled, and then immediately returned to shoot at the witness and security guard.

PROPERTY CRIME

10.) An auto burglary occurred at 1316 San Pablo Avenue and the victim obtained a license plate. A felony entry was made on the license plate. Pittsburg PD located the suspect vehicle due to an ALPR hit. The vehicle failed to yield and crashed. The driver was arrested for the failure to yield and Pittsburg PD located a loaded handgun in her purse.

11.) A suspect drove into Berkeley in a stolen vehicle, listed in SVS. The suspect drove to the driveway of 1626 Berkeley Way and proceeded to steal that resident's vehicle.

12.) Two suspects drove a reported stolen auto to Berkeley Bowl West. The suspects then burglarized a victim's vehicle. The suspect then proceeded to Emeryville where they used the Victim's identity to commit identity theft.

13.) A series of auto burglaries were committed in the area of San Pablo and Gilman. The suspects were seen getting into a vehicle which was listed in SVS as a stolen vehicle. Two days later a nearby city reported the same vehicle was used in a murder in that city. ALPR system could have notified officers of that wanted vehicle and helped in the capture of the suspects, and potentially intervened before the subsequent murder.

HOMICIDE

14.) Another agency reported a vehicle used in a murder, with a known license plate was entered into SVS with a felony want (associated with a murder). On 08/02/22 the vehicle was located in Berkeley. The associated suspects were located after fleeing from officers.

15.) BPD officers responded to a report of a person casing a house. Upon their arrival the suspects fled in a white sedan. That sedan was determined to be a reported stolen auto. The sedan fled from officers after they activated their emergency lights and sirens. The same vehicle was reported to be involved in a road rage incident in an adjacent city wherein the suspects shot and killed the victim on the freeway.

SEX/DV CRIMES

16.) This is a DV case in which the suspect fought with his adult girlfriend causing visible injury and then chased his girlfriend's 12 year old daughter down the street and shot at

1305 APPENDIX A

BERKELEY POLICE DEPARTMENT SURVEILLANCE ACQUISITION REPORT – FIXED AUTOMATED LICENSE PLATE READERS

her with a firearm. San Pablo PD had an ALPR hit from this Berkeley PD case. The suspect ran from San Pablo PD and a gun was recovered from him.

17.) This is a series of peeping and prowling incidents against female UC Berkeley students. The suspect was driving for a ride share service and was in and out of Berkeley for the several months. The suspect was homeless, and thereby conventional methods of locating the suspect weren't fruitful.

C. LOCATION

BPD proposes to install 52 fixed ALPRs in the City of Berkeley. While the cameras are permanent installations, if found ineffective in the installed location, the Department can elect to move the camera to another location at nominal cost. It's preferred to leave cameras installed in locations for periods of minimally a year. Locations will be determined using crime data, known locations of ingress or egress into the City of Berkeley, and commonly known direction of travel after criminal acts based on information provided from investigators. The Department will balance the need to deploy the camera systems equitably across the City of Berkeley with the need to deploy the cameras in an effective manner. BPD will solicit input from the vendor for an effective deployment.

D. IMPACT

The Berkeley Police Department is dedicated to the most efficient utilization of its resources and services in its public safety endeavors. The Berkeley Police Department recognizes the need to protect its ownership and control over shared information and to protect the privacy and civil liberties of the public, in accordance with federal and state law. The procedures utilized with ALPR Units will help to ensure unauthorized use of its data. The procedures will ensure the data is not used in a way that would violate or infringe upon anyone's civil rights and/or liberties, including but not limited to potentially disparate or adverse impacts on any communities or groups.

E. MITIGATION

All saved data will be safeguarded and protected by both procedural and technological means which are implemented to safeguard the public from any impacts identified in subsection (D). See subsection (G) for further.

F. DATA TYPES AND SOURCES

Images of license plates and location metadata may be obtained through the use of ALPR cameras. The vendor's system may have searching capabilities due to technology from machine learning

1305 APPENDIX A

BERKELEY POLICE DEPARTMENT SURVEILLANCE ACQUISITION REPORT – FIXED AUTOMATED LICENSE PLATE READERS

that allow officers to search by vehicle type, make, color, license plate state, bumper sticker (the presence of a bumper sticker, not the image or content), decals (again the presence of a decal, not the image or content) and roof racks. All data stored in the vendor's servers shall be securely protected with end-to-end encryption.

G. DATA SECURITY

BPD takes data security seriously. All saved data will be safeguarded and protected by both procedural and technological means. The Berkeley Police Department will observe the following safeguards regarding access to and use of stored data (Civil Code § 1798.90.51; Civil Code § 1798.90.53):

- (a) Non-law enforcement requests for access to stored ALPR data shall be processed according to the Records Maintenance and Release Policy in accordance with applicable law.
- (b) All ALPR data downloaded to any workstation or server shall be accessible only through a login/password-protected system capable of documenting all access of information by name, date and time (Civil Code § 1798.90.52).
- (c) Berkeley Police Department members approved to access ALPR data under these guidelines are permitted to access the data for legitimate law enforcement purposes only, such as when the data relate to a specific criminal investigation or department-related civil or administrative action.
- (d) Aggregated ALPR data not related to specific criminal investigations shall not be released to any local, state or federal agency or entity without the consent of the Chief of Police or City Manager.
- (e) Measures will be taken to ensure the accuracy of ALPR information. Errors discovered in ALPR data collected by ALPR units shall be marked, corrected or deleted in accordance with the type and severity of the error in question.
- (f) ALPR system audits will be conducted by the Professional Standards Bureau's Audit and Inspections Sergeant on a regular basis, at least biennial.
- (g) Such ALPR data may be released to other authorized and verified law enforcement officials and agencies for legitimate law enforcement purposes.
- (h) Every ALPR Detection Browsing Inquiry must be documented by either the associated Berkeley Police case number or incident number, and/or a reason for the inquiry

For security or data breaches, see the Records Release and Maintenance Policy.

1305 APPENDIX A

BERKELEY POLICE DEPARTMENT SURVEILLANCE ACQUISITION REPORT – FIXED AUTOMATED LICENSE PLATE READERS

H. FISCAL COST

Since the City of Berkeley has not acquired the specific cameras, the costs can only be estimated. BPD expects the individual camera costs to range from \$2500-\$5000 each, with the installation to vary. BPD believes that for the proposed 52 camera deployment the cost to purchase and install to not exceed an initial cost of \$250,000. The yearly subscription cost may fluctuate but is expected to range from \$125,000 to \$175,000 a year.

I. THIRD-PARTY DEPENDENCE AND ACCESS

ALPR vendor would store the data (data hosting) and ensure proper maintenance and security of data stored in their data towers. The vendor will purge their data at the end of 30 days of storage. However, this will not preclude Berkeley Police Department from maintaining any relevant vehicle data obtained from the system after that period pursuant to the established City of Berkeley retention schedule (i.e. if detectives establish a hit results in evidentiary value it should be incorporated into the digital evidence of that specific case, and thereby would be kept longer than the aforementioned 30 days).

Restrictions on use of fixed ALPR Data: Information gathered or collected, and records retained by the Vendor will not be sold, accessed, or used for any purpose other than legitimate law enforcement or public safety purpose unless allowed by policy (i.e. metadata will be permissible use for annual surveillance reporting).

An ALPR shall only be used for official law enforcement business.

Use of an ALPR is restricted to the purposes outlined below. Department members shall not use, or allow others to use the equipment or database records for any unauthorized purpose (Civil Code § 1798.90.51; Civil Code § 1798.90.53).

- (a) An ALPR shall only be used for official law enforcement business.
- (b) An ALPR may be used in conjunction with any routine patrol operation or to support criminal investigations. Reasonable suspicion or probable cause is not required before using an ALPR.
- (c) Partial license plates and unique vehicle descriptions reported during major crimes should be entered into the ALPR system in an attempt to identify suspect vehicles.

The ALPR system, and all data collected, is the property of the Berkeley Police Department. Department personnel may only access and use the ALPR system for official and legitimate law enforcement purposes consistent with this Policy. The following uses of the ALPR system are specifically prohibited:

1305 APPENDIX A

BERKELEY POLICE DEPARTMENT SURVEILLANCE ACQUISITION REPORT – FIXED AUTOMATED LICENSE PLATE READERS

(1) Invasion of Privacy: Except when done pursuant to a court order such as a search warrant, is a violation of this Policy to utilize the ALPR to record license plates except those of vehicles that are exposed to public view (e.g., vehicles on a public road or street, or that are on private property but whose license plate(s) are visible from a public road, street, or a place to which members of the public have access, such as the parking lot of a shop or other business establishment).

(2) Harassment or Intimidation: It is a violation of this Policy to use the ALPR system to harass and/or intimidate any individual or group.

(3) Use Based on a Protected Characteristic. It is a violation of this policy to use the ALPR system or associated scan files or hot lists solely because of a person's, or group's race, gender, religion, political affiliation, nationality, ethnicity, sexual orientation, disability, or other classification protected by law.

(4) Personal Use: It is a violation of this Policy to use the ALPR system or associated scan files or hot lists for any personal purpose.

(5) First Amendment Rights. It is a violation of this policy to use the LPR system or associated scan files or hot lists for the purpose or known effect of infringing upon First Amendment rights.

Anyone who engages in an impermissible use of the ALPR system or associated scan files or hot lists may be subject to administrative sanctions, up to and including termination, pursuant to and consistent with the relevant collective bargaining agreements and departmental policies.

The ALPR data may be shared only with other law enforcement or prosecutorial agencies for official law enforcement purposes or as otherwise permitted by law.

(a) A supervisor at the requesting agency will sign an acknowledgement letter stating that the shared data will only be used for the purposes that are aligned with the Berkeley Police Department's policy. The Berkeley Police Department does not permit the sharing of ALPR data gathered by the City or its contractors/subcontractors for purpose of federal immigration enforcement, these federal immigration agencies include Immigrations and Customs Enforcement (ICE) and Customs and Border Patrol (CBP).

(b) The signed letter is retained on file. Requests for ALPR data by non-law enforcement or non-prosecutorial agencies will be processed as provided in the Records Maintenance and Release Policy (Civil Code § 1798.90.55).

1305 APPENDIX A

BERKELEY POLICE DEPARTMENT SURVEILLANCE ACQUISITION REPORT – FIXED AUTOMATED LICENSE PLATE READERS

J. ALTERNATIVES

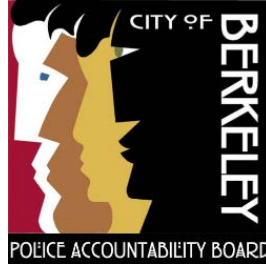
An alternative is the deployment of additional police resources. The inherent problems with this alternative is that it is difficult to hire and train additional police officers and the cost would be significantly higher than adding technology. Furthermore, this technology furthers the Department's goal in protecting and safeguarding our community through precision based policing strategies.

K. EXPERIENCE OF OTHER ENTITIES

Currently, in Alameda County, the following cities have ALPR programs, The Alameda County Sheriff's Office, Alameda PD, Emeryville PD, Fremont PD, Hayward PD, Livermore PD, Newark PD, Oakland PD, Piedmont PD, Pleasanton PD, San Leandro PD, Union City PD, and the California Highway Patrol. The only agency in Alameda County to not utilize ALPRs is Albany PD.

Representatives from Newark indicated success with their program. No notable issues have arisen as a result of this program. Additionally, no unexpected expenditures have come from this program that were unforeseen.

Representatives from indicated similar to the above, success with their program. No notable issues have arisen as a result of this program. Additionally, no unexpected expenditures have come from this program that were unforeseen.



**POLICE ACCOUNTABILITY BOARD
SUPPLEMENTAL SPECIAL MEETING PACKET**

**Friday, June 16, 2023
10:00 A.M.**

Board Members:

JOHN MOORE III. (CHAIR)
KITTY CALAVITA

JULIE LEFTWICH

REGINA HARRIS (VICE-CHAIR)
LEAH WILSON

MEETING LOCATION

Multipurpose Room
1947 Center Street,
Berkeley, CA 94704

Item	Page
Board Member Calavita's Responses to 1305 Appendix A and Proposed Policy 1305.	1
Board Member Wilson's Commentary on Proposed Policy 422 and 1305.	8
Automatic License Plate Readers (ALPR) in the City of Berkeley: A Preliminary Review of proposed BPD Policies by the Office of the Director of Police Accountability (ODPA) submitted to the Police Accountability Board (PAB) Special Meeting: June 16, 2023.	23

Calavita Responses to 1305 Appendix A

- A. **Description.** Does not capture facial recognition, but what *does* it capture besides license plate and make of car? Photos online suggest ALPRs can capture at least silhouettes of those in car.
- B. **Purpose.** The cases mentioned here (for example, the armed robbery mentioned first) might have been prevented *if the cameras allow for real-time alerts* based on the license plates being immediately transferred into a machine-readable format. That requires Optical Character recognition (OCR) which is a feature of the expensive version of cameras (not the \$2000-2500 garden-variety referred to in the cost estimate).
- C. **Location.** Why 52? Based on what? Who is the vendor and why will they play the critical role of where the cameras would go? How will effectiveness be determined? (Needs a detailed explanation of performance review, given the fiscal costs involved).
- D. **Impact.** If efficient utilization of resources is the goal, it is important to provide more detail on cost/benefits (as above). Also, there is a sentence here that says ALPRs “will help to ensure unauthorized use of its data” (sic). What procedures “will ensure the data is not used in a way that would violate or infringe on anyone’s civil rights and/or liberties...”? More is needed here. Explain exactly what procedures other than the “data security” mentioned in G below.

F.Data types and sources. In addition to providing images of plates and cars, is it possible that some images of people will be retrieved? Further, bumper stickers, decals and roof racks are mentioned. How does this impact civil liberties? The text says only the *fact* of a bumper sticker would be in the image—it is unclear why the content is not also revealed. Also, the roof rack suggests that the entire car is in the image, and thus may include number of passengers and perhaps even their characteristics.

G. Data Security. (a). It notes there will be non-law enforcement requests for access. This is somewhat alarming. This report needs to clarify what is

meant by this and exactly how it will be dealt with (not just referencing a different policy/law).

(b) “All ALPR data downloadable to any workstation or server”

(clarify)

(c,d, and G). All mention “legitimate law enforcement purposes” or “law enforcement officials and agencies”, but nowhere does this confine the sharing to California. Will these data be shared with, for example, Texas law enforcement officials, or federal officials? I am concerned about other state agencies acquiring CA ALPR data for the “legitimate law enforcement purpose” of violating reproductive rights in their states. (see below)

H. Fiscal cost. This is probably an underestimate of costs, given what I have researched. Low-end cameras with limited abilities go for \$2000 each but others (which allow real-time alerts) cost in the \$25,000 range. Also, Council Member Taplin’s proposal provides the CM estimate for the ALPRs used for parking enforcement at \$78,363 each. What is the low-ball estimate here based on? What type or model of camera is being proposed?

I. Third-party dependence and access. Again, does “legitimate law enforcement or public safety purpose” include across state lines? What about a “legitimate” Texas law enforcement purpose?

(b). no reasonable suspicion or probable cause required? In other words, there is no need for a “hit”? What factors will determine if it is “used” if not suspicion? And, what does “used” mean in this context?

After #5 (p. 7), a #6 is necessary, making it clear that ALPRs can not be used in the violation of reproductive rights (see University of Washington Center for Human Rights [Dec 2022], “Who’s Watching Washington: Dangers of Automated License Plate Readers to Immigration and Reproductive Rights in Washington State”).

(b). (p. 7). Explain how those requests will be processed.

J. Alternatives. The only alternative mentioned is additional police resources. CM Taplin's proposal mentions other violence prevention measures and Reimagining. There is some evidence across the country for the effectiveness of alternatives other than additional police. These need to be acknowledged.

K. Experience of other entities. What is the evidence for the effectiveness of ALPRs in these other jurisdictions? Is their crime rate lower than that of Berkeley, or their criminal investigations improved by these cameras? Given the potential civil liberty threats of this technology, we need for them to at least be evidence-based.

Finally, the last paragraph in the Report is a duplicate.

Calavita Response to Proposed Policy 1305

1305.1. Purpose. First, there is no mention of what the actual purpose is. Second, the 4th paragraph mentions “contractors/subcontractors”. Who are they and exactly what role do they play? This is nowhere spelled out. Also, the only restriction on sharing mentioned in this section relates to the California Values Act and immigration enforcement. We need a statement that includes no sharing with states that violate a woman’s right to access reproductive care.

1305.2. Definitions. (a) What does “known information of interest” mean? (b) ALPR Operator. This section and section c conflate/confuse “operator” with “administrator”, which appear to be quite different things. Section e contains wording/grammar problems. Section (f on “detection”) does not fit in “definitions”. Neither does Section g belong in “definitions”.

1305.3 Authorized and prohibited uses. The first sentence is repetitious with Section a here. (b) says no “reasonable suspicion” or “probable cause” is necessary for use. What does “use” mean in this context? And, elsewhere it talks about a “vehicle of interest”. How is this different from “reasonable suspicion”? What factors will determine a “vehicle of interest”? This is all vague and confusing. Section d is not about a “purpose”. Sections e through g do not belong in a section on “authorized and prohibited uses”. They belong in a section possibly called “OPERATION”. Further, Section e begins “If practicable...”. This seems unduly vague, especially when joined with the later word “should” (not “shall”). Additionally, why is “LPR” sometimes used instead of “ALPR”? It’s a minor detail but if there is no difference, it’s better to be consistent.

#6 (p. 3). I have lost track of this enumeration system but this #6 appears to be subsequent to the entry on “Hot lists”. The first sentence in #6 makes no sense: “Administrator (or his/her designee) before initial entry within the ALPR system”.???

In Section g, there is the phrase “which has the ability to be fully audited”. What does this mean? Later in section g, there is a section entitled

“Permitted/Impermissible Uses”, but this is the title of all of Section 1305.3. What is this doing here?

Similar problems exist throughout this policy draft, and I will stop keeping track here.

Section g on p. 4 needs a #6 after First Amendment Rights, citing Reproductive Rights for example: “It is a violation of this policy to provide the ALPR data to officials of any state that does not protect a woman’s reproductive rights.

Also, since the cameras capture images of whole cars, not just license plates, I assume they also periodically capture images of individual pedestrians and cyclists. Is it permissible to use these images in law enforcement? If so, how are these 52 APLRs in any essential way different from the 10 fixed surveillance cameras recently provided for?

1305.4. Data Collection. The first paragraph does not explain what “systems and processes are in place for the proper collection and retention of ALPR data,” only that they will be developed by the Division Captain. And, again, “if feasible” is vague and provides substantial discretion. Is this adequate? In the second critical paragraph about data retention, the word “should” is used throughout. Why not “shall”?

1305.6 Data Protection. For Sections a through c, see my notes about the acquisition report—for example, what “non-law enforcement requests”?

1305.7. Civil liberties. As always, Berkeley may want to have policies that are *more* restrictive than state and federal law requires.

1305.8. Data Retention. This section is largely verbatim with the second and third paragraphs of 1305.4 (Data Collection).

1305.10. Third Party data sharing. This section is largely redundant with previous sections, but if it is kept, add reproductive rights.

1305.12. Auditing and Oversight. This section needs to include a rigorous performance review. Has the camera reduced crime or helped solve crimes in the area? Does the evidence suggest that the cameras have had a positive impact on public safety around the city? What has the effect been on civil liberties? Have the cameras captured images of individual people in the roadway? Have these images been used by law enforcement?



Surveillance Use Policy-Fixed ALPRs

1305.1 PURPOSE

The purpose of this policy is to provide guidance for the capture, storage and use of digital data obtained through the use of Automated License Plate Reader (ALPR) technology. Department Personnel shall adhere to the requirements of the Surveillance Use-Fixed ALPRs in this policy as well as the corresponding Use Policy -422.

The policy of the Berkeley Police Department is to utilize ALPR technology to capture and store digital license plate data and images while recognizing the established privacy rights of the public.

All data and images gathered by the ALPR are for the official use of this department. Because such data may contain confidential information, it is not open to public review.

The Berkeley Police Department does not permit the sharing of ALPR data gathered by the City or its contractors/subcontractors for federal immigration enforcement, pursuant to the California Values Act (Government Code § 7282.5; Government Code § 7284.2 et seq) – these federal immigration agencies include Immigrations and Customs Enforcement (ICE) and Customs and Border Patrol (CBP).

1305.2 DEFINITIONS

- (a) Automated License Plate Reader (ALPR): A device that uses cameras and computer technology to compare digital images to lists of known information of interest.
- (b) ALPR Operator: Trained Department members who may utilize ALPR system/equipment. ALPR operators may be assigned to any position within the Department, and the ALPR Administrator may order the deployment of the ALPR systems for use in various efforts.
- (c) ALPR Administrator: The Investigations Bureau Captain or the Chief's designee, serves as the ALPR Administrator for the Department.
- (d) Hot List: A list of license plates associated with vehicles of interest compiled from one or more databases including, but not limited to, NCIC, CA DMV, Local BOLO's, etc.
- (e) Vehicles of Interest: Including, but not limited to vehicles which are reported as stolen, display stolen license plates or tags; vehicles linked to missing and/or wanted persons and vehicles flagged by the Department of Motor Vehicle Administration or law enforcement agencies.
- (f) Detection: Data obtained by an ALPR of an image (such as a license plate) within public view that was read by the device, including potential images (such as the plate and description of vehicle on which it was displayed), and information regarding the location of the ALPR system at the time of the ALPR's read.

- (g) Hit Alert from the ALPR system that a scanned license plate number may be in the National Crime Information Center (NCIC) or other law enforcement database for a specific reason including, but not limited to, being related to a stolen car, wanted person, missing person, domestic violation protective order or terrorist-related activity.

1305.3 AUTHORIZED AND PROHIBITED USES

An ALPR shall only be used for official law enforcement business.

Use of an ALPR is restricted to the purposes outlined below. Department members shall not use, or allow others to use the equipment or database records for any unauthorized purpose (Civil Code § 1798.90.51; Civil Code § 1798.90.53).

- (a) An ALPR shall only be used for official law enforcement business.
- (b) An ALPR may be used in conjunction with any routine patrol operation or to support criminal investigations. Reasonable suspicion or probable cause is not required before using an ALPR.
- (c) Partial license plates and unique vehicle descriptions reported during crimes may be entered into the ALPR system in an attempt to identify suspect vehicles.
- (d) No member of this department shall operate ALPR equipment or access ALPR data without first completing department-approved training.

- (e) If **practicable**, the officer should verify an ALPR response through the California Law Enforcement Telecommunications System (CLETS) before taking enforcement action that is based solely on an ALPR alert. Once an alert is received, the operator should confirm that the observed license plate from the system matches the license plate of the observed vehicle. Before any law enforcement action is taken because of an ALPR alert, the alert will be verified through a CLETS inquiry via MDT or through **Dispatch**. Members will not take any police **action** that restricts the freedom of any individual based solely on an ALPR alert unless it has been validated. Because the ALPR alert may relate to a vehicle and may not relate to the person operating the vehicle, officers are reminded that they need to have reasonable **suspicion** and/or probable cause to make an enforcement stop of any vehicle. (For example, if a vehicle is entered into the system because of its association with a wanted individual, Officers should attempt to visually match the driver to the description of the wanted subject prior to making the stop or should have another legal basis for making the stop.)

- (f) Hot Lists. Designation of hot lists to be utilized by the ALPR system shall be made by the ALPR Administrator or his/her designee. Hot lists shall be obtained or compiled from sources as may be consistent with the purposes of the ALPR system set forth in this Policy. **Hot lists utilized by the Department's LPR system may be updated by agency sources more frequently than the Department may be uploading them and thus the Department's LPR system will not have access to real time data. Occasionally, there may be errors in the LPR system's read of a license plate. Therefore, an alert alone shall not be a basis for police action (other than following the vehicle of interest). Prior to initiation of a stop of a vehicle or other intervention based on an alert, Department members shall undertake the following:**

Commented [WL1]: This section is problematic and needs more work. Specific comments noted below.

Commented [WL2]: What does this mean? Not an easily defined or enforceable standard.

Commented [WL3]: This sentence contradicts the first one – this doesn't have an "if practicable" modifier

Commented [WL4]: Is police action the same as law enforcement action?

Commented [WL5]: So no reasonable suspicion or pc to use ALPR per (b) above, but you need one to make an enforcement stop. So do you need BOTH to verify in CLETS and have reasonable suspicion? This whole section needs to be cleaned up.

Commented [WL6]: This kind of explanatory information is not needed in a policy.

(1) Verification of status on a Hot List. An officer must receive confirmation, from a Berkeley Police Department Communications Dispatcher or other department computer device, that the license plate is still stolen, wanted, or otherwise of interest before proceeding (absent exigent circumstances).

(2) Visual verification of license plate number. Officers shall visually verify that the license plate of interest matches identically with the image of the license plate number captured (read) by the LPR, including both the alphanumeric characters of the license plate, state of issue, and vehicle descriptors before proceeding. Department members alerted to the fact that an observed motor vehicle's license plate is entered as a Hot Plate (hit) in a specific BOLO (be on the lookout) list are required to make a reasonable effort to confirm that a wanted person is actually in the vehicle and/or that a reasonable basis exists before a Department member would have a lawful basis to stop the vehicle.

(3) Department members will clear all stops from hot list alerts by indicating the positive ALPR Hit, i.e., with an arrest or other enforcement action. If it is not obvious in the text of the call as to the correlation of the ALPR Hit and the arrest, then the Department member shall update with the Communications Dispatcher and original person and/or a crime analyst inputting the vehicle in the hot list (hit).

Commented [WL7]: #3 doesn't go with the intro..Prior to initiation of a stop...neither does number 4, 5, or 6

(4) General Hot Lists (SVS, SFR, and SLR) will be automatically downloaded into the ALPR system a minimum of once a day with the most current data overwriting the old data.

(5) All entries and updates of specific Hot Lists within the ALPR system will be documented by the requesting Department member within the appropriate general offense report. As such, specific Hot Lists shall be approved by the ALPR Administrator.

(6) Administrator (or his/her designee) before initial entry within the ALPR system. The updating of such a list within the ALPR system shall thereafter be accomplished pursuant to the approval of the Department member's immediate supervisor. The hits from these data sources should be viewed as informational; created solely to bring the officers attention to specific vehicles that have been associated with criminal activity.

All Hot Plates and suspect information entered into the ALPR system will contain the following information as a minimum:

- Entering Department member's name
- Related case number.
- Short synopsis describing the nature of the originating call

(g) Login/Log-Out Procedure. To ensure proper operation and facilitate oversight of the ALPR system, all users will be required to have individual credentials for access and use of the systems and/or data, which has the ability to be fully audited.

Permitted/Impermissible Uses. The ALPR system, and all data collected, is the property of the Berkeley Police Department. Department personnel may only access and use the ALPR system for official and legitimate law enforcement purposes consistent with this Policy. The following uses of the ALPR system are specifically prohibited:

1. Invasion of Privacy: Except when done pursuant to a court order such as a search warrant, is a violation of this Policy to utilize the ALPR to record license plates except those of vehicles that are exposed to public view (e.g., vehicles on a public road or street, or that are on private property but whose license plate(s) are visible

from a public road, street, or a place to which members of the public have access, such as the parking lot of a shop or other business establishment).

2. Harassment or Intimidation: It is a violation of this Policy to use the ALPR system to harass and/or intimidate any individual or group.
3. Use Based on a Protected Characteristic. It is a violation of this policy to use the LPR system or associated scan files or hot lists solely because of a person's, or group's race, gender, religion, political affiliation, nationality, ethnicity, sexual orientation, disability, or other classification protected by law.
4. Personal Use: It is a violation of this Policy to use the ALPR system or associated scan files or hot lists for any personal purpose.
5. First Amendment Rights. It is a violation of this policy to use the LPR system or associated scan files or hot lists for the purpose or known effect of infringing upon First Amendment rights.

(h) Anyone who engages in an impermissible use of the ALPR system or associated scan files or hot lists may be subject to administrative sanctions, up to and including termination, pursuant to and consistent with the relevant collective bargaining agreements and departmental policies. Partial license plates reported during crimes may be entered into the ALPR system in an attempt to identify suspect vehicles.

No ALPR operator may access California Law Enforcement Telecommunications System (CLETS) data unless otherwise authorized to do so. If practicable, the officer should verify an ALPR response through the California Law Enforcement Telecommunications System (CLETS) before taking enforcement action that is based solely on an ALPR alert.

1305.4 DATA COLLECTION

The Investigations Division Captain is responsible for ensuring systems and processes are in place for the proper collection and retention of ALPR data. Data will be transferred from vehicles to the designated storage in accordance with department procedures. The Department should if feasible find a solution to transfer evidentiary hit data into it's digital evidence repository through secure integration.

All ALPR data downloaded to the ALPR server should be stored for no longer than 30 days, and in accordance with the established records retention schedule. Thereafter, ALPR data should be purged unless it has become, or it is reasonable to believe it will become, evidence in a criminal or civil action or is subject to a discovery request or other lawful action to produce records. In those circumstances the applicable data should be downloaded from the server and uploaded into BPD's digital evidence repository.

Commented [WL8]: There should be a formal process to document exceptions to retention scheduled.

ALPR vendor, will store the data (data hosting) and ensure proper maintenance and security of data stored in their data towers. The ALPR vendor will purge their data at the end of the 30 days of storage. However, this will not preclude Berkeley Police Department from maintaining any relevant vehicle data obtained from the system after that period pursuant to the established City of Berkeley retention schedule mentioned above or outlined elsewhere. Relevant vehicle data are scans corresponding to the vehicle of interest on a hot list. The ALPR vendor and Department shall ensure that the necessary data is captured and stored to accurately report the relevant data required in the Annual Surveillance Technology report. Once the City Council approves the Annual Surveillance Technology report all said data may be purged so long as it doesn't violate the Retention guidelines.

Commented [WL9]: This makes no sense. The retention schedule above is 30 days so what is the variance referenced?

Commented [WL10]: Why is this capitalized? Is there a separate document called Retention Guidelines?

Restrictions on use of vendor Data: Information gathered or collected, and records retained by the vendor's cameras or any other Berkeley Police Department ALPR system will not be sold, accessed, or used for any purpose other than legitimate law enforcement or public safety purposes.

1305.5 DATA ACCESS

- (a) No member of this department shall operate ALPR equipment or access ALPR data without first completing department-approved training.
- (b) No ALPR operator may access California Law Enforcement Telecommunications System (CLETS) data unless otherwise authorized to do so.
- (c) If practical, an operator should verify an ALPR response through the California Law Enforcement Telecommunications System (CLETS) before taking enforcement action that is based solely on an ALPR alert.

Commented [WL11]: This doesn't fit under Data Access section.

1305.6 DATA PROTECTION

Internal
Berkeley Police Department
 Law Enforcement Services Manual

Surveillance Use Policy-Fixed ALPRs

All saved data will be safeguarded and protected by both procedural and technological means. The Berkeley Police Department will observe the following safeguards regarding access to and use of stored data (Civil Code § 1798.90.51; Civil Code § 1798.90.53):

- (a) Non-law enforcement requests for access to stored ALPR data shall be processed according to the Records Maintenance and Release Policy in accordance with applicable law.
- (b) All ALPR data downloaded to any workstation or server shall be accessible only through a login/password-protected system capable of documenting all access of information by name, date and time (Civil Code § 1798.90.52).
- (c) Berkeley Police Department members approved to access ALPR data under these guidelines are permitted to access the data for legitimate law enforcement purposes only, such as when the data relate to a specific criminal investigation or department-related civil or administrative action.
- (d) Aggregated ALPR data not related to specific criminal investigations shall not be released to any local, state or federal agency or entity without the consent of the Chief of Police or City Manager (i.e. If transportation department requested volume of vehicular traffic associated with specific events, it could conceivably be provided with the count of vehicles, but not the specific license plates with appropriate permissions).
- (e) Measures will be taken to ensure the accuracy of ALPR information. Errors discovered in ALPR data collected by ALPR units shall be marked, corrected or deleted in accordance with the type and severity of the error in question.
- (f) ALPR system audits will be conducted by the Professional Standards Bureau's Audit and Inspections Sergeant on a regular basis, at least biennial.
- (g) Such ALPR data may be released to other authorized and verified law enforcement officials and agencies for legitimate law enforcement purposes.
- (h) Every ALPR Detection Browsing Inquiry must be documented by either the associated Berkeley Police case number or incident number, and/or a reason for the inquiry

For security or data breaches, see the Records Release and Maintenance Policy.

1305.7 CIVIL LIBERTIES AND RIGHTS PROTECTION

The Berkeley Police Department is dedicated to the most efficient utilization of its resources and services in its public safety endeavors. The Berkeley Police Department recognizes the need to protect its ownership and control over shared information and to protect the privacy and civil liberties of the public, in accordance with federal and state law. The procedures described within this policy (Data Access, Data Protection, Data Retention, Public Access and Third-Party Data Sharing) protect against the unauthorized use of ALPR data. These policies ensure the data is not used in a way that would violate or infringe upon anyone's civil rights and/or liberties, including but not limited to potentially disparate or adverse impacts on any communities or groups.

Internal
Berkeley Police Department
 Law Enforcement Services Manual

Surveillance Use Policy-Fixed ALPRs

1305.8 DATA RETENTION

All ALPR data belongs to the Department. All ALPR data downloaded to the ALPR server should be stored for no longer than 30 days, and in accordance with the established records retention schedule. Thereafter, ALPR data should be purged unless it has become, or it is reasonable to believe it will become, evidence in a criminal or civil action or is subject to a discovery request or other lawful action to produce records. In those circumstances the applicable data should be downloaded from the server and uploaded into BPD's digital evidence repository.

Commented [WL12]: This section appears to be repeated in its entirety.

ALPR vendor, will store the data (data hosting) and ensure proper maintenance and security of data stored in their data towers. The ALPR vendor will purge their data at the end of the 30 days of storage. However, this will not preclude Berkeley Police Department from maintaining any relevant vehicle data obtained from the system after that period pursuant to the established City of Berkeley retention schedule mentioned above or outlined elsewhere. Relevant vehicle data are scans corresponding to the vehicle of interest on a hot list. The ALPR vendor and Department shall ensure that the necessary data is captured and stored to accurately report the relevant data required in the Annual Surveillance Technology report. Once the City Council approves the Annual Surveillance Technology report all said data may be purged so long as it doesn't violate the Retention guidelines.

1305.9 PUBLIC ACCESS

All data and images gathered by the ALPR are for the official use of this department. Because such data may contain confidential information, it is not open to public review.

The Department shall to the extent feasible aim to offer a transparency portal wherein the number of scans, hits, and queries is available to the public in real-time, or as near as real-time as feasible. All data shall be reported in the Annual Surveillance Technology Report.

1305.10 THIRD PARTY DATA-SHARING

The ALPR data may be shared only with other law enforcement or prosecutorial agencies for official law enforcement purposes or as otherwise permitted by law.

(a) A supervisor at the requesting agency will sign an acknowledgement letter stating that the shared data will only be used for the purposes that are aligned with the Berkeley Police Department's policy. The Berkeley Police Department does not permit the sharing of ALPR data gathered by the City or its contractors/subcontractors for purpose of federal immigration enforcement, these federal immigration agencies include Immigrations and Customs Enforcement (ICE) and Customs and Border Patrol (CBP). *See attached letter.*

(b) The signed letter is retained on file. Requests for ALPR data by non-law enforcement or non-prosecutorial agencies will be processed as provided in the Records Maintenance and Release Policy (Civil Code § 1798.90.55).

(c) All signed letters shall be routed to the Audit and Inspection Sergeant for compliance and reporting.

ALPR data is subject to the provisions of the Berkeley Police Department's Immigration Law Policy, and hence may not be shared with federal immigration enforcement officials.

1305.11 TRAINING

Training for the operation of ALPR Technology shall be provided by BPD personnel. All BPD

Internal
Berkeley Police Department
Law Enforcement Services Manual

Surveillance Use Policy-Fixed ALPRs

employees who utilize ALPR Technology shall be provided a copy of this Surveillance Use Policy.

1305.12 AUDITING AND OVERSIGHT

ALPR system audits will be conducted by the Professional Standards Bureau's Audit and Inspections Sergeant on a regular basis, at least biannually. The data from the fixed ALPRs shall be reported annually in the Surveillance Technology Report.

1305.13 MAINTENANCE

Any installation and maintenance of ALPR equipment, as well as ALPR data retention and access, shall be managed by the Investigations Division Captain or his or her designee. The Investigations Division Captain will assign members under his/her command to administer the day-to-day operation of the ALPR equipment and data. Equipment maintenance shall be provided by the vendor.

Fixed Automated License Plate Readers (ALPRs)-

422.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance for the capture, storage and use of digital data obtained through the use of Automated License Plate Reader (ALPR) technology. Department Personnel shall adhere to the requirements of Fixed ALPRs in this policy as well as the corresponding Surveillance Use-Fixed ALPRs policy-1305.

422.2 POLICY

The policy of the Berkeley Police Department is to utilize ALPR technology to capture and store digital license plate data and images while recognizing the established privacy rights of the public.

All data and images gathered by the ALPR are for the official use of this department. Because such data may contain confidential information, it is not open to public review.

The Berkeley Police Department does not permit the sharing of ALPR data gathered by the City or its contractors/subcontractors for federal immigration enforcement, pursuant to the California Values Act (Government Code § 7282.5; Government Code § 7284.2 et seq) – these federal immigration agencies include Immigrations and Customs Enforcement (ICE) and Customs and Border Patrol (CBP).

422.3 DEFINITIONS

- (a) Automated License Plate Reader (ALPR): A device that uses cameras and computer technology to compare digital images to lists of known information of interest.
- (b) ALPR Operator: Trained Department members who may utilize ALPR system/equipment. ALPR operators may be assigned to any position within the Department, and the ALPR Administrator may order the deployment of the ALPR systems for use in various efforts.
- (c) ALPR Administrator: The Investigations Bureau Captain or the Chief's designee, serves as the ALPR Administrator for the Department.
- (d) Hot List: A list of license plates associated with vehicles of interest compiled from one or more databases including, but not limited to, NCIC, CA DMV, Local BOLO's, etc.
- (e) Vehicles of Interest: Including, but not limited to vehicles which are reported as stolen, display stolen license plates or tags; vehicles linked to missing and/or wanted persons and vehicles flagged by the Department of Motor Vehicle Administration or law enforcement agencies.

-
- (f) Detection: Data obtained by an ALPR of an image (such as a license plate) within public view that was read by the device, including potential images (such as the plate and description of vehicle on which it was displayed), and information regarding the location of the ALPR system at the time of the ALPR's read.
 - (g) Hit Alert from the ALPR system that a scanned license plate number may be in the National Crime Information Center (NCIC) or other law enforcement database for a specific reason including, but not limited to, being related to a stolen car, wanted person, missing person, domestic violation protective order or terrorist-related activity.

422.4 ADMINISTRATION

The ALPR technology, also known as License Plate Recognition (LPR), allows for the automated detection of license plates. It is used by the Berkeley Police Department to convert data associated with vehicle license plates for official law enforcement purposes, including identifying stolen or wanted vehicles, stolen license plates and missing persons. It may also be used to gather information related to active warrants, suspect apprehension and stolen property recovery. Any installation and maintenance of ALPR equipment, as well as ALPR data retention and access, shall be managed by the Investigations Division Captain. The Investigations Division Captain will assign members under his/her command to administer the day-to-day operation of the ALPR equipment and data.

422.4.1 ALPR ADMINISTRATOR

The Investigations Division Captain, or his/her designee, shall be responsible for compliance with the requirements of Civil Code § 1798.90.5 et seq. This includes, but is not limited to (Civil Code § 1798.90.51; Civil Code § 1798.90.53):

- (a) Only properly trained sworn officers, crime analysts, communication operators, records clerks, parking enforcement officers, and police assistants are allowed access to the ALPR system or to collect ALPR information.
- (b) Ensuring that training requirements are completed for authorized users.
- (c) ALPR system monitoring to ensure the security of the information and compliance with applicable privacy laws.
- (d) Ensuring procedures are followed for system operators to maintain records of access in compliance with Civil Code § 1798.90.52.
- (e) The title and name of the current designee in overseeing the ALPR operation.
- (f) Working with the Custodian of Records, or vendor on the retention and destruction of ALPR data.ensuring this policy and related procedures are conspicuously posted on the City's website.

422.5 OPERATIONS

An ALPR shall only be used for official law enforcement business.

Use of an ALPR is restricted to the purposes outlined below. Department members shall not use, or allow others to use the equipment or database records for any unauthorized purpose (Civil

Code § 1798.90.51; Civil Code § 1798.90.53).

- (a) An ALPR shall only be used for official law enforcement business.
- (b) An ALPR may be used in conjunction with any routine patrol operation or to support criminal investigations. Reasonable suspicion or probable cause is not required before using an ALPR.
- (c) Partial license plates and unique vehicle descriptions reported during crimes may be entered into the ALPR system in an attempt to identify suspect vehicles.
- (d) No member of this department shall operate ALPR equipment or access ALPR data without first completing department-approved training.
- (e) If practicable, the officer should verify an ALPR response through the California Law Enforcement Telecommunications System (CLETS) before taking enforcement action that is based solely on an ALPR alert. Once an alert is received, the operator should confirm that the observed license plate from the system matches the license plate of the observed vehicle. Before any law enforcement action is taken because of an ALPR alert, the alert will be verified through a CLETS inquiry via MDT or through Dispatch. Members will not take any police action that restricts the freedom of any individual based solely on an ALPR alert unless it has been validated. Because the ALPR alert may relate to a vehicle and may not relate to the person operating the vehicle, officers are reminded that they need to have reasonable suspicion and/or probable cause to make an enforcement stop of any vehicle. (For example, if a vehicle is entered into the system because of its association with a wanted individual, Officers should attempt to visually match the driver to the description of the wanted subject prior to making the stop or should have another legal basis for making the stop.)
- (f) Hot Lists. Designation of hot lists to be utilized by the ALPR system shall be made by the ALPR Administrator or his/her designee. Hot lists shall be obtained or compiled from sources as may be consistent with the purposes of the ALPR system set forth in this Policy. Hot lists utilized by the Department's LPR system may be updated by agency sources more frequently than the Department may be uploading them and thus the Department's LPR system will not have access to real time data. Occasionally, there may be errors in the LPR system's read of a license plate. Therefore, an alert alone shall not be a basis for police action (other than following the vehicle of interest). Prior to initiation of a stop of a vehicle or other intervention based on an alert, Department members shall undertake the following:
 - (1) Verification of status on a Hot List. An officer must receive confirmation, from a Berkeley Police Department Communications Dispatcher or other department computer device, that the license plate is still stolen, wanted, or otherwise of interest before proceeding (absent exigent circumstances).
 - (2) Visual verification of license plate number. Officers shall visually verify that the license plate of interest matches identically with the image of the license plate number captured (read) by the LPR, including both the alphanumeric characters of the license

plate, state of issue, and vehicle descriptors before proceeding. Department members alerted to the fact that an observed motor vehicle's license plate is entered as a Hot Plate (hit) in a specific BOLO (be on the lookout) list are required to make a reasonable effort to confirm that a wanted person is actually in the vehicle and/or that a reasonable basis exists before a Department member would have a lawful basis to stop the vehicle.

(3) Department members will clear all stops from hot list alerts by indicating the positive ALPR Hit, i.e., with an arrest or other enforcement action. If it is not obvious in the text of the call as to the correlation of the ALPR Hit and the arrest, then the Department member shall update with the Communications Dispatcher and original person and/or a crime analyst inputting the vehicle in the hot list (hit).

(4) General Hot Lists (SVS, SFR, and SLR) will be automatically downloaded into the ALPR system a minimum of once a day with the most current data overwriting the old data.

(5) All entries and updates of specific Hot Lists within the ALPR system will be documented by the requesting Department member within the appropriate general offense report. As such, specific Hot Lists shall be approved by the ALPR Administrator.

(6) Administrator (or his/her designee) before initial entry within the ALPR system. The updating of such a list within the ALPR system shall thereafter be accomplished pursuant to the approval of the Department member's immediate supervisor. The hits from these data sources should be viewed as informational; created solely to bring the officers attention to specific vehicles that have been associated with criminal activity.

All Hot Plates and suspect information entered into the ALPR system will contain the following information as a minimum:

- Entering Department member's name
- Related case number.
- Short synopsis describing the nature of the originating call

(g) Login/Log-Out Procedure. To ensure proper operation and facilitate oversight of the ALPR system, all users will be required to have individual credentials for access and use of the systems and/or data, which has the ability to be fully audited.

Permitted/Impermissible Uses. The ALPR system, and all data collected, is the property of the Berkeley Police Department. Department personnel may only access and use the ALPR system for official and legitimate law enforcement purposes consistent with this Policy. The following uses of the ALPR system are specifically prohibited:

1. Invasion of Privacy: Except when done pursuant to a court order such as a search warrant, is a violation of this Policy to utilize the ALPR to record license plates except those of vehicles that are exposed to public view (e.g., vehicles on a public road or street, or that are on private property but whose license plate(s) are visible from a public road, street, or a place to which members of the public have access, such as the parking lot of a shop or other business establishment).
2. Harassment or Intimidation: It is a violation of this Policy to use the ALPR system to harass and/or intimidate any individual or group.

-
3. Use Based on a Protected Characteristic. It is a violation of this policy to use the LPR system or associated scan files or hot lists solely because of a person's, or group's race, gender, religion, political affiliation, nationality, ethnicity, sexual orientation, disability, or other classification protected by law.
 4. Personal Use: It is a violation of this Policy to use the ALPR system or associated scan files or hot lists for any personal purpose.
 5. First Amendment Rights. It is a violation of this policy to use the LPR system or associated scan files or hot lists for the purpose or known effect of infringing upon First Amendment rights.
- (h) Anyone who engages in an impermissible use of the ALPR system or associated scan files or hot lists may be subject to administrative sanctions, up to and including termination, pursuant to and consistent with the relevant collective bargaining agreements and departmental policies. Partial license plates reported during crimes may be entered into the ALPR system in an attempt to identify suspect vehicles.

No ALPR operator may access California Law Enforcement Telecommunications System (CLETS) data unless otherwise authorized to do so. If practicable, the officer should verify an ALPR response through the California Law Enforcement Telecommunications System (CLETS) before taking enforcement action that is based solely on an ALPR alert.

422.6 DATA COLLECTION AND RETENTION

The Investigations Division Captain is responsible for ensuring systems and processes are in place for the proper collection and retention of ALPR data. Data will be transferred from vehicles to the designated storage in accordance with department procedures. The Department should if feasible find a solution to transfer evidentiary hit data into its digital evidence repository through secure integration.

All ALPR data downloaded to the ALPR server should be stored for no longer than 30 days, and in accordance with the established records retention schedule. Thereafter, ALPR data should be purged unless it has become, or it is reasonable to believe it will become, evidence in a criminal or civil action or is subject to a discovery request or other lawful action to produce records. In those circumstances the applicable data should be downloaded from the server and uploaded into BPD's digital evidence repository.

ALPR vendor, will store the data (data hosting) and ensure proper maintenance and security of data stored in their data towers. The ALPR vendor will purge their data at the end of the 30 days of storage. However, this will not preclude Berkeley Police Department from maintaining any relevant vehicle data obtained from the system after that period pursuant to the established City of Berkeley retention schedule mentioned above or outlined elsewhere. Relevant vehicle data are scans corresponding to the vehicle of interest on a hot list. The ALPR vendor and Department shall ensure that the necessary data is captured and stored to accurately report the relevant data required in the Annual Surveillance Technology report. Once the City Council approves the Annual Surveillance Technology report all said data may be purged so long as it doesn't violate the Retention guidelines.

Commented [WL1]: I don't know what this is referencing but asking the department to do something if feasible is not appropriately in a policy document.

Restrictions on use of vendor Data: Information gathered or collected, and records retained by the vendor's cameras or any other Berkeley Police Department ALPR system will not be sold, accessed, or used for any purpose other than legitimate law enforcement or public safety purposes.

422.7 ACCOUNTABILITY

All saved data will be safeguarded and protected by both procedural and technological means. The Berkeley Police Department will observe the following safeguards regarding access to and use of stored data (Civil Code § 1798.90.51; Civil Code § 1798.90.53):

- (a) Non-law enforcement requests for access to stored ALPR data shall be processed according to the Records Maintenance and Release Policy in accordance with applicable law.
- (b) All ALPR data downloaded to any workstation or server shall be accessible only through a login/password-protected system capable of documenting all access of information by name, date and time (Civil Code § 1798.90.52).
- (c) Berkeley Police Department members approved to access ALPR data under these guidelines are permitted to access the data for legitimate law enforcement purposes only, such as when the data relate to a specific criminal investigation or department-related civil or administrative action.
- (d) Aggregated ALPR data not related to specific criminal investigations shall not be released to any local, state or federal agency or entity without the consent of the Chief of Police or City Manager (i.e. If transportation department requested volume of vehicular traffic associated with specific events, it could conceivably be provided with the count of vehicles, but not the specific license plates with appropriate permissions).
- (e) Measures will be taken to ensure the accuracy of ALPR information. Errors discovered in ALPR data collected by ALPR units shall be marked, corrected or deleted in accordance with the type and severity of the error in question.
- (f) ALPR system audits will be conducted by the Professional Standards Bureau's Audit and Inspections Sergeant on a regular basis, at least biennial.
- (g) Such ALPR data may be released to other authorized and verified law enforcement officials and agencies for legitimate law enforcement purposes.
- (h) Every ALPR Detection Browsing Inquiry must be documented by either the associated Berkeley Police case number or incident number, and/or a reason for the inquiry

For security or data breaches, see the Records Release and Maintenance Policy.

422.8 ALPR DATA DETECTION BROWSING AUDITS

It is the responsibility of the Sergeant of Audit and Inspections or the Chief's designee to ensure that an audit is conducted of ALPR detection browsing inquiries at least biennial. The Department

Commented [WL2]: An independent auditor would be more appropriate; sample size should be determined based on the number of inquiries. 10 may be too low dependent on the total number.

will audit a sampling of the ALPR system utilization from the prior 24-month period to verify proper use in accordance with the above- authorized uses. The audit shall randomly select at least 10 detection browsing inquiries conducted by department employees during the preceding 24-month period and determine if each inquiry meets the requirements established in policy section 462.6(e).

The audit shall be documented in the form of an internal department memorandum to the Chief of Police. The memorandum shall include any data errors found so that such errors can be corrected. After review by the Chief of Police, the memorandum and any associated documentation shall be filed and retained by the Professional Standards Bureau Captain. This audit should be shared in the Surveillance Ordinance reporting.

422.9 RELEASING ALPR DATA

The ALPR data may be shared only with other law enforcement or prosecutorial agencies for official law enforcement purposes or as otherwise permitted by law.

(a) A supervisor at the requesting agency will sign an acknowledgement letter stating that the shared data will only be used for the purposes that are aligned with the Berkeley Police Department's policy. The Berkeley Police Department does not permit the sharing of ALPR data gathered by the City or its contractors/subcontractors for purpose of federal immigration enforcement, these federal immigration agencies include Immigrations and Customs Enforcement (ICE) and Customs and Border Patrol (CBP). *See attached letter.*

(b) The signed letter is retained on file. Requests for ALPR data by non-law enforcement or non-prosecutorial agencies will be processed as provided in the Records Maintenance and Release Policy (Civil Code § 1798.90.55).

(c) All signed letters shall be routed to the Audit and Inspection Sergeant for compliance and reporting.

ALPR data is subject to the provisions of the Berkeley Police Department's Immigration Law Policy, and hence may not be shared with federal immigration enforcement officials.

422.10 TRAINING

The Personnel and Training Sergeant shall ensure that members receive department-approved training in order to be authorized to use or access the ALPR system (Civil Code § 1798.90.51; Civil Code § 1798.90.53)

Public

AUTOMATIC LICENSE PLATE READERS (ALPR) IN THE CITY OF BERKELEY



A Preliminary Review of proposed BPD Policies by the
Office of the Director of Police Accountability (ODPA)
submitted to the Police Accountability Board (PAB)
Special Meeting: June 16, 2023

Table of Contents

Background	2
Key Questions	4
Literature Review Findings: ALPR Technology and its Implications	4
ALPR systems and crime	5
ALPR systems and its effects on racial disparities in law enforcement stops	7
ALPR systems and privacy	7
Preliminary Analysis of the Proposed Policies	10
BERKELEY POLICE DEPARTMENT SURVEILLANCE ACQUISITION REPORT – FIXED AUTOMATED LICENSE PLATE READERS	10
Recommendations	18
Conclusion	19
Appendices	20

Figure 1 Historical crime rates overview 14

Background

On November 1, 2021 the Public Safety Policy Committee of the City Council, made a budget referral proposing the acquisition of fixed automatic license plate readers (ALPRs) to the Council. They emphasized the need to evaluate the costs and benefits of the proposed expenditure in comparison to other public safety investments in the two-year FY 2022-23 & 2023-24 budget. Furthermore, they called for the development of a policy that addresses data retention and other pertinent issues in accordance with the City of Berkeley Surveillance Ordinance and Sanctuary City Contracting Ordinance.

On November 30, 2021, Councilmember Taplin presented the budget referral proposing the acquisition of fixed automatic license plate readers (ALPRs) and received co-sponsorship from Councilmember Droste and Councilmember Wengraf. The item was a part of the City Council's Action Calendar (Item 28)¹ and presented the following recommendations:

- Authorize the City Manager to install ALPRs at strategic locations, including public facilities, city entrances, and areas affected by violent crime, traffic violations, illegal dumping, Schedule II drug offenses, and other criminal activities.
- Allocate funds for ALPRs in the FY 23-24 budget.
- Refer the development of a policy enabling the use of ALPRs by the Berkeley Police Department to the City Manager, ensuring compliance with the City of Berkeley Surveillance Ordinance and Sanctuary City Contracting Ordinance.
- Consider a data retention period of no longer than one year, with a minimum of sixty days to account for reporting delays.
- Study the feasibility of shorter data retention periods for non-hit scans, granting the City Manager the final decision-making authority.

¹ <https://berkeleyca.gov/sites/default/files/city-council-meetings/2021-11-30%20Annotated%20Agenda%20-%20Council%20%281%29.pdf>

Public

- Consider ALPR policies from neighboring local governments, including the City of Alameda, the City of Emeryville, the City of Hayward, the City of Oakland, the City of Piedmont, the City of Richmond, the City of San Leandro, and the City of Vallejo.
- Include provisions in the policy to safeguard against plate counterfeiting, plate switching, and other methods of detection evasions.

The Public Safety Policy Committee's recommendation received approval from the City Council, garnering a majority in favor². Councilmembers Kesarwani, Taplin, Bartlett, Wengraf, Robinson, Droste, and Mayor Arreguin all voted in support of the recommendation. However, Councilmember Harrison voted against it, while Councilmember Hahn chose to abstain from voting. This Council approval signifies the majority's endorsement of the proposed actions outlined in the recommendation. These actions include the installation of ALPRs at strategic locations, allocation of funds in the FY 23-24 budget for ALPRs, and the development of a policy governing the use of ALPRs by the Berkeley Police Department in compliance with relevant city ordinances, specifically Berkeley Municipal Code (BMC) 2.99³.

On May 11, 2023, Police Chief Jen Louis presented the Board⁴ with draft policies outlining the usage of Automated License Plate Readers (ALPRs) in accordance with the Berkeley City Council's budget referral item focused on Community Safety. In response to this directive, the department diligently prepared the necessary Surveillance Ordinance policies and presented the following documents to the Police Accountability Board (PAB) and the Office of the Director of Police Accountability (ODPA):

- Policy 422: This policy establishes guidelines for the department's use of Fixed Automated License Plate Readers.
- Policy 1305: The Surveillance Use Policy specifically addresses the implementation of Fixed Automated License Plate Readers.

² <https://berkeleyca.gov/sites/default/files/city-council-meetings/2021-11-30%20Annotated%20Agenda%20-%20Council%20%281%29.pdf>

³ <https://berkeley.municipal.codes/BMC/2.99>

⁴ Through a secretarial oversight by the Director of Police Accountability (DPA) Hansel Alejandro Aguilar, the report was not provided to the Board until June 8, 2023. A request for additional time to review the policy (beyond the 30 days provided by the ordinance) was made to City Manager Williams-Ridley by DPA Aguilar. Per Council Member Taplin's (current Chair of the Public Safety Policy Committee) instructions, the request to postpone was denied.

- Surveillance Acquisition Report: This report provides details regarding the acquisition of Fixed Automated License Plate Readers.
- Council Budget Referral Item: This document serves as background information.

According to the provisions of the Surveillance Ordinance (BMC Section 2.99.030.2), the Police Accountability Board (PAB) must review a Surveillance Use Policy within 30 days of receiving it. During this timeframe, the PAB is required to vote on recommending approval of the policy, objecting to the proposal, suggesting modifications, or taking no action. It is important to note that if there is opposition to the policy's approval or if the PAB does not take any action, the City Manager retains the authority to conduct an independent review and potentially proceed with adopting the policy.

Key Questions

The following questions will be addressed through the preliminary review on the use of ALPR technology by law enforcement agencies:

1. What evidence exists regarding the effectiveness of ALPR systems in reducing crime rates?
2. To what extent does the implementation of ALPR technology contribute to reducing disparities in law enforcement stops?
3. What are the specific privacy concerns associated with the use of ALPR technology, and what potential safeguards can be implemented to protect individual privacy rights? How do existing legal and regulatory frameworks address the privacy concerns related to this technology?

Literature Review Findings: ALPR Technology and its Implications

The literature review involved a thorough analysis of relevant sources, encompassing scholarly articles, research papers, reports, news articles and other pertinent publications from credible sources. The gathered information sheds light on the key questions posed in this review.

ALPR systems and crime

In 2022, a survey conducted by the International Association of Chiefs of Police (IACP) gathered responses from 1,237 law enforcement agencies regarding the use of Automated License Plate Readers (ALPR) systems⁵. The survey revealed that approximately 40% of the participating agencies utilized ALPR systems, while 52% reported never having used such a system⁶. The remaining 8% had used ALPR systems in the past but had discontinued their use⁷.

Among the agencies employing ALPR systems, the majority (86%) had fewer than 10 units available for deployment⁸. According to the survey, the IACP found that vehicle-mounted and stationary/fixed units were the most⁹ commonly utilized, whereas portable units mounted on non-vehicular objects were less prevalent. A significant portion (74%) of the agencies using ALPR had implemented the technology for a duration ranging from one to 10 years¹⁰.

For the agencies that were not currently employing ALPR systems, the primary reason cited for their non-use was the cost of acquisition. This concern was particularly pronounced among smaller agencies. The survey did not specifically request examples of how ALPR systems were used. However, a focus group identified three main purposes: investigations, crime prevention, and traffic/parking enforcement¹¹. The United States Department of Transportation's report titled "State of Knowledge and Practice for Using Automatic License Plate Readers for Traffic Safety Purposes" highlights the predominant use of ALPR systems in reactive scenarios. These include responding to incidents involving stolen vehicles, hit-and-run accidents, specific criminal activities, Amber Alerts, Megan's Law, Silver Alerts, be-on-the-look-out (BOLO) notifications, and wanted felons¹².

⁵ "IACP LPR Survey Results." International Association of Chiefs of Police (IACP). Accessed June 15, 2023. https://www.theiacp.org/sites/default/files/IACP_LPR_Survey_Results_5.16.22.pdf

⁶ Id.

⁷ Id.

⁸ Id.

⁹ Id.

¹⁰ Id.

¹¹ Id.

¹² Zmud, Jennifer, et al. "State of Knowledge and Practice for Using Automated License Plate Readers for Traffic Safety Purposes." April 2021, Report No. DOT HS 813 051, National Highway Traffic Safety Administration.

The Vallejo Police Department conducted a case study to assess the effectiveness of Automated License Plate Readers (ALPR) technology. Patrol cars were randomly selected and equipped with ALPR systems, with some cars having the ALPR alerts activated and others having them deactivated. The study found that the cars with ALPR technology had a 140 percent higher ability to detect stolen vehicles¹³. However, the analysis also revealed that the technology identified a significantly larger number of lost or stolen license plates, including duplicates, which may have caused officers to overlook legitimate hits¹⁴.

Fixed ALPR systems, which were stationary units, were found to be more efficient than mobile ALPR systems in making arrests. Officers using fixed systems tended to wait downstream of fixed locations for hits, resulting in more arrests. The control data indicated that 35 percent of hits from mobile readers and 37 percent of hits from fixed readers were misreads¹⁵. After accounting for the number of cars in each condition, the department found significantly more hits in the ALPR intervention condition.

The study also found that stolen vehicles identified by officers with more seniority were more likely to result in arrests, although this finding was only marginally significant. The use of fixed ALPR systems significantly increased the odds of identifying a stolen vehicle and increased the likelihood of arrests¹⁶. This is consistent with the IACP (2022) findings as they note¹⁷, "Although research is sparse, there is some evidence that suggests LPR use is effective at preventing crime,". While acknowledging the potential benefits of ALPR technology, it is crucial to recognize the limited research conducted on its effectiveness in these specific scenarios. The available information predominantly originates from police technology vendors, underscoring the need for a cautious and critical approach when evaluating and interpreting it.

¹³ "March 2018 RIB (Research in Brief)." International Association of Chiefs of Police (IACP). Accessed June 15, 2023. <https://www.theiacp.org/sites/default/files/2018-08/March%202018%20RIB.pdf>

¹⁴ "March 2018 RIB (Research in Brief)." International Association of Chiefs of Police (IACP). Accessed June 15, 2023. <https://www.theiacp.org/sites/default/files/2018-08/March%202018%20RIB.pdf>

¹⁵ Id.

¹⁶ Id.

¹⁷ pg. 1: IACP LPR Survey Results." International Association of Chiefs of Police (IACP). Accessed June 15, 2023. https://www.theiacp.org/sites/default/files/IACP_LPR_Survey_Results_5.16.22.pdf

ALPR systems and its effects on racial disparities in law enforcement stops

Extensive research has shown clear disparities in police traffic stops based on race. A report published in October 2022 by the Public Policy Institute of California revealed that Latino drivers constitute approximately 40 percent of traffic stops, while white drivers make up around 33 percent, and Black drivers account for approximately 14 percent¹⁸. This data highlights a notable overrepresentation of Black Californians in traffic stops, considering they comprise only 6 percent of the state's population¹⁹. Conversely, the proportion of traffic stops involving Latino drivers closely mirrors their population representation, with 40 percent of stops compared to 39 percent of the population²⁰. However, white drivers are somewhat underrepresented in traffic stops, comprising 33 percent of stops compared to 35 percent of the population. It is worth noting that despite the Asian population in California growing to 15 percent, they are notably underrepresented in traffic stops, accounting for only 6 percent of them²¹.

A supporting point for the use of ALPR technology is its potential to mitigate racial and ethnic disparities in traffic stops. The rationale behind this argument is that by relying on the license plate and vehicle description, law enforcement officers can avoid making subjective judgments based on the driver's appearance matching potentially matching a subject description²². However, through this preliminary review of the literature, the ODPa is unable to identify readily available research findings to substantiate this claim.

ALPR systems and privacy

The Supreme Court of the United States (SCOTUS) has examined constitutional concerns regarding the use of Automatic License Plate Readers (ALPRs) by law enforcement. Currently, SCOTUS has not required a warrant for photographing license plates for comparison with law enforcement databases, nor have they established a specific standard of evidence to justify the use of ALPR technology. This lack of

¹⁸ Public Policy Institute of California. "Racial Disparities in Traffic Stops." PPIC, www.ppic.org/publication/racial-disparities-in-traffic-stops/. Accessed 15 June 2023.

¹⁹ Public Policy Institute of California. "Racial Disparities in Traffic Stops." PPIC. PPIC, n.d. Web. Accessed 15 June 2023. <https://www.ppic.org/publication/racial-disparities-in-traffic-stops/>.

²⁰ Id.

²¹ Id.

²² "Axon Ethics Report 2." Axon. Accessed 15 June 2023.

https://static1.squarespace.com/static/58a33e881b631bc60d4f8b31/t/5dadec937f5c1a2b9d698ba9/1571679380452/Axon_Ethics_Report_2_v2.pdf

requirement is based on two factors. First, the regulations governing vehicles on public roads have created a situation where there is no expectation of privacy regarding license plates. Second, longstanding legal precedent establishes that individuals driving on public roads have limited expectation of privacy in their movements with regard to law enforcement.

As new surveillance tools have emerged, they have raised concerns about potential infringements on individuals' Fourth Amendment rights to privacy. In the case of *United States v. Jones*²³, which involved GPS tracking, the Court determined that installing and monitoring a GPS device without a warrant constituted a search that violated the Fourth Amendment. However, the Court did not address whether achieving the same tracking result through electronic means, without a physical trespass, would be an unconstitutional invasion of privacy.

In her concurring opinion in *Jones*, Justice Sotomayor discussed the reasonable expectation of privacy in one's public movements. She emphasized the need to consider the aggregation of data from novel modes of surveillance and its potential impact on constitutional rights²⁴. Justice Sotomayor expressed criticism towards the trespass standard and proposed adopting the *Katz* test established in *Katz v. United States*. The *Katz test* centers around determining whether there is a violation of a societal expectation of privacy, rather than solely relying on physical trespass²⁵. In *Katz*, the SCOTUS underscored that the Fourth Amendment safeguards individuals, not just physical locations. Of course, applying the *Katz* test presents its own sets of challenges.

The *Katz* test necessitates judges and lawmakers to evaluate the hypothetical expectation of privacy held by a reasonable person. This methodology has resulted in inconsistent judgments due to varying comprehension of advanced technology among judges and the inability of law and policy to keep up with the rapid pace of technological progress. However, despite these difficulties, the Court's agreement in *Jones* indicated that limited monitoring of an individual's movements on public roads might be acceptable in certain circumstances, while prolonged tracking could potentially exceed permissible

²³ *United States v. Jones* – 565 U.S. 400, 132 S. Ct. 945 (2012)

²⁴ Justice Sotomayor, concurring opinion, *United States v. Jones*, 565 U.S. 400, 132 S. Ct. 945 (2012).

²⁵ *Katz v. United States*, 389 U.S. 347 (1967).

boundaries²⁶. The parameters of that boundary were established in the case of *Carpenter v. United States*.

In the landmark case of *Carpenter v. United States*, the Supreme Court undertook an examination of the utilization of historical cell phone data by law enforcement agencies. The Court reached a significant conclusion, asserting that the collection of such data, particularly when viewed in its entirety or aggregate form, raised legitimate constitutional concerns²⁷. The primary factors that contributed to these concerns were the depth, breadth, and automatic nature of the data collection process.

The concerns raised by citizen organizations, such as the Electronic Frontier Foundation (EFF)²⁸ and the American Civil Liberties Union (ACLU)²⁹, regarding the utilization of Automatic License Plate Readers (ALPR) technology were echoed in this case. Like the collection of historical cell phone data, ALPR technology involves the automatic gathering of information, often on a massive scale. The automatic nature of data collection, whether it pertains to cell phone records or license plate information, raises questions about the scope of privacy intrusion and the potential for misuse or abuse of such data.

Furthermore, the *Carpenter* case also highlighted the significance of driving as an integral part of active participation in civil society. The Court recognized that individuals rely on their cell phones and vehicles for various daily activities, and the collection and analysis of location data can reveal detailed information about a person's movements, associations, and private activities³⁰. Similarly, ALPR technology captures and stores information about an individual's whereabouts, raising concerns about the extent to which one's movements should be subject to constant surveillance by law enforcement.

Therefore, *Carpenter v. United States* underscored the need for judicial scrutiny and safeguards when it comes to the collection and use of personal data, whether it

²⁶ *United States v. Jones* – 565 U.S. 400, 132 S. Ct. 945 (2012)

²⁷ *Carpenter v. United States*, 585 U.S. 741 (2018)

²⁸ "Automated License Plate Readers (ALPR)." Electronic Frontier Foundation (EFF). Electronic Frontier Foundation, n.d. Web. Accessed 15 June 2023. <https://www.eff.org/pages/automated-license-plate-readers-alpr>.

²⁹ "How to Pump the Brakes on Your Police Department's Use of Flock's Mass Surveillance License Plate Readers." American Civil Liberties Union (ACLU). American Civil Liberties Union, n.d. Web. Accessed Day Month Year. <https://www.aclu.org/news/privacy-technology/how-to-pump-the-brakes-on-your-police-departments-use-of-flocks-mass-surveillance-license-plate-readers>.

³⁰ *Carpenter v. United States*, 585 U.S. 741 (2018)

involves cell phone records or ALPR technology. According to Yash Dattani's research titled "Big Brother is Scanning: The widespread implementation of ALPR Technology in America's Police Forces," a potential safeguard against privacy intrusions caused by ALPR technology would involve implementing stringent regulations on the retention periods of data not identified by the ALPR system³¹.

Preliminary Analysis of the Proposed Policies

BERKELEY POLICE DEPARTMENT SURVEILLANCE ACQUISITION REPORT – FIXED AUTOMATED LICENSE PLATE READERS

Per BMC 2.99.020, the City Manager is required to present a "Surveillance Acquisition Report" to the Police Accountability Board prior to adoption by the City Council (2.99.030(2)). Under the ordinance, "Surveillance Acquisition Report" means a publicly-released written report produced prior to acquisition or to proposed permanent use after use in Exigent Circumstances pursuant to Section 2.99.040 (2), of a type of Surveillance Technology that includes the following:

- a. **Description:** Information describing the Surveillance Technology and how it works, including product descriptions from manufacturers;
- b. **Purpose:** Information on the proposed purpose(s) for the Surveillance Technology;
- c. **Location:** The general location(s) it may be deployed and reasons for deployment;
- d. **Impact:** An assessment identifying potential impacts on civil liberties and civil rights including but not limited to potential disparate or adverse impacts on any communities or groups;
- e. **Mitigation:** Information regarding technical and procedural measures that can be implemented to appropriately safeguard the public from any impacts identified in subsection (d);
- f. **Data Types and Sources:** A list of the sources of data proposed to be collected, analyzed, or processed by the Surveillance Technology, including "open source" data;

³¹ Dattani. (2022). Big Brother is Scanning: The Widespread Implementation of ALPR Technology in America's Police Forces. *Vanderbilt Journal of Entertainment and Technology Law*, 24(4), 749–785.

Public

- g. **Data Security:** Information about the steps that can be taken to ensure adequate security measures to safeguard the data collected or generated from unauthorized access or disclosure;
- h. **Fiscal Cost:** The fiscal costs for the Surveillance Technology, including initial purchase, personnel and other ongoing costs, including to the extent practicable costs associated with compliance with this and other reporting and oversight requirements, as well as any current or potential sources of funding;
- i. **Third Party Dependence and Access:** Whether use or maintenance of the technology will require data gathered by the technology to be handled or stored by a third-party vendor on an ongoing basis, and whether a third party may have access to such data or may have the right to sell or otherwise share the data in aggregated, disaggregated, raw or any other formats;
- j. **Alternatives:** A summary and general assessment of potentially viable alternative methods (whether involving the use of a new technology or not), if any, considered before deciding to propose acquiring the Surveillance Technology; and
- k. **Experience of Other Entities:** To the extent such information is available, a summary of the experience of comparable government entities with the proposed technology, including any unanticipated financial or community costs and benefits, experienced by such other entities.

The general purpose of the acquisition report is to provide the Council with sufficient information to make a reasoned determination about the need and impact of the proposed surveillance technology acquisition or use. The following provides ODPa's observations regarding the Acquisition Report for ALPR drafted by the BPD as the designee of the City Manager:

Description:

Considering the proposed expanded uses of the ALPR program already in place in the City, this section should provide further clarification about the technology. In our review and comparison to other descriptions and or definitions of the system, the BPD's description section in the proposed Acquisition Report provides overall sufficient information about the technology by defining it in plain language; specifying where it can be mounted; identifying the data points it collects (i.e. license plates, location, date and time) Table _ provides information about the descriptive language used by other entities

Public

Table 1 ALPR Technology Description Comparison

BPD	IACP³²	EFF³³	ACLU³⁴
<p>Fixed Automated License Plate Readers (ALPRs) are cameras systems with software designed for license plate recognition. The camera systems are typically mounted on street poles, street lights, and highway overpasses.</p> <p>ALPRs are designed to capture license plate numbers which come into view, along with the location, date and time. The data, which includes an image of the front or the back of the car displaying the license plate, is then uploaded to a central server operated by the vendor. The license plate data is cross-referenced with systems such as Stolen Vehicle Systems (SVS), and other lists like Amber alerts to notice police of vehicles with hits.</p> <p>This technology does not have facial recognition, and is not tied to any personal identifying information or used for traffic enforcement.</p>	<p><i>ALPR systems function to automatically capture an image of the vehicle's license plate, transform that image into alphanumeric characters using optical character recognition or similar software, compare the plate number acquired to one or more databases of vehicles of interest to law enforcement and other agencies, and to alert the officer when a vehicle of interest has been observed.</i></p>	<p><i>ALPR are high-speed camera systems that photograph license plates, convert the numbers and letters into machine-readable text, tag them with the time and location, and upload that data into a database for retrieval.</i></p>	<p><i>Automatic license plate readers—mounted on police cars or on objects like road signs and bridges—use small high-speed cameras to photograph thousands of plates per minute. The information captured by the readers—including the license plate number and the date, time, and location of every scan—is being collected and sometimes pooled into regional sharing systems.</i></p>

³² <https://www.theiacp.org/projects/automated-license-plate-recognition>

³³ <https://www.eff.org/pages/california-automated-license-plate-reader-policies>

³⁴ <https://www.aclu.org/issues/privacy-technology/location-tracking/automatic-license-plate-readers>

Purpose:

This section of the Acquisition Report describes the purpose for the installation and use of a network of fixed automated license plate readers by the Berkeley Police Department (BPD). Specifically, the Department clarifies that the automated license plate readers will “*be affixed to street poles, street lights, or other similar objects that are either owned by the City of Berkeley or wherein a right-of-way agreement has been established.*” This is an important clarification considering that ALPRs can be mounted on police vehicles and it appears that the BPD does not have the intention in this acquisition to deploy the technology on patrol vehicles. If this is a misinterpretation on the ODPAs’ behalf or an omission by the BPD in this section, this should be further clarified.

This section also presents several cases where the technology could have been beneficial in preventing crimes or apprehending suspects. From the perspective of the ODPAs, it is important to evaluate whether the BPD has provided a data-based justification for the use of ALPRs and to identify areas where the section could be improved.

Data-Based Justification:

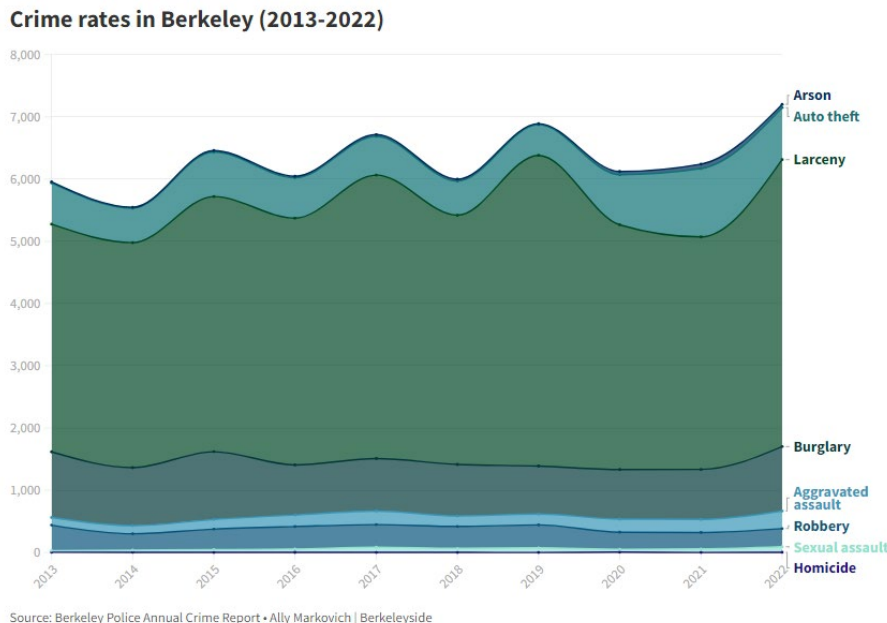
As was reported earlier this year by the Berkeleyside³⁵ (through their review of BPD data), we know that violent crime and property crimes are on the rise, “*The overall total number of violent and property crimes in 2022 was “the highest in the past 10 years,” Interim Police Chief Jen Louis told the City Council in a special meeting this week. “Berkeley continues to have one of the highest property crime rates in our region.”* (Gecan, 2023). Specifically, the Berkeleyside reports that according to the recent annual report presented by the Berkeley Police Department, crime rates in Berkeley witnessed an increase in almost all categories from 2021 to 2022. However, it is worth noting that in several areas, these rates still remain below³⁶ the levels observed before the pandemic.

³⁵ <https://www.berkeleyside.org/2023/03/17/crime-reports-berkeley-police>

³⁶ Id.

Public

Figure 1 Historical crime rates overview



Noteworthy are the following observations regarding Berkeley specific crime trends:

- Violent crimes (i.e. homicides, rapes, robberies and aggravated assaults) increased by 25.2%.
- Total property crimes (i.e. burglaries, larcenies, auto thefts and arson collectively) increased by 14.5% (although the specific categories of auto theft and arson saw a decrease from 2021 to 2022).

At face value, these trends, compounded with the current staffing crises being experienced in the City and in the Department, provide empirical support for the implementation of innovative crime prevention and reduction strategies. The use of technological tools like ALPR, when used transparently and judiciously, can be an effective force multiplier that improves public safety while balancing the respect and protection of civil liberties. As noted in the literature review, “*Although research is sparse, there is some evidence that suggests LPR use is effective at preventing crime,*” (pg. 1, IACP, 2022) As currently written, however, the BPD’s *Purpose* section does not explicitly mention a data-based justification for the use of ALPRs (beyond the highlighted cases of interest). To strengthen the justification, the BPD could provide statistical analyses and employ predictive policing methods (or other empirical data analyses) demonstrating the effectiveness of ALPRs in reducing crime rates, apprehending suspects, or improving overall public safety. This could include information on the number of cases where ALPRs

have aided investigations, the success rate of identifying wanted vehicles, or any studies or reports that support the use of ALPR technology.

Location:

As written, it is unclear what specific locations the proposed 52 units will be placed in around the City. Without that information, it is difficult to assess any disparate impact that may result from the use of this technology. It would be helpful to specify if the proposed 52 units translate to 13 separate locations at key intersections around the City (i.e. capturing the North, South, East, and West vantage points) or if the BPD intends to fix an ALPR unit at 52 separate locations. As referenced earlier, according to the 2022 survey³⁷ conducted by IACP of jurisdictions utilizing the technology, “*Most (86%) agencies using LPR systems reported fewer than 10 deployable units*” (pg. 4). Without a clear articulable need or justification for 52 units, the BPD should consider deploying the proposed 52 units on a segmented deployment schedule that allows for data analysis and feedback on the effectiveness of the technology in Berkeley. For example, the BPD could consider a deployment schedule as outlined in Table 2.

Table 2 Suggested Segmented Deployment Schedule

Deployment Year	Deployed Units	Predictive policing forecasting, benchmarking and assessments ³⁸
2023	13	<ul style="list-style-type: none"> • Prior to the deployment year, through predictive policing program, utilize a forecasting methodology that addresses the specific crime problem BPD is attempting to solve (i.e. property, violent crime, etc.). • Assign (monthly/quarterly/yearly) benchmarks or goals for assessing the efficacy of ALPR in the crime reduction and prevention forecasted. • Continue deployment plan if data supports the effectiveness of the program
2024	13	
2025	13	
2026	13	

This strategy will also allow the BPD to determine ongoing community receptiveness, social impact, fiscal implications beyond the initial assessment, and data to assess the soundness of the data security protocols of this proposed policy.

³⁷ https://www.theiacp.org/sites/default/files/IACP_LPR_Survey_Results_5.16.22.pdf

³⁸ For more information on predictive analytics in policing consider:

Fitzpatrick, D. J., Gorr, W. L., & Neill, D. B. (2019). Keeping score: Predictive analytics in policing. *Annual Review of Criminology*, 2, 473-491.

<https://www.annualreviews.org/doi/pdf/10.1146/annurev-criminol-011518-024534>

Impact:

Similar to the comments on the previous sections, this section could benefit from further articulation of the impact. In the October 2022 Staff Report³⁹ to the City Council, the Palo Alto Police Department, provides a helpful framework in its *Benefits of Usage* section which includes a discussion on:

- Real-Time Alerts
- Deterrence
- Crime solving
- Regional coordination
- Police-Community Co-production through an expanded searchable data set

Mitigation and Data Security:

While the Department indicates that it will safeguard and protect data through procedural and technological means, Policy 1305 should be strengthened to reflect this commitment. Specifically, the BPD should consider revising 1305.4 Data Collection in the following manner:

Table 3 Data security suggestions

Current Language	Suggested Language
The Department should if feasible find a solution to transfer evidentiary hit data into it's digital evidence repository through secure integration.	<i>Evidentiary hit data shall be transferred into the Department's digital evidence repository through secure integration.</i>
All ALPR data downloaded to the ALPR server should be stored for no longer than 30 days, and in accordance with the established records retention schedule.	<i>All ALPR data downloaded to the ALPR server shall be stored for no longer than 30 days, and in accordance with the established records retention schedule.</i>

Data Types and Sources:

No comments at this time.

Fiscal Cost:

The BPD should consider revisiting its justifications to ensure the fiscal cost is accurate and a defensible use of City resources.

³⁹ <https://www.cityofpaloalto.org/files/assets/public/police-department/public-information-portal/alpr-staff-report-10-24-2022-cmr-14870.pdf>

Third Party Dependence and Access:

In this section, BPD outlines allowable uses which also appear in the corresponding policies (422 and 1305). The ODPa notes the potential for disparate impact and or civil liberties issues if safeguards are not put in place regarding the ability to use ALPR. Specifically, one of the authorized uses should be further analyzed:

(b) An ALPR may be used in conjunction with any routine patrol operation or to support criminal investigations. Reasonable suspicion or probable cause is not required before using an ALPR.

While (as noted earlier) there are no specific legal protections for a license plate in a public roadway, the BPD should further articulate the permission to utilize ALPR technology without reasonable suspicion or probable cause. Currently, the BPD's language is consistent with every Lexipol drafted ALPR policy that the ODPa has reviewed, however, there does not appear to be clear justification or explanation on why ALPR would be used without meeting a reasonable suspicion or probable cause threshold. The BPD should assess and or explain if it has considered whether this provision has the potential for a racially disparate impact. Potential misuse or improper training can result in additional racial disparities that the Department is currently still grappling with. While the Department explicitly prohibits this technology from being used in a discriminatory matter, absent of reasonable suspicion or probable cause, if this technology is affixed in a neighborhood or location where racial minorities are overrepresented, its mere use may yield racial disparities.

Alternatives:

While the ODPa acknowledged the City and BPD are experiencing a hiring and retention shortage, a more defensible alternative is not deploying "additional police officers", but rather assessing if reaching the authorized number of officers will enable the Department to address the current crime issues before assessing if this technology should be deployed.

Experience of Other Entities:

As the literature review section indicated, there are considerable case studies that indicate how this technology has been utilized in other locations. The Department can

benefit from further expanding this section to demonstrate successes and challenges with the implementation of this technology.

Recommendations

Without taking specific positions regarding the predicted or expected effectiveness of the expansion of this technological adoption in the City of Berkeley, the ODPa believes there are several opportunities to further improve this Acquisition Report and the corresponding policies.

Suggestions for Improvement include:

- **Transparency and Oversight:** The report is silent on the Police Accountability Board's or the Office of the Director of Police Accountability's access to this system's data for the performance of the duties and responsibilities set forth by the Charter or by Ordinance. The report and policies could benefit from including information about the policies and guidelines contemplated to ensure the responsible use of ALPRs by the BPD and the ability of the PAB and ODPa to complete their duties.
- **Privacy Safeguards:** Given the potential privacy concerns associated with ALPR technology, it would be valuable to highlight the steps taken by the BPD to protect the privacy of individuals whose license plate data is captured and stored. This could involve explaining measures such as data encryption, access restrictions, and training to members and users on compliance with relevant privacy laws or regulations.
- **Community Engagement:** The report and or policies should emphasize the importance of engaging with the community and seeking public input on the use of ALPRs. The BPD could consider soliciting feedback, conducting public forums or surveys, and addressing concerns raised by community members to foster trust and transparency.
- **Regular Training and Accountability:** The BPD should outline the minimum training provided to officers on the proper use of ALPRs and adherence to privacy and civil rights standards. Additionally, the section could mention the existence of

mechanisms for reporting and investigating any alleged misuse or misconduct related to ALPR technology.

By incorporating these suggestions, the report and policies would provide a more comprehensive and transparent overview of the BPD's use of ALPRs, addressing potential concerns and enhancing accountability and public trust in the process.

Conclusion

In conclusion, while the implementation of an Automatic License Plate Readers (ALPR) system holds potential benefits, it is crucial to acknowledge that the current body of research, the lack of clarity on the BPD's deployment strategy and lack of articulation of the crime problems the BPD is attempting to solve is insufficient to make definitive conclusions about its effectiveness in the City of Berkeley. The limited scope of existing studies and varying contexts make it challenging to determine the true impact of ALPR systems on public safety and law enforcement outcomes. Therefore, further research and articulation of the proposed policies is necessary to comprehensively evaluate the efficacy of ALPR technology and its potential benefits in the City.

Moreover, it is essential to recognize and address the legitimate privacy concerns raised by all relevant stakeholders. ALPR systems have the potential to collect and store vast amounts of personal data, raising concerns about surveillance and potential misuse. To mitigate these risks, robust safeguards must be put in place to ensure the privacy and protection of non-hit license plates. Transparent policies, legal frameworks, and data governance protocols should be developed and implemented, guaranteeing that the information collected is used solely for its intended purpose and subject to strict access controls and retention limits.

Additionally, the proposed police department policies, as currently formulated, do not fully address all the concerns raised by this report. The lack of clarity and specific guidelines regarding data handling and access restrictions can contribute to mistrust and apprehension. To foster community trust, it is imperative that the policies be revisited and

improved to incorporate meaningful community input and address the identified shortcomings. A well-defined policy should outline the purpose, limitations, and safeguards of the ALPR system, assuring the public that their privacy rights will be respected.

In the event that the need for ALPR systems is deemed to outweigh the privacy concerns of the community in the interest of public safety, a clear and transparent plan for implementation must be established. The process should encompass thorough public consultation, open dialogue, and active involvement of stakeholders at all stages. This inclusive approach ensures that community concerns are adequately addressed, and the benefits, risks, and trade-offs associated with ALPR deployment are fully understood by all parties involved.

In summary, while the potential benefits of ALPR systems warrant consideration, more research is required to determine their true effectiveness in our City. Privacy concerns must be taken seriously, and appropriate safeguards put in place to protect the privacy of non-hit license plates. The proposed police department policies should be refined to address community concerns and clearly articulate the plan for implementation. If the decision is made to proceed with ALPR deployment, transparency and accountability should guide the development of policies and the implementation process, ensuring that public safety goals are achieved while respecting the rights and privacy of individuals and respecting the Charter authority of the Police Accountability Board and the Office of the Director of Police Accountability.

Appendices

- A. Letter from The Director of Police Accountability to City Manager Williams-Ridley Requesting Additional Time for Review of Policies and The Respective Response.
- B. Draft of BPD Policy 422 “Fixed Automated License Plate Readers (ALPRs)”
- C. Draft of BPD Policy 1305 “Surveillance Use Policy – Fixed ALPRs”
- D. Draft of BPD Policy 1305 Appendix A “Berkeley Police Department Surveillance Acquisition Report – Fixed Automated License Plate Readers”



Hansel Alejandro Aguilar
Director of Police Accountability
haguilar@cityofberkeley.info

June 08, 2023

Via Electronic Mail [DWilliams-Ridley@berkeleyca.gov]

Dee Williams-Ridley
2180 Milvia Street, 5th Floor
Berkeley, CA 94704

Re: Request to Postpone Presentation of Automated License Plate Reader Policy

Dear City Manager Williams-Ridley,

I hope this letter finds you well. I am writing to you today in my capacity as the Director of Police Accountability (ODPA) and Secretary of the Police Accountability Board (PAB) to request a postponement of the presentation of the Automated License Plate Reader (ALPR) policy to the Public Safety Policy Committee until July and to the full Council until after the summer recess. This request is being made due to a secretarial oversight on my behalf, which unfortunately resulted in a delay in disseminating the proposed policy to the PAB.

While Chief Louis promptly provided the ALPR policy to me as required by the ordinance, I regretfully failed to distribute it to the rest of the Board in a timely manner. I was alerted to this oversight in the Chief's presentation to the PAB at their regularly scheduled Board meeting on June 8, 2023. They have now received the policy, but as a result of this delay, the Board has been unable to thoroughly review the policy in the contemplated time frame and provide meaningful input to the Berkeley Police Department, Public Safety Committee, and the full Council. I take full responsibility for this oversight and deeply apologize for any inconvenience caused especially considering the ongoing public safety discussions in the City and the need for solutions to address the various issues being experienced.

Given the importance of the ALPR policy and the need for the Board's comprehensive review, I firmly believe that providing additional time in this instance will benefit both the Department and the community at large. The PAB's meticulous review process and commitment to evidence-based policing will ensure that the policy takes into account a wide range of public safety considerations.

By postponing the presentation, we can ensure that the ALPR policy is the strongest it can be, reflecting the values and concerns of the community we serve. This will ultimately contribute to the adoption of an effective and transparent policy that upholds civil liberties while promoting public safety.

I kindly request your understanding and support in granting this postponement. We will use the additional time to support the Police Accountability Board in their thorough review and thoughtful feedback.

With this postponement, the Board will have sufficient time to review the ALPR policy and we will be better equipped to present a comprehensive and well-informed recommendation to the Police Department, Public Safety Policy Committee, and full Council. This will further facilitate a productive dialogue and enable us to address any concerns or suggestions raised by the Board.

Thank you for your attention to this matter, and I sincerely appreciate your consideration of our request. I can also confirm that because of this incident, I have revised my secretarial processes to ensure that this does not occur in the future. Should you require any additional information or have any questions, please do not hesitate to reach out to me or our team. We are fully committed to ensuring that the ALPR policy reflects the highest standards of accountability and transparency.

I look forward to your favorable response and the opportunity to work collaboratively on this important policy issue.

Sincerely,



Hansel Alejandro Aguilar
Director of Police Accountability

Cc: Public Safety Committee
Farimah Brown, City Attorney
Anne Cardwell, Deputy City Manager
Jennifer Louis, Chief of Police
Police Accountability Board

Attachments:

Email from Chief Louis dated May 11, 2023 (and resent on June 7, 2023)_Per
Surveillance Ordinance _Automated License Plate Reader (APLR) Policies for PAB
review

Aguilar, Hansel

From: Louis, Jennifer A.
Sent: Wednesday, June 7, 2023 7:18 PM
To: Aguilar, Hansel
Subject: FW: Per Surveillance Ordinance _Automated License Plate Reader (APLR) Policies for PAB review
Attachments: 1305-Surveillance_Use_Policy-Fixed_ALPRs (5-11-23).docx; 422 Automated License Plate Readers Patrol Operations (ALPRs) (5-11-23).docx; Fixed Automated License Plate Reader Acquisition Report(3 rev 5-11-23).docx; 2021-11-30 Item 28 Automated license plate readers for community safety improvement.pdf

Restricted

From: Louis, Jennifer A.
Sent: Thursday, May 11, 2023 5:54 PM
To: Aguilar, Hansel <HAguilar@cityofberkeley.info>
Cc: Cardwell, Anne <ACardwell@cityofberkeley.info>; Durbin, Michael R. <MDurbin@cityofberkeley.info>; LeDoux, Joseph <JLeDoux@cityofberkeley.info>
Subject: Per Surveillance Ordinance _Automated License Plate Reader (APLR) Policies for PAB review

Restricted

Good afternoon Director Aguilar,

Under the direction of a Berkeley City Council Budget referral item regarding Automated License Plate Readers for Community Safety, the department drafted the required Surveillance Ordinance policies. Attached please find the following documents for PAB review:

1. Policy 422 – The policy that will establish guidelines for the Department on the use of Fixed Automated License Plate Readers
2. Policy 1305 - The Surveillance Use Policy related to Fixed Automated License Plate Readers
3. Surveillance Acquisition Report regarding Fixed Automated License Plate Readers
4. Council Budget Referral Item (for background)

Under the Surveillance Ordinance, BMC Section 2.99.030.2, the Police Accountability Board (PAB) has a 30-day deadline “to recommend approval of the policy, object to the proposal, recommend modifications, or take no action.”

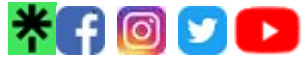
These polices are also being sent to the City Attorney’s Office for review and we plan to present on these policies to the Public Safety Policy Committee at their June meeting. Can you please forward these documents to the PAB for review. I wanted to get them to your office as soon as the first draft was completed so that the PAB would have ample time for review and feedback. I look forward to hearing back from you and the Board and we are available to answer questions that you or the PAB may have related to Policies 422 or 1305.

Respectfully,

Jen

Jen Louis
Chief of Police
Berkeley Police Department

Follow us on:





City Manager's Office

June 13, 2023

Sent via email: haguilar@cityofberkeley.gov
Hansel Alejandro Aguilar
Director of Police Accountability
Office of the Director of Police Accountability
1947 Center St. – 5th floor
Berkeley, CA 94704

Dear Director Aguilar,

I am in receipt of your letter dated June 8, 2023 requesting to postpone the presentation of the Automated License Plate Reader Policy. I spoke with the Chair of the Public Safety Policy Committee, Council Member Taplin, and his desire is to move forward with this item as scheduled. This will be an opportunity for you to hear the department's presentation in advance of your discussion with the Police Accountability Board.

It is suggested that you plan to attend the next Public Safety Policy Committee meeting on June 20th, as well as the last City Council meeting on July 25th, when you will have the opportunity to bring forward any ideas and concerns.

If you have any questions, please feel free to reach out to Anne Cardwell, Deputy City Manager.

Sincerely,

Dee Williams-Ridley

Dee Williams-Ridley, City Manager

cc: Public Safety Policy Committee
Farimah Brown, City Attorney
Anne Cardwell, Deputy City Manager
Jennifer Louis, Chief of Police
Police Accountability Board

Fixed Automated License Plate Readers (ALPRs)-

422.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance for the capture, storage and use of digital data obtained through the use of Automated License Plate Reader (ALPR) technology. Department Personnel shall adhere to the requirements of Fixed ALPRs in this policy as well as the corresponding Surveillance Use-Fixed ALPRs policy-1305.

422.2 POLICY

The policy of the Berkeley Police Department is to utilize ALPR technology to capture and store digital license plate data and images while recognizing the established privacy rights of the public.

All data and images gathered by the ALPR are for the official use of this department. Because such data may contain confidential information, it is not open to public review.

The Berkeley Police Department does not permit the sharing of ALPR data gathered by the City or its contractors/subcontractors for federal immigration enforcement, pursuant to the California Values Act (Government Code § 7282.5; Government Code § 7284.2 et seq) – these federal immigration agencies include Immigrations and Customs Enforcement (ICE) and Customs and Border Patrol (CBP).

422.3 DEFINITIONS

- (a) Automated License Plate Reader (ALPR): A device that uses cameras and computer technology to compare digital images to lists of known information of interest.
- (b) ALPR Operator: Trained Department members who may utilize ALPR system/equipment. ALPR operators may be assigned to any position within the Department, and the ALPR Administrator may order the deployment of the ALPR systems for use in various efforts.
- (c) ALPR Administrator: The Investigations Bureau Captain or the Chief's designee, serves as the ALPR Administrator for the Department.
- (d) Hot List: A list of license plates associated with vehicles of interest compiled from one or more databases including, but not limited to, NCIC, CA DMV, Local BOLO's, etc.
- (e) Vehicles of Interest: Including, but not limited to vehicles which are reported as stolen, display stolen license plates or tags; vehicles linked to missing and/or wanted persons and vehicles flagged by the Department of Motor Vehicle Administration or law enforcement agencies.

-
- (f) Detection: Data obtained by an ALPR of an image (such as a license plate) within public view that was read by the device, including potential images (such as the plate and description of vehicle on which it was displayed), and information regarding the location of the ALPR system at the time of the ALPR's read.
 - (g) Hit Alert from the ALPR system that a scanned license plate number may be in the National Crime Information Center (NCIC) or other law enforcement database for a specific reason including, but not limited to, being related to a stolen car, wanted person, missing person, domestic violation protective order or terrorist-related activity.

422.4 ADMINISTRATION

The ALPR technology, also known as License Plate Recognition (LPR), allows for the automated detection of license plates. It is used by the Berkeley Police Department to convert data associated with vehicle license plates for official law enforcement purposes, including identifying stolen or wanted vehicles, stolen license plates and missing persons. It may also be used to gather information related to active warrants, suspect apprehension and stolen property recovery. Any installation and maintenance of ALPR equipment, as well as ALPR data retention and access, shall be managed by the Investigations Division Captain. The Investigations Division Captain will assign members under his/her command to administer the day-to-day operation of the ALPR equipment and data.

422.4.1 ALPR ADMINISTRATOR

The Investigations Division Captain, or his/her designee, shall be responsible for compliance with the requirements of Civil Code § 1798.90.5 et seq. This includes, but is not limited to (Civil Code § 1798.90.51; Civil Code § 1798.90.53):

- (a) Only properly trained sworn officers, crime analysts, communication operators, records clerks, parking enforcement officers, and police assistants are allowed access to the ALPR system or to collect ALPR information.
- (b) Ensuring that training requirements are completed for authorized users.
- (c) ALPR system monitoring to ensure the security of the information and compliance with applicable privacy laws.
- (d) Ensuring procedures are followed for system operators to maintain records of access in compliance with Civil Code § 1798.90.52.
- (e) The title and name of the current designee in overseeing the ALPR operation.
- (f) Working with the Custodian of Records, or vendor on the retention and destruction of ALPR data.ensuring this policy and related procedures are conspicuously posted on the City's website.

422.5 OPERATIONS

An ALPR shall only be used for official law enforcement business.

Use of an ALPR is restricted to the purposes outlined below. Department members shall not use, or allow others to use the equipment or database records for any unauthorized purpose (Civil

Code § 1798.90.51; Civil Code § 1798.90.53).

- (a) An ALPR shall only be used for official law enforcement business.
- (b) An ALPR may be used in conjunction with any routine patrol operation or to support criminal investigations. Reasonable suspicion or probable cause is not required before using an ALPR.
- (c) Partial license plates and unique vehicle descriptions reported during crimes may be entered into the ALPR system in an attempt to identify suspect vehicles.
- (d) No member of this department shall operate ALPR equipment or access ALPR data without first completing department-approved training.
- (e) If practicable, the officer should verify an ALPR response through the California Law Enforcement Telecommunications System (CLETS) before taking enforcement action that is based solely on an ALPR alert. Once an alert is received, the operator should confirm that the observed license plate from the system matches the license plate of the observed vehicle. Before any law enforcement action is taken because of an ALPR alert, the alert will be verified through a CLETS inquiry via MDT or through Dispatch. Members will not take any police action that restricts the freedom of any individual based solely on an ALPR alert unless it has been validated. Because the ALPR alert may relate to a vehicle and may not relate to the person operating the vehicle, officers are reminded that they need to have reasonable suspicion and/or probable cause to make an enforcement stop of any vehicle. (For example, if a vehicle is entered into the system because of its association with a wanted individual, Officers should attempt to visually match the driver to the description of the wanted subject prior to making the stop or should have another legal basis for making the stop.)
- (f) Hot Lists. Designation of hot lists to be utilized by the ALPR system shall be made by the ALPR Administrator or his/her designee. Hot lists shall be obtained or compiled from sources as may be consistent with the purposes of the ALPR system set forth in this Policy. Hot lists utilized by the Department's LPR system may be updated by agency sources more frequently than the Department may be uploading them and thus the Department's LPR system will not have access to real time data. Occasionally, there may be errors in the LPR system's read of a license plate. Therefore, an alert alone shall not be a basis for police action (other than following the vehicle of interest). Prior to initiation of a stop of a vehicle or other intervention based on an alert, Department members shall undertake the following:
 - (1) Verification of status on a Hot List. An officer must receive confirmation, from a Berkeley Police Department Communications Dispatcher or other department computer device, that the license plate is still stolen, wanted, or otherwise of interest before proceeding (absent exigent circumstances).
 - (2) Visual verification of license plate number. Officers shall visually verify that the license plate of interest matches identically with the image of the license plate number captured (read) by the LPR, including both the alphanumeric characters of the license

plate, state of issue, and vehicle descriptors before proceeding. Department members alerted to the fact that an observed motor vehicle's license plate is entered as a Hot Plate (hit) in a specific BOLO (be on the lookout) list are required to make a reasonable effort to confirm that a wanted person is actually in the vehicle and/or that a reasonable basis exists before a Department member would have a lawful basis to stop the vehicle.

(3) Department members will clear all stops from hot list alerts by indicating the positive ALPR Hit, i.e., with an arrest or other enforcement action. If it is not obvious in the text of the call as to the correlation of the ALPR Hit and the arrest, then the Department member shall update with the Communications Dispatcher and original person and/or a crime analyst inputting the vehicle in the hot list (hit).

(4) General Hot Lists (SVS, SFR, and SLR) will be automatically downloaded into the ALPR system a minimum of once a day with the most current data overwriting the old data.

(5) All entries and updates of specific Hot Lists within the ALPR system will be documented by the requesting Department member within the appropriate general offense report. As such, specific Hot Lists shall be approved by the ALPR Administrator.

(6) Administrator (or his/her designee) before initial entry within the ALPR system. The updating of such a list within the ALPR system shall thereafter be accomplished pursuant to the approval of the Department member's immediate supervisor. The hits from these data sources should be viewed as informational; created solely to bring the officers attention to specific vehicles that have been associated with criminal activity.

All Hot Plates and suspect information entered into the ALPR system will contain the following information as a minimum:

- Entering Department member's name
- Related case number.
- Short synopsis describing the nature of the originating call

(g) Login/Log-Out Procedure. To ensure proper operation and facilitate oversight of the ALPR system, all users will be required to have individual credentials for access and use of the systems and/or data, which has the ability to be fully audited.

Permitted/Impermissible Uses. The ALPR system, and all data collected, is the property of the Berkeley Police Department. Department personnel may only access and use the ALPR system for official and legitimate law enforcement purposes consistent with this Policy. The following uses of the ALPR system are specifically prohibited:

1. Invasion of Privacy: Except when done pursuant to a court order such as a search warrant, is a violation of this Policy to utilize the ALPR to record license plates except those of vehicles that are exposed to public view (e.g., vehicles on a public road or street, or that are on private property but whose license plate(s) are visible from a public road, street, or a place to which members of the public have access, such as the parking lot of a shop or other business establishment).
2. Harassment or Intimidation: It is a violation of this Policy to use the ALPR system to harass and/or intimidate any individual or group.

-
3. Use Based on a Protected Characteristic. It is a violation of this policy to use the LPR system or associated scan files or hot lists solely because of a person's, or group's race, gender, religion, political affiliation, nationality, ethnicity, sexual orientation, disability, or other classification protected by law.
 4. Personal Use: It is a violation of this Policy to use the ALPR system or associated scan files or hot lists for any personal purpose.
 5. First Amendment Rights. It is a violation of this policy to use the LPR system or associated scan files or hot lists for the purpose or known effect of infringing upon First Amendment rights.
- (h) Anyone who engages in an impermissible use of the ALPR system or associated scan files or hot lists may be subject to administrative sanctions, up to and including termination, pursuant to and consistent with the relevant collective bargaining agreements and departmental policies. Partial license plates reported during crimes may be entered into the ALPR system in an attempt to identify suspect vehicles.

No ALPR operator may access California Law Enforcement Telecommunications System (CLETS) data unless otherwise authorized to do so. If practicable, the officer should verify an ALPR response through the California Law Enforcement Telecommunications System (CLETS) before taking enforcement action that is based solely on an ALPR alert.

422.6 DATA COLLECTION AND RETENTION

The Investigations Division Captain is responsible for ensuring systems and processes are in place for the proper collection and retention of ALPR data. Data will be transferred from vehicles to the designated storage in accordance with department procedures. The Department should if feasible find a solution to transfer evidentiary hit data into it's digital evidence repository through secure integration.

All ALPR data downloaded to the ALPR server should be stored for no longer than 30 days, and in accordance with the established records retention schedule. Thereafter, ALPR data should be purged unless it has become, or it is reasonable to believe it will become, evidence in a criminal or civil action or is subject to a discovery request or other lawful action to produce records. In those circumstances the applicable data should be downloaded from the server and uploaded into BPD's digital evidence repository.

ALPR vendor, will store the data (data hosting) and ensure proper maintenance and security of data stored in their data towers. The ALPR vendor will purge their data at the end of the 30 days of storage. However, this will not preclude Berkeley Police Department from maintaining any relevant vehicle data obtained from the system after that period pursuant to the established City of Berkeley retention schedule mentioned above or outlined elsewhere. Relevant vehicle data are scans corresponding to the vehicle of interest on a hot list. The ALPR vendor and Department shall ensure that the necessary data is captured and stored to accurately report the relevant data required in the Annual Surveillance Technology report. Once the City Council approves the Annual Surveillance Technology report all said data may be purged so long as it doesn't violate the Retention guidelines.

Restrictions on use of vendor Data: Information gathered or collected, and records retained by the vendor's cameras or any other Berkeley Police Department ALPR system will not be sold, accessed, or used for any purpose other than legitimate law enforcement or public safety purposes.

422.7 ACCOUNTABILITY

All saved data will be safeguarded and protected by both procedural and technological means. The Berkeley Police Department will observe the following safeguards regarding access to and use of stored data (Civil Code § 1798.90.51; Civil Code § 1798.90.53):

- (a) Non-law enforcement requests for access to stored ALPR data shall be processed according to the Records Maintenance and Release Policy in accordance with applicable law.
- (b) All ALPR data downloaded to any workstation or server shall be accessible only through a login/password-protected system capable of documenting all access of information by name, date and time (Civil Code § 1798.90.52).
- (c) Berkeley Police Department members approved to access ALPR data under these guidelines are permitted to access the data for legitimate law enforcement purposes only, such as when the data relate to a specific criminal investigation or department-related civil or administrative action.
- (d) Aggregated ALPR data not related to specific criminal investigations shall not be released to any local, state or federal agency or entity without the consent of the Chief of Police or City Manager (i.e. If transportation department requested volume of vehicular traffic associated with specific events, it could conceivably be provided with the count of vehicles, but not the specific license plates with appropriate permissions).
- (e) Measures will be taken to ensure the accuracy of ALPR information. Errors discovered in ALPR data collected by ALPR units shall be marked, corrected or deleted in accordance with the type and severity of the error in question.
- (f) ALPR system audits will be conducted by the Professional Standards Bureau's Audit and Inspections Sergeant on a regular basis, at least biennial.
- (g) Such ALPR data may be released to other authorized and verified law enforcement officials and agencies for legitimate law enforcement purposes.
- (h) Every ALPR Detection Browsing Inquiry must be documented by either the associated Berkeley Police case number or incident number, and/or a reason for the inquiry

For security or data breaches, see the Records Release and Maintenance Policy.

422.8 ALPR DATA DETECTION BROWSING AUDITS

It is the responsibility of the Sergeant of Audit and Inspections or the Chief's designee to ensure that an audit is conducted of ALPR detection browsing inquiries at least biennial. The Department

will audit a sampling of the ALPR system utilization from the prior 24-month period to verify proper use in accordance with the above- authorized uses. The audit shall randomly select at least 10 detection browsing inquiries conducted by department employees during the preceding 24-month period and determine if each inquiry meets the requirements established in policy section 462.6(e).

The audit shall be documented in the form of an internal department memorandum to the Chief of Police. The memorandum shall include any data errors found so that such errors can be corrected. After review by the Chief of Police, the memorandum and any associated documentation shall be filed and retained by the Professional Standards Bureau Captain. This audit should be shared in the Surveillance Ordinance reporting.

422.9 RELEASING ALPR DATA

The ALPR data may be shared only with other law enforcement or prosecutorial agencies for official law enforcement purposes or as otherwise permitted by law.

(a) A supervisor at the requesting agency will sign an acknowledgement letter stating that the shared data will only be used for the purposes that are aligned with the Berkeley Police Department's policy. The Berkeley Police Department does not permit the sharing of ALPR data gathered by the City or its contractors/subcontractors for purpose of federal immigration enforcement, these federal immigration agencies include Immigrations and Customs Enforcement (ICE) and Customs and Border Patrol (CBP). *See attached letter.*

(b) The signed letter is retained on file. Requests for ALPR data by non-law enforcement or non-prosecutorial agencies will be processed as provided in the Records Maintenance and Release Policy (Civil Code § 1798.90.55).

(c) All signed letters shall be routed to the Audit and Inspection Sergeant for compliance and reporting.

ALPR data is subject to the provisions of the Berkeley Police Department's Immigration Law Policy, and hence may not be shared with federal immigration enforcement officials.

422.10 TRAINING

The Personnel and Training Sergeant shall ensure that members receive department-approved training in order to be authorized to use or access the ALPR system (Civil Code § 1798.90.51; Civil Code § 1798.90.53)

Surveillance Use Policy-Fixed ALPRs

1305.1 PURPOSE

The purpose of this policy is to provide guidance for the capture, storage and use of digital data obtained through the use of Automated License Plate Reader (ALPR) technology. Department Personnel shall adhere to the requirements of the Surveillance Use-Fixed ALPRs in this policy as well as the corresponding Use Policy -422.

The policy of the Berkeley Police Department is to utilize ALPR technology to capture and store digital license plate data and images while recognizing the established privacy rights of the public.

All data and images gathered by the ALPR are for the official use of this department. Because such data may contain confidential information, it is not open to public review.

The Berkeley Police Department does not permit the sharing of ALPR data gathered by the City or its contractors/subcontractors for federal immigration enforcement, pursuant to the California Values Act (Government Code § 7282.5; Government Code § 7284.2 et seq) – these federal immigration agencies include Immigrations and Customs Enforcement (ICE) and Customs and Border Patrol (CBP).

1305.2 DEFINITIONS

- (a) Automated License Plate Reader (ALPR): A device that uses cameras and computer technology to compare digital images to lists of known information of interest.
- (b) ALPR Operator: Trained Department members who may utilize ALPR system/equipment. ALPR operators may be assigned to any position within the Department, and the ALPR Administrator may order the deployment of the ALPR systems for use in various efforts.
- (c) ALPR Administrator: The Investigations Bureau Captain or the Chief's designee, serves as the ALPR Administrator for the Department.
- (d) Hot List: A list of license plates associated with vehicles of interest compiled from one or more databases including, but not limited to, NCIC, CA DMV, Local BOLO's, etc.
- (e) Vehicles of Interest: Including, but not limited to vehicles which are reported as stolen, display stolen license plates or tags; vehicles linked to missing and/or wanted persons and vehicles flagged by the Department of Motor Vehicle Administration or law enforcement agencies.
- (f) Detection: Data obtained by an ALPR of an image (such as a license plate) within public view that was read by the device, including potential images (such as the plate and description of vehicle on which it was displayed), and information regarding the location of the ALPR system at the time of the ALPR's read.

- (g) Hit Alert from the ALPR system that a scanned license plate number may be in the National Crime Information Center (NCIC) or other law enforcement database for a specific reason including, but not limited to, being related to a stolen car, wanted person, missing person, domestic violation protective order or terrorist-related activity.

1305.3 AUTHORIZED AND PROHIBITED USES

An ALPR shall only be used for official law enforcement business.

Use of an ALPR is restricted to the purposes outlined below. Department members shall not use, or allow others to use the equipment or database records for any unauthorized purpose (Civil Code § 1798.90.51; Civil Code § 1798.90.53).

- (a) An ALPR shall only be used for official law enforcement business.
- (b) An ALPR may be used in conjunction with any routine patrol operation or to support criminal investigations. Reasonable suspicion or probable cause is not required before using an ALPR.
- (c) Partial license plates and unique vehicle descriptions reported during crimes may be entered into the ALPR system in an attempt to identify suspect vehicles.
- (d) No member of this department shall operate ALPR equipment or access ALPR data without first completing department-approved training.
- (e) If practicable, the officer should verify an ALPR response through the California Law Enforcement Telecommunications System (CLETS) before taking enforcement action that is based solely on an ALPR alert. Once an alert is received, the operator should confirm that the observed license plate from the system matches the license plate of the observed vehicle. Before any law enforcement action is taken because of an ALPR alert, the alert will be verified through a CLETS inquiry via MDT or through Dispatch. Members will not take any police action that restricts the freedom of any individual based solely on an ALPR alert unless it has been validated. Because the ALPR alert may relate to a vehicle and may not relate to the person operating the vehicle, officers are reminded that they need to have reasonable suspicion and/or probable cause to make an enforcement stop of any vehicle. (For example, if a vehicle is entered into the system because of its association with a wanted individual, Officers should attempt to visually match the driver to the description of the wanted subject prior to making the stop or should have another legal basis for making the stop.)
- (f) Hot Lists. Designation of hot lists to be utilized by the ALPR system shall be made by the ALPR Administrator or his/her designee. Hot lists shall be obtained or compiled from sources as may be consistent with the purposes of the ALPR system set forth in this Policy. Hot lists utilized by the Department's LPR system may be updated by agency sources more frequently than the Department may be uploading them and thus the Department's LPR system will not have access to real time data. Occasionally, there may be errors in the LPR system's read of a license plate. Therefore, an alert alone shall not be a basis for police action (other than following the vehicle of interest). Prior to initiation of a stop of a vehicle or other intervention based on an alert, Department members shall undertake the following:

- (1) Verification of status on a Hot List. An officer must receive confirmation, from a Berkeley Police Department Communications Dispatcher or other department computer device, that the license plate is still stolen, wanted, or otherwise of interest before proceeding (absent exigent circumstances).
- (2) Visual verification of license plate number. Officers shall visually verify that the license plate of interest matches identically with the image of the license plate number captured (read) by the LPR, including both the alphanumeric characters of the license plate, state of issue, and vehicle descriptors before proceeding. Department members alerted to the fact that an observed motor vehicle's license plate is entered as a Hot Plate (hit) in a specific BOLO (be on the lookout) list are required to make a reasonable effort to confirm that a wanted person is actually in the vehicle and/or that a reasonable basis exists before a Department member would have a lawful basis to stop the vehicle.
- (3) Department members will clear all stops from hot list alerts by indicating the positive ALPR Hit, i.e., with an arrest or other enforcement action. If it is not obvious in the text of the call as to the correlation of the ALPR Hit and the arrest, then the Department member shall update with the Communications Dispatcher and original person and/or a crime analyst inputting the vehicle in the hot list (hit).
- (4) General Hot Lists (SVS, SFR, and SLR) will be automatically downloaded into the ALPR system a minimum of once a day with the most current data overwriting the old data.
- (5) All entries and updates of specific Hot Lists within the ALPR system will be documented by the requesting Department member within the appropriate general offense report. As such, specific Hot Lists shall be approved by the ALPR Administrator.
- (6) Administrator (or his/her designee) before initial entry within the ALPR system. The updating of such a list within the ALPR system shall thereafter be accomplished pursuant to the approval of the Department member's immediate supervisor. The hits from these data sources should be viewed as informational; created solely to bring the officers attention to specific vehicles that have been associated with criminal activity.
All Hot Plates and suspect information entered into the ALPR system will contain the following information as a minimum:
- Entering Department member's name
 - Related case number.
 - Short synopsis describing the nature of the originating call
- (g) Login/Log-Out Procedure. To ensure proper operation and facilitate oversight of the ALPR system, all users will be required to have individual credentials for access and use of the systems and/or data, which has the ability to be fully audited.

Permitted/Impermissible Uses. The ALPR system, and all data collected, is the property of the Berkeley Police Department. Department personnel may only access and use the ALPR system for official and legitimate law enforcement purposes consistent with this Policy. The following uses of the ALPR system are specifically prohibited:

1. Invasion of Privacy: Except when done pursuant to a court order such as a search warrant, is a violation of this Policy to utilize the ALPR to record license plates except those of vehicles that are exposed to public view (e.g., vehicles on a public road or street, or that are on private property but whose license plate(s) are visible

- from a public road, street, or a place to which members of the public have access, such as the parking lot of a shop or other business establishment).
2. Harassment or Intimidation: It is a violation of this Policy to use the ALPR system to harass and/or intimidate any individual or group.
 3. Use Based on a Protected Characteristic. It is a violation of this policy to use the LPR system or associated scan files or hot lists solely because of a person's, or group's race, gender, religion, political affiliation, nationality, ethnicity, sexual orientation, disability, or other classification protected by law.
 4. Personal Use: It is a violation of this Policy to use the ALPR system or associated scan files or hot lists for any personal purpose.
 5. First Amendment Rights. It is a violation of this policy to use the LPR system or associated scan files or hot lists for the purpose or known effect of infringing upon First Amendment rights.
- (h) Anyone who engages in an impermissible use of the ALPR system or associated scan files or hot lists may be subject to administrative sanctions, up to and including termination, pursuant to and consistent with the relevant collective bargaining agreements and departmental policies. Partial license plates reported during crimes may be entered into the ALPR system in an attempt to identify suspect vehicles.

No ALPR operator may access California Law Enforcement Telecommunications System (CLETS) data unless otherwise authorized to do so. If practicable, the officer should verify an ALPR response through the California Law Enforcement Telecommunications System (CLETS) before taking enforcement action that is based solely on an ALPR alert.

1305.4 DATA COLLECTION

The Investigations Division Captain is responsible for ensuring systems and processes are in place for the proper collection and retention of ALPR data. Data will be transferred from vehicles to the designated storage in accordance with department procedures. The Department should if feasible find a solution to transfer evidentiary hit data into its digital evidence repository through secure integration.

All ALPR data downloaded to the ALPR server should be stored for no longer than 30 days, and in accordance with the established records retention schedule. Thereafter, ALPR data should be purged unless it has become, or it is reasonable to believe it will become, evidence in a criminal or civil action or is subject to a discovery request or other lawful action to produce records. In those circumstances the applicable data should be downloaded from the server and uploaded into BPD's digital evidence repository.

ALPR vendor, will store the data (data hosting) and ensure proper maintenance and security of data stored in their data towers. The ALPR vendor will purge their data at the end of the 30 days of storage. However, this will not preclude Berkeley Police Department from maintaining any relevant vehicle data obtained from the system after that period pursuant to the established City of Berkeley retention schedule mentioned above or outlined elsewhere. Relevant vehicle data are scans corresponding to the vehicle of interest on a hot list. The ALPR vendor and Department shall ensure that the necessary data is captured and stored to accurately report the relevant data required in the Annual Surveillance Technology report. Once the City Council approves the Annual Surveillance Technology report all said data may be purged so long as it doesn't violate the Retention guidelines.

Restrictions on use of vendor Data: Information gathered or collected, and records retained by the vendor's cameras or any other Berkeley Police Department ALPR system will not be sold, accessed, or used for any purpose other than legitimate law enforcement or public safety purposes.

1305.5 DATA ACCESS

- (a) No member of this department shall operate ALPR equipment or access ALPR data without first completing department-approved training.
- (b) No ALPR operator may access California Law Enforcement Telecommunications System (CLETS) data unless otherwise authorized to do so.
- (c) If practical, an operator should verify an ALPR response through the California Law Enforcement Telecommunications System (CLETS) before taking enforcement action that is based solely on an ALPR alert.

1305.6 DATA PROTECTION

Internal
Berkeley Police Department
 Law Enforcement Services Manual

Surveillance Use Policy-Fixed ALPRs

All saved data will be safeguarded and protected by both procedural and technological means. The Berkeley Police Department will observe the following safeguards regarding access to and use of stored data (Civil Code § 1798.90.51; Civil Code § 1798.90.53):

- (a) Non-law enforcement requests for access to stored ALPR data shall be processed according to the Records Maintenance and Release Policy in accordance with applicable law.
- (b) All ALPR data downloaded to any workstation or server shall be accessible only through a login/password-protected system capable of documenting all access of information by name, date and time (Civil Code § 1798.90.52).
- (c) Berkeley Police Department members approved to access ALPR data under these guidelines are permitted to access the data for legitimate law enforcement purposes only, such as when the data relate to a specific criminal investigation or department-related civil or administrative action.
- (d) Aggregated ALPR data not related to specific criminal investigations shall not be released to any local, state or federal agency or entity without the consent of the Chief of Police or City Manager (i.e. If transportation department requested volume of vehicular traffic associated with specific events, it could conceivably be provided with the count of vehicles, but not the specific license plates with appropriate permissions).
- (e) Measures will be taken to ensure the accuracy of ALPR information. Errors discovered in ALPR data collected by ALPR units shall be marked, corrected or deleted in accordance with the type and severity of the error in question.
- (f) ALPR system audits will be conducted by the Professional Standards Bureau's Audit and Inspections Sergeant on a regular basis, at least biennial.
- (g) Such ALPR data may be released to other authorized and verified law enforcement officials and agencies for legitimate law enforcement purposes.
- (h) Every ALPR Detection Browsing Inquiry must be documented by either the associated Berkeley Police case number or incident number, and/or a reason for the inquiry

For security or data breaches, see the Records Release and Maintenance Policy.

1305.7 CIVIL LIBERTIES AND RIGHTS PROTECTION

The Berkeley Police Department is dedicated to the most efficient utilization of its resources and services in its public safety endeavors. The Berkeley Police Department recognizes the need to protect its ownership and control over shared information and to protect the privacy and civil liberties of the public, in accordance with federal and state law. The procedures described within this policy (Data Access, Data Protection, Data Retention, Public Access and Third-Party Data Sharing) protect against the unauthorized use of ALPR data. These policies ensure the data is not used in a way that would violate or infringe upon anyone's civil rights and/or liberties, including but not limited to potentially disparate or adverse impacts on any communities or groups.

Internal
Berkeley Police Department
 Law Enforcement Services Manual

Surveillance Use Policy-Fixed ALPRs

1305.8 DATA RETENTION

All ALPR data belongs to the Department. All ALPR data downloaded to the ALPR server should be stored for no longer than 30 days, and in accordance with the established records retention schedule. Thereafter, ALPR data should be purged unless it has become, or it is reasonable to believe it will become, evidence in a criminal or civil action or is subject to a discovery request or other lawful action to produce records. In those circumstances the applicable data should be downloaded from the server and uploaded into BPD's digital evidence repository.

ALPR vendor, will store the data (data hosting) and ensure proper maintenance and security of data stored in their data towers. The ALPR vendor will purge their data at the end of the 30 days of storage. However, this will not preclude Berkeley Police Department from maintaining any relevant vehicle data obtained from the system after that period pursuant to the established City of Berkeley retention schedule mentioned above or outlined elsewhere. Relevant vehicle data are scans corresponding to the vehicle of interest on a hot list. The ALPR vendor and Department shall ensure that the necessary data is captured and stored to accurately report the relevant data required in the Annual Surveillance Technology report. Once the City Council approves the Annual Surveillance Technology report all said data may be purged so long as it doesn't violate the Retention guidelines.

1305.9 PUBLIC ACCESS

All data and images gathered by the ALPR are for the official use of this department. Because such data may contain confidential information, it is not open to public review.

The Department shall to the extent feasible aim to offer a transparency portal wherein the number of scans, hits, and queries is available to the public in real-time, or as near as real-time as feasible. All data shall be reported in the Annual Surveillance Technology Report.

1305.10 THIRD PARTY DATA-SHARING

The ALPR data may be shared only with other law enforcement or prosecutorial agencies for official law enforcement purposes or as otherwise permitted by law.

(a) A supervisor at the requesting agency will sign an acknowledgement letter stating that the shared data will only be used for the purposes that are aligned with the Berkeley Police Department's policy. The Berkeley Police Department does not permit the sharing of ALPR data gathered by the City or its contractors/subcontractors for purpose of federal immigration enforcement, these federal immigration agencies include Immigrations and Customs Enforcement (ICE) and Customs and Border Patrol (CBP). *See attached letter.*

(b) The signed letter is retained on file. Requests for ALPR data by non-law enforcement or non-prosecutorial agencies will be processed as provided in the Records Maintenance and Release Policy (Civil Code § 1798.90.55).

(c) All signed letters shall be routed to the Audit and Inspection Sergeant for compliance and reporting.

ALPR data is subject to the provisions of the Berkeley Police Department's Immigration Law Policy, and hence may not be shared with federal immigration enforcement officials.

1305.11 TRAINING

Training for the operation of ALPR Technology shall be provided by BPD personnel. All BPD

Internal
Berkeley Police Department
Law Enforcement Services Manual

Surveillance Use Policy-Fixed ALPRs

employees who utilize ALPR Technology shall be provided a copy of this Surveillance Use Policy.

1305.12 AUDITING AND OVERSIGHT

ALPR system audits will be conducted by the Professional Standards Bureau's Audit and Inspections Sergeant on a regular basis, at least biannually. The data from the fixed ALPRs shall be reported annually in the Surveillance Technology Report.

1305.13 MAINTENANCE

Any installation and maintenance of ALPR equipment, as well as ALPR data retention and access, shall be managed by the Investigations Division Captain or his or her designee. The Investigations Division Captain will assign members under his/her command to administer the day-to-day operation of the ALPR equipment and data. Equipment maintenance shall be provided by the vendor.

1305 APPENDIX A**BERKELEY POLICE DEPARTMENT SURVEILLANCE ACQUISITION REPORT – FIXED AUTOMATED LICENSE PLATE READERS**

FIXED AUTOMATED LICENSE PLATE READERS (ALPR)**A. DESCRIPTION**

Fixed Automated License Plate Readers (ALPRs) are cameras systems with software designed for license plate recognition. The camera systems are typically mounted on street poles, street lights, and highway overpasses.

ALPRs are designed to capture license plate numbers which come into view, along with the location, date and time. The data, which includes an image of the front or the back of the car displaying the license plate, is then uploaded to a central server operated by the vendor. The license plate data is cross referenced with systems such as Stolen Vehicle Systems (SVS), and other lists like Amber alerts to notice police of vehicles with hits.

This technology does not have facial recognition, and is not tied to any personal identifying information or used for traffic enforcement.

B. PURPOSE

Berkeley Police Department will utilize a network of fixed automated license plate readers. The ALPRs will be affixed to street poles, street lights, or other similar objects that are either owned by the City of Berkeley or wherein a right-of-way agreement has been established.

The use of ALPRs to alert police of a wanted or vehicle of interest entering into their respective jurisdiction has become increasingly more commonplace. This technology is being utilized on our local freeways, bridges, and in some instances in private parking lots.

Berkeley Police Department investigators have identified the following instances wherein the use of an effective deployment of ALPRs could have aided the Berkeley Police Department in it's efforts to focus on the wanted vehicle prior to a crime occurring in the City of Berkeley, and potentially avoided an instance of victimization from happening.

RECENT CASES OF INTEREST

1.) BPD had an armed robbery in which the victim was pistol-whipped. The suspects fled in a vehicle. BPD officers located the vehicle and a pursuit ensued. The license plate on the vehicle was reported as a wanted vehicle for an armed robbery in San Ramon. Had this vehicle entered the City of Berkeley, and the vehicle passed an ALPR- BPD Officers could have been focused on finding this offender in an advance of this violent robbery.

2.) Victim was carjacked of his Toyota Rav-4. The suspect vehicle two days later was used in a murder that occurred in a nearby East Bay City. This same vehicle was used in a robbery in Oakland. The stolen property in the Oakland robbery was tracked back into Berkeley. Then this same vehicle was used to commit a robbery in Berkeley at Woolsey

1305 APPENDIX A**BERKELEY POLICE DEPARTMENT SURVEILLANCE ACQUISITION REPORT – FIXED AUTOMATED LICENSE PLATE READERS**

and Telegraph. The vehicle was listed as a car-jacking vehicle from the initial crime, ALPRs could have alerted BPD prior to the property being discarded in Berkeley, as well as the final robbery listed in this synopsis.

3.) Home invasion robbery in Berkeley wherein the suspect came in a stolen vehicle, listed in SVS as a wanted vehicle. The suspect violently attacked the resident. The suspect was arrested shortly after in San Pablo due to an ALPR hit. Suspect was unknown but identified due to having the victims stolen property.

4.) An armed robbery occurred in Berkeley the suspects fled in a cold plated stolen vehicle, meaning the vehicle was listed as wanted in SVS. San Pablo PD stopped the suspect vehicle due to the want associated to the license plate. Suspect was arrested and was in possession of a firearm. Suspect was eventually also linked to a stranger sexual assault case.

5.) A robbery of Valero in Berkeley occurred. The suspect arrived in stolen vehicle. The suspect was subsequently arrested by San Mateo PD due to an ALPR hit.

6.) A Victim called BPD to report his carjacked/stolen vehicle (from Union City), was tracking in South Berkeley. The victim was originally carjacked via gun by a group of suspects in Union City a few days prior. Moreover, Officers responded to South Berkeley but were unable to locate the victim's vehicle. The victim later tracked his carjacked/stolen vehicle to 1370 University Ave. Officers responded to this location and located the victim's vehicle. Three juveniles and one adult fled from the vehicle but were captured by the Officers. A search of the vehicle yielded a concealed/loaded firearm.

CATALYTIC CONVERTER THEFTS WITH GUNFIRE

7.) A theft of a catalytic converter took place at 5th and Hearst. The suspect vehicle's license plate was captured on video surveillance. BPD put a felony stop on the vehicle. San Pablo PD located the vehicle using their ALPR system and arrested the driver who was in possession of a loaded handgun.

8.) A catalytic converter theft occurred at 145 Hillcrest Road. The suspect vehicle's license plate was captured on video surveillance. BPD put a felony stop on the vehicle. Pinole PD located the vehicle. During a search of the vehicle, BPD located an assault rifle (ghost gun) and arrested the suspect.

9.) A pickup truck, wanted in SVS due to it being reported as a stolen vehicle, entered Berkeley. The aforementioned was caught in the act of cutting a catalytic converter

1305 APPENDIX A**BERKELEY POLICE DEPARTMENT SURVEILLANCE ACQUISITION REPORT – FIXED AUTOMATED LICENSE PLATE READERS**

from a vehicle on the 1800 block of 4th Street. Witnesses and a Security guard confronted the suspects. The suspects fled, and then immediately returned to shoot at the witness and security guard.

PROPERTY CRIME

10.) An auto burglary occurred at 1316 San Pablo Avenue and the victim obtained a license plate. A felony entry was made on the license plate. Pittsburg PD located the suspect vehicle due to an ALPR hit. The vehicle failed to yield and crashed. The driver was arrested for the failure to yield and Pittsburg PD located a loaded handgun in her purse.

11.) A suspect drove into Berkeley in a stolen vehicle, listed in SVS. The suspect drove to the driveway of 1626 Berkeley Way and proceeded to steal that resident's vehicle.

12.) Two suspects drove a reported stolen auto to Berkeley Bowl West. The suspects then burglarized a victim's vehicle. The suspect then proceeded to Emeryville where they used the Victim's identity to commit identity theft.

13.) A series of auto burglaries were committed in the area of San Pablo and Gilman. The suspects were seen getting into a vehicle which was listed in SVS as a stolen vehicle. Two days later a nearby city reported the same vehicle was used in a murder in that city. ALPR system could have notified officers of that wanted vehicle and helped in the capture of the suspects, and potentially intervened before the subsequent murder.

HOMICIDE

14.) Another agency reported a vehicle used in a murder, with a known license plate was entered into SVS with a felony want (associated with a murder). On 08/02/22 the vehicle was located in Berkeley. The associated suspects were located after fleeing from officers.

15.) BPD officers responded to a report of a person casing a house. Upon their arrival the suspects fled in a white sedan. That sedan was determined to be a reported stolen auto. The sedan fled from officers after they activated their emergency lights and sirens. The same vehicle was reported to be involved in a road rage incident in an adjacent city wherein the suspects shot and killed the victim on the freeway.

SEX/DV CRIMES

16.) This is a DV case in which the suspect fought with his adult girlfriend causing visible injury and then chased his girlfriend's 12 year old daughter down the street and shot at

1305 APPENDIX A**BERKELEY POLICE DEPARTMENT SURVEILLANCE ACQUISITION REPORT – FIXED AUTOMATED LICENSE PLATE READERS**

her with a firearm. San Pablo PD had an ALPR hit from this Berkeley PD case. The suspect ran from San Pablo PD and a gun was recovered from him.

17.) This is a series of peeping and prowling incidents against female UC Berkeley students. The suspect was driving for a ride share service and was in and out of Berkeley for the several months. The suspect was homeless, and thereby conventional methods of locating the suspect weren't fruitful.

C. LOCATION

BPD proposes to install 52 fixed ALPRs in the City of Berkeley. While the cameras are permanent installations, if found ineffective in the installed location, the Department can elect to move the camera to another location at nominal cost. It's preferred to leave cameras installed in locations for periods of minimally a year. Locations will be determined using crime data, known locations of ingress or egress into the City of Berkeley, and commonly known direction of travel after criminal acts based on information provided from investigators. The Department will balance the need to deploy the camera systems equitably across the City of Berkeley with the need to deploy the cameras in an effective manner. BPD will solicit input from the vendor for an effective deployment.

D. IMPACT

The Berkeley Police Department is dedicated to the most efficient utilization of its resources and services in its public safety endeavors. The Berkeley Police Department recognizes the need to protect its ownership and control over shared information and to protect the privacy and civil liberties of the public, in accordance with federal and state law. The procedures utilized with ALPR Units will help to ensure unauthorized use of its data. The procedures will ensure the data is not used in a way that would violate or infringe upon anyone's civil rights and/or liberties, including but not limited to potentially disparate or adverse impacts on any communities or groups.

E. MITIGATION

All saved data will be safeguarded and protected by both procedural and technological means which are implemented to safeguard the public from any impacts identified in subsection (D). See subsection (G) for further.

F. DATA TYPES AND SOURCES

Images of license plates and location metadata may be obtained through the use of ALPR cameras. The vendor's system may have searching capabilities due to technology from machine learning

1305 APPENDIX A**BERKELEY POLICE DEPARTMENT SURVEILLANCE ACQUISITION REPORT – FIXED AUTOMATED LICENSE PLATE READERS**

that allow officers to search by vehicle type, make, color, license plate state, bumper sticker (the presence of a bumper sticker, not the image or content), decals (again the presence of a decal, not the image or content) and roof racks. All data stored in the vendor's servers shall be securely protected with end-to-end encryption.

G. DATA SECURITY

BPD takes data security seriously. All saved data will be safeguarded and protected by both procedural and technological means. The Berkeley Police Department will observe the following safeguards regarding access to and use of stored data (Civil Code § 1798.90.51; Civil Code § 1798.90.53):

- (a) Non-law enforcement requests for access to stored ALPR data shall be processed according to the Records Maintenance and Release Policy in accordance with applicable law.
- (b) All ALPR data downloaded to any workstation or server shall be accessible only through a login/password-protected system capable of documenting all access of information by name, date and time (Civil Code § 1798.90.52).
- (c) Berkeley Police Department members approved to access ALPR data under these guidelines are permitted to access the data for legitimate law enforcement purposes only, such as when the data relate to a specific criminal investigation or department-related civil or administrative action.
- (d) Aggregated ALPR data not related to specific criminal investigations shall not be released to any local, state or federal agency or entity without the consent of the Chief of Police or City Manager.
- (e) Measures will be taken to ensure the accuracy of ALPR information. Errors discovered in ALPR data collected by ALPR units shall be marked, corrected or deleted in accordance with the type and severity of the error in question.
- (f) ALPR system audits will be conducted by the Professional Standards Bureau's Audit and Inspections Sergeant on a regular basis, at least biennial.
- (g) Such ALPR data may be released to other authorized and verified law enforcement officials and agencies for legitimate law enforcement purposes.
- (h) Every ALPR Detection Browsing Inquiry must be documented by either the associated Berkeley Police case number or incident number, and/or a reason for the inquiry

For security or data breaches, see the Records Release and Maintenance Policy.

1305 APPENDIX A**BERKELEY POLICE DEPARTMENT SURVEILLANCE ACQUISITION REPORT – FIXED AUTOMATED LICENSE PLATE READERS**

H. FISCAL COST

Since the City of Berkeley has not acquired the specific cameras, the costs can only be estimated. BPD expects the individual camera costs to range from \$2500-\$5000 each, with the installation to vary. BPD believes that for the proposed 52 camera deployment the cost to purchase and install to not exceed an initial cost of \$250,000. The yearly subscription cost may fluctuate but is expected to range from \$125,000 to \$175,000 a year.

I. THIRD-PARTY DEPENDENCE AND ACCESS

ALPR vendor would store the data (data hosting) and ensure proper maintenance and security of data stored in their data towers. The vendor will purge their data at the end of 30 days of storage. However, this will not preclude Berkeley Police Department from maintaining any relevant vehicle data obtained from the system after that period pursuant to the established City of Berkeley retention schedule (i.e. if detectives establish a hit results in evidentiary value it should be incorporated into the digital evidence of that specific case, and thereby would be kept longer than the aforementioned 30 days).

Restrictions on use of fixed ALPR Data: Information gathered or collected, and records retained by the Vendor will not be sold, accessed, or used for any purpose other than legitimate law enforcement or public safety purpose unless allowed by policy (i.e. metadata will be permissible use for annual surveillance reporting).

An ALPR shall only be used for official law enforcement business.

Use of an ALPR is restricted to the purposes outlined below. Department members shall not use, or allow others to use the equipment or database records for any unauthorized purpose (Civil Code § 1798.90.51; Civil Code § 1798.90.53).

- (a) An ALPR shall only be used for official law enforcement business.
- (b) An ALPR may be used in conjunction with any routine patrol operation or to support criminal investigations. Reasonable suspicion or probable cause is not required before using an ALPR.
- (c) Partial license plates and unique vehicle descriptions reported during major crimes should be entered into the ALPR system in an attempt to identify suspect vehicles.

The ALPR system, and all data collected, is the property of the Berkeley Police Department. Department personnel may only access and use the ALPR system for official and legitimate law enforcement purposes consistent with this Policy. The following uses of the ALPR system are specifically prohibited:

1305 APPENDIX A

BERKELEY POLICE DEPARTMENT SURVEILLANCE ACQUISITION REPORT – FIXED AUTOMATED LICENSE PLATE READERS

(1) Invasion of Privacy: Except when done pursuant to a court order such as a search warrant, is a violation of this Policy to utilize the ALPR to record license plates except those of vehicles that are exposed to public view (e.g., vehicles on a public road or street, or that are on private property but whose license plate(s) are visible from a public road, street, or a place to which members of the public have access, such as the parking lot of a shop or other business establishment).

(2) Harassment or Intimidation: It is a violation of this Policy to use the ALPR system to harass and/or intimidate any individual or group.

(3) Use Based on a Protected Characteristic. It is a violation of this policy to use the ALPR system or associated scan files or hot lists solely because of a person's, or group's race, gender, religion, political affiliation, nationality, ethnicity, sexual orientation, disability, or other classification protected by law.

(4) Personal Use: It is a violation of this Policy to use the ALPR system or associated scan files or hot lists for any personal purpose.

(5) First Amendment Rights. It is a violation of this policy to use the LPR system or associated scan files or hot lists for the purpose or known effect of infringing upon First Amendment rights.

Anyone who engages in an impermissible use of the ALPR system or associated scan files or hot lists may be subject to administrative sanctions, up to and including termination, pursuant to and consistent with the relevant collective bargaining agreements and departmental policies.

The ALPR data may be shared only with other law enforcement or prosecutorial agencies for official law enforcement purposes or as otherwise permitted by law.

(a) A supervisor at the requesting agency will sign an acknowledgement letter stating that the shared data will only be used for the purposes that are aligned with the Berkeley Police Department's policy. The Berkeley Police Department does not permit the sharing of ALPR data gathered by the City or its contractors/subcontractors for purpose of federal immigration enforcement, these federal immigration agencies include Immigrations and Customs Enforcement (ICE) and Customs and Border Patrol (CBP).

(b) The signed letter is retained on file. Requests for ALPR data by non-law enforcement or non-prosecutorial agencies will be processed as provided in the Records Maintenance and Release Policy (Civil Code § 1798.90.55).

1305 APPENDIX A**BERKELEY POLICE DEPARTMENT SURVEILLANCE ACQUISITION REPORT – FIXED AUTOMATED LICENSE PLATE READERS**

J. ALTERNATIVES

An alternative is the deployment of additional police resources. The inherent problems with this alternative is that it is difficult to hire and train additional police officers and the cost would be significantly higher than adding technology. Furthermore, this technology furthers the Department's goal in protecting and safeguarding our community through precision based policing strategies.

K. EXPERIENCE OF OTHER ENTITIES

Currently, in Alameda County, the following cities have ALPR programs, The Alameda County Sheriff's Office, Alameda PD, Emeryville PD, Fremont PD, Hayward PD, Livermore PD, Newark PD, Oakland PD, Piedmont PD, Pleasanton PD, San Leandro PD, Union City PD, and the California Highway Patrol. The only agency in Alameda County to not utilize ALPRs is Albany PD.

Representatives from Newark indicated success with their program. No notable issues have arisen as a result of this program. Additionally, no unexpected expenditures have come from this program that were unforeseen.

Representatives from indicated similar to the above, success with their program. No notable issues have arisen as a result of this program. Additionally, no unexpected expenditures have come from this program that were unforeseen.

**Policy
422****Berkeley Police Department**
Policy Manual

Fixed Automated License Plate Readers (ALPRs)-

422.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance for the capture, storage and use of digital data obtained through the use of Automated License Plate Reader (ALPR) technology. Department Personnel shall adhere to the requirements of Fixed ALPRs in this policy as well as the corresponding Surveillance Use-Fixed ALPRs policy-1305.

422.2 POLICY

The policy of the Berkeley Police Department is to utilize ALPR technology to capture and store digital license plate data and images while recognizing the established privacy rights of the public.

All data and images gathered by the ALPR are for the official use of this department. Because such data may contain confidential information, it is not open to public review.

The Berkeley Police Department does not permit the sharing of ALPR data gathered by the City or its contractors/subcontractors for federal immigration enforcement, pursuant to the California Values Act (Government Code § 7282.5; Government Code § 7284.2 et seq) – these federal immigration agencies include Immigrations and Customs Enforcement (ICE) and Customs and Border Patrol (CBP).

422.3 DEFINITIONS

- (a) Automated License Plate Reader (ALPR): A device that uses cameras and computer technology to compare digital images to lists of known information of interest.
- (b) ALPR Operator: Trained Department members who may utilize ALPR system/equipment. ALPR operators may be assigned to any position within the Department, and the ALPR Administrator may order the deployment of the ALPR systems for use in various efforts.
- (c) ALPR Administrator: The Investigations Bureau Captain or the Chief's designee, serves as the ALPR Administrator for the Department.
- (d) Hot List: A list of license plates associated with vehicles of interest compiled from one or more databases including, but not limited to, NCIC, CA DMV, Local BOLO's, etc.
- (e) Vehicles of Interest: Including, but not limited to vehicles which are reported as stolen, display stolen license plates or tags; vehicles linked to missing and/or wanted persons and vehicles flagged by the Department of Motor Vehicle Administration or law enforcement agencies.

-
- (f) Detection: Data obtained by an ALPR of an image (such as a license plate) within public view that was read by the device, including potential images (such as the plate and description of vehicle on which it was displayed), and information regarding the location of the ALPR system at the time of the ALPR's read.
 - (g) Hit Alert from the ALPR system that a scanned license plate number may be in the National Crime Information Center (NCIC) or other law enforcement database for a specific reason including, but not limited to, being related to a stolen car, wanted person, missing person, domestic violation protective order or terrorist-related activity.

422.4 ADMINISTRATION

The ALPR technology, also known as License Plate Recognition (LPR), allows for the automated detection of license plates. It is used by the Berkeley Police Department to convert data associated with vehicle license plates for official law enforcement purposes, including identifying stolen or wanted vehicles, stolen license plates and missing persons. It may also be used to gather information related to active warrants, suspect apprehension and stolen property recovery. Any installation and maintenance of ALPR equipment, as well as ALPR data retention and access, shall be managed by the Investigations Division Captain. The Investigations Division Captain will assign members under his/her command to administer the day-to-day operation of the ALPR equipment and data.

422.4.1 ALPR ADMINISTRATOR

The Investigations Division Captain, or his/her designee, shall be responsible for compliance with the requirements of Civil Code § 1798.90.5 et seq. This includes, but is not limited to (Civil Code § 1798.90.51; Civil Code § 1798.90.53):

- (a) Only properly trained sworn officers, crime analysts, communication operators, records clerks, parking enforcement officers, and police assistants are allowed access to the ALPR system or to collect ALPR information.
- (b) Ensuring that training requirements are completed for authorized users.
- (c) ALPR system monitoring to ensure the security of the information and compliance with applicable privacy laws.
- (d) Ensuring procedures are followed for system operators to maintain records of access in compliance with Civil Code § 1798.90.52.
- (e) The title and name of the current designee in overseeing the ALPR operation.
- (f) Working with the Custodian of Records, or vendor on the retention and destruction of ALPR data.ensuring this policy and related procedures are conspicuously posted on the City's website.

422.5 OPERATIONS

An ALPR shall only be used for official law enforcement business.

Use of an ALPR is restricted to the purposes outlined below. Department members shall not use, or allow others to use the equipment or database records for any unauthorized purpose (Civil

Code § 1798.90.51; Civil Code § 1798.90.53).

- (a) An ALPR shall only be used for official law enforcement business.
- (b) An ALPR may be used in conjunction with any routine patrol operation or to support criminal investigations. Reasonable suspicion or probable cause is not required before using an ALPR database.
- (c) Partial license plates and unique vehicle descriptions reported during crimes may be entered into the ALPR system in an attempt to identify suspect vehicles.
- (d) No member of this department shall operate ALPR equipment or access ALPR data without first completing department-approved training.
- (e) If practicable/feasible, the officer should verify an ALPR response through the California Law Enforcement Telecommunications System (CLETS) before taking enforcement action that is based solely on an ALPR alert. Once an alert is received, the operator should confirm that the observed license plate from the system matches the license plate of the observed vehicle. Before any law enforcement action is taken because of an ALPR alert, the alert will be verified through a CLETS inquiry via MDT or through Dispatch.
- (e)(f) Members will not take any police action that restricts the freedom of any individual based solely on an ALPR alert unless it has been validated. Because the ALPR alert may relate to a vehicle and may not relate to the person operating the vehicle, officers are reminded that they need to have reasonable suspicion and/or probable cause to make an enforcement stop of any vehicle. (For example, if a vehicle is entered into the system because of its association with a wanted individual, Officers should attempt to visually match the driver to the description of the wanted subject prior to making the stop or should have another legal basis for making the stop.)
- (f)(g) Hot Lists. Designation of hot lists to be utilized by the ALPR system shall be made by the ALPR Administrator or his/her designee. Hot lists shall be obtained or compiled from sources as may be consistent with the purposes of the ALPR system set forth in this Policy. Hot lists utilized by the Department's LPR system may be updated by agency sources more frequently than the Department may be uploading them and thus the Department's LPR system will not have access to real time data. Occasionally, there may be errors in the LPR system's read of a license plate. Therefore, an alert alone shall not be a basis for police action (other than following the vehicle of interest). Prior to initiation of a stop of a vehicle or other intervention based on an alert, Department members shall undertake the following:
 - (1) Verification of status on a Hot List. An officer must receive confirmation, from a Berkeley Police Department Communications Dispatcher or other department computer device, that the license plate is still stolen, wanted, or otherwise of interest before proceeding (absent exigent circumstances).
 - (2) Visual verification of license plate number. Officers shall visually verify that the license plate of interest matches identically with the image of the license plate number

captured (read) by the LPR, including both the alphanumeric characters of the license plate, state of issue, and vehicle descriptors before proceeding. Department members alerted to the fact that an observed motor vehicle's license plate is entered as a Hot Plate (hit) in a specific BOLO (be on the lookout) list are required to make a reasonable effort to confirm that a wanted person is actually in the vehicle and/or that a reasonable basis exists before a Department member would have a lawful basis to stop the vehicle.

(3) Department members will clear all stops from hot list alerts by indicating the positive ALPR Hit, i.e., with an arrest or other enforcement action. If it is not obvious in the text of the call as to the correlation of the ALPR Hit and the arrest, then the Department member shall update with the Communications Dispatcher and original person and/or a crime analyst inputting the vehicle in the hot list (hit).

(4) General Hot Lists (SVS, SFR, and SLR) will be automatically downloaded into the ALPR system a minimum of once a day with the most current data overwriting the old data.

(5) All entries and updates of specific Hot Lists within the ALPR system will be documented by the requesting Department member within the appropriate general offense report. As such, specific Hot Lists shall be approved by the ALPR Administrator.

(6) Administrator (or his/her designee) before initial entry within the ALPR system. The updating of such a list within the ALPR system shall thereafter be accomplished pursuant to the approval of the Department member's immediate supervisor. The hits from these data sources should be viewed as informational; created solely to bring the officers attention to specific vehicles that have been associated with criminal activity.

All Hot Plates and suspect information entered into the ALPR system will contain the following information as a minimum:

- Entering Department member's name
- Related case number.
- Short synopsis describing the nature of the originating call

[\(g\)\(h\)](#) Login/Log-Out Procedure. To ensure proper operation and facilitate oversight of the ALPR system, all users will be required to have individual credentials for access and use of the systems and/or data, which has the ability to be fully audited.

Permitted/Impermissible Uses. The ALPR system, and all data collected, is the property of the Berkeley Police Department. Department personnel may only access and use the ALPR system for official and legitimate [California](#) law enforcement purposes consistent with this Policy. The following uses of the ALPR system are specifically prohibited:

1. Invasion of Privacy: Except when done pursuant to a court order such as a search warrant, is a violation of this Policy to utilize the ALPR to record license plates except those of vehicles that are exposed to public view (e.g., vehicles on a public road or street, or that are on private property but whose license plate(s) are visible from a public road, street, or a place to which members of the public have access, such as the parking lot of a shop or other business establishment).

2. Harassment or Intimidation: It is a violation of this Policy to use the ALPR system to harass and/or intimidate any individual or group.
3. Use Based on a Protected Characteristic. It is a violation of this policy to use the LPR system or associated scan files or hot lists solely because of a person's, or group's race, gender, religion, political affiliation, nationality, ethnicity, sexual orientation, disability, or other classification protected by law.
4. Personal Use: It is a violation of this Policy to use the ALPR system or associated scan files or hot lists for any personal purpose.
5. First Amendment Rights. It is a violation of this policy to use the LPR system or associated scan files or hot lists for the purpose or known effect of infringing upon First Amendment rights.

(i) Anyone who intentionally engages in an impermissible use of the ALPR system or associated scan files or hot lists may shall be subject to administrative sanctions, up to and including termination, pursuant to and consistent with the relevant collective bargaining agreements and departmental policies. Partial license plates reported during crimes may be entered into the ALPR system in an attempt to identify suspect vehicles.

(j) Anyone who negligently engages in an impermissible use of the ALPR system or associated scan files or hot lists may be subject to administrative sanctions, up to and including termination, pursuant to and consistent with the relevant collective bargaining agreements and departmental policies. Partial license plates reported during crimes may be entered into the ALPR system in an attempt to identify suspect vehicles.

No ALPR operator may access California Law Enforcement Telecommunications System (CLETS) data unless otherwise authorized to do so. If practicable, the officer should verify an ALPR response through the California Law Enforcement Telecommunications System (CLETS) before taking enforcement action that is based solely on an ALPR alert.

422.6 DATA COLLECTION AND RETENTION

The Investigations Division Captain is responsible for ensuring systems and processes are in place for the proper collection and retention of ALPR data. Data will be transferred from vehicles to the designated storage in accordance with department procedures. ~~The Department should if feasible find a solution to transfer evidentiary hit data into its digital evidence repository through secure integration.~~ Evidentiary hit data shall be transferred into the Department's digital evidence repository through secure integration.

All ALPR data downloaded to the ALPR server should be stored for no longer than 30 days, and in accordance with the established records retention schedule. Thereafter, ALPR data should be purged unless it has become, or it is reasonable to believe it will become, evidence in a criminal or civil action or is subject to a discovery request or other lawful action to produce records. In those circumstances the applicable data should be downloaded from the server and uploaded into BPD's digital evidence repository.

ALPR vendor, will store the data (data hosting) and ensure proper maintenance and security of data stored in their data towers. The ALPR vendor will purge their data at the end of the 30 days of storage. However, this will not preclude Berkeley Police Department from maintaining any relevant vehicle data obtained from the system after that period pursuant to the established City of Berkeley retention schedule mentioned above or outlined elsewhere. Relevant vehicle data are scans corresponding to the vehicle of interest on a hot list. The ALPR vendor and Department shall ensure that the necessary data is captured and stored to accurately report the relevant data required in the Annual Surveillance Technology report. Once the City Council approves the Annual Surveillance Technology report all said data may be purged so long as it doesn't violate the Retention guidelines.

Restrictions on use of vendor Data: Information gathered or collected, and records retained by the vendor's cameras or any other Berkeley Police Department ALPR system will not be sold, accessed, or used for any purpose other than legitimate [California](#) law enforcement or public safety purposes.

422.7 ACCOUNTABILITY

All saved data will be safeguarded and protected by both procedural and technological means. The Berkeley Police Department will observe the following safeguards regarding access to and use of stored data (Civil Code § 1798.90.51; Civil Code § 1798.90.53):

- (a) Non-law enforcement requests for access to stored ALPR data shall be processed according to the Records Maintenance and Release Policy in accordance with applicable law.
- (b) All ALPR data downloaded to any workstation or server shall be accessible only through a login/password-protected system capable of documenting all access of information by name, date and time (Civil Code § 1798.90.52).
- (c) Berkeley Police Department members approved to access ALPR data under these guidelines are permitted to access the data for legitimate [California](#) law enforcement purposes only, such as when the data relate to a specific criminal investigation or department-related civil or administrative action.
- (d) Aggregated ALPR data not related to specific criminal investigations shall not be released to any local, state or federal agency or entity without the consent of the Chief of Police or City Manager (i.e. If transportation department requested volume of vehicular traffic associated with specific events, it could conceivably be provided with the count of vehicles, but not the specific license plates with appropriate permissions).
- (e) Measures will be taken to ensure the accuracy of ALPR information. Errors discovered in ALPR data collected by ALPR units shall be marked, corrected or deleted in accordance with the type and severity of the error in question.
- (f) ALPR system audits will be conducted by the Professional Standards Bureau's Audit and Inspections Sergeant on a regular basis, at least biennial.
- (g) Such ALPR data may be released to other authorized and verified law enforcement officials and agencies for legitimate [California](#) law enforcement purposes.

- (h) Every ALPR Detection Browsing Inquiry must be documented by either the associated Berkeley Police case number or incident number, and/or a reason for the inquiry

For security or data breaches, see the Records Release and Maintenance Policy.

422.8 ALPR DATA DETECTION BROWSING AUDITS

It is the responsibility of the Sergeant of Audit and Inspections or the Chief's designee to ensure that an audit is conducted of ALPR detection browsing inquiries at least biennial. The Department will audit a sampling of the ALPR system utilization from the prior 24-month period to verify proper use in accordance with the above- authorized uses. The audit shall randomly select at least 10 detection browsing inquiries conducted by department employees during the preceding 24-month period and determine if each inquiry meets the requirements established in policy section 462.6(e).

The audit shall be documented in the form of an internal department memorandum to the Chief of Police. The memorandum shall include any data errors found so that such errors can be corrected. After review by the Chief of Police, the memorandum and any associated documentation shall be filed and retained by the Professional Standards Bureau Captain. This audit should be shared in the Surveillance Ordinance reporting.

422.9 RELEASING ALPR DATA

The ALPR data may be shared only with other law enforcement or prosecutorial agencies for official law enforcement purposes or as otherwise permitted by law.

(a) A supervisor at the requesting agency will sign an acknowledgement letter stating that the shared data will only be used for the purposes that are aligned with the Berkeley Police Department's policy. The Berkeley Police Department does not permit the sharing of ALPR data gathered by the City or its contractors/subcontractors for purpose of federal immigration enforcement, these federal immigration agencies include Immigrations and Customs Enforcement (ICE) and Customs and Border Patrol (CBP). *See attached letter.*

(b) The signed letter is retained on file. Requests for ALPR data by non-law enforcement or non-prosecutorial agencies will be processed as provided in the Records Maintenance and Release Policy (Civil Code § 1798.90.55).

(c) All signed letters shall be routed to the Audit and Inspection Sergeant for compliance and reporting.

422.10 &

ALPR data is subject to the provisions of the Berkeley Police Department's Immigration Law Policy, and hence may not be shared with federal immigration enforcement officials.

422.10 OFFICE OF THE DIRECTOR OF POLICE ACCOUNTABILITY

Any ALPR data or images that are utilized for an investigation that becomes evidence in a case will be made available to the Office of the Director of Police Accountability (ODPA) as it relates to a specific complaint of misconduct. Additionally, the results of any audits will be shared with the ODPA upon their completion.

~~422.10~~422.11 **TRAINING**

The Personnel and Training Sergeant shall ensure that members receive department-approved training -in order to be -authorized to use or access the ALPR system (Civil Code § 1798.90.51; Civil Code § 1798.90.53

Surveillance Use Policy-Fixed ALPRs

1305.1 PURPOSE

The purpose of this policy is to provide guidance for the capture, storage and use of digital data obtained through the use of Automated License Plate Reader (ALPR) technology. Department Personnel shall adhere to the requirements of the Surveillance Use-Fixed ALPRs in this policy as well as the corresponding Use Policy -422.

The policy of the Berkeley Police Department is to utilize ALPR technology to capture and store digital license plate data and images while recognizing the established privacy rights of the public.

All data and images gathered by the ALPR are for the official use of this department. Because such data may contain confidential information, it is not open to public review.

The Berkeley Police Department does not permit the sharing of ALPR data gathered by the City or its contractors/subcontractors for federal immigration enforcement, pursuant to the California Values Act (Government Code § 7282.5; Government Code § 7284.2 et seq) – these federal immigration agencies include Immigrations and Customs Enforcement (ICE) and Customs and Border Patrol (CBP).

1305.2 DEFINITIONS

- (a) Automated License Plate Reader (ALPR): A device that uses cameras and computer technology to compare digital images to lists of known information of interest.
- (b) ALPR Operator: Trained Department members who may utilize ALPR system/equipment. ALPR operators may be assigned to any position within the Department, and the ALPR Administrator may order the deployment of the ALPR systems for use in various efforts.
- (c) ALPR Administrator: The Investigations Bureau Captain or the Chief's designee, serves as the ALPR Administrator for the Department.
- (d) Hot List: A list of license plates associated with vehicles of interest compiled from one or more databases including, but not limited to, NCIC, CA DMV, Local BOLO's, etc.
- (e) Vehicles of Interest: Including, but not limited to vehicles which are reported as stolen, display stolen license plates or tags; vehicles linked to missing and/or wanted persons and vehicles flagged by the Department of Motor Vehicle Administration or law enforcement agencies.
- (f) Detection: Data obtained by an ALPR of an image (such as a license plate) within public view that was read by the device, including potential images (such as the plate and description of vehicle on which it was displayed), and information regarding the location of the ALPR system at the time of the ALPR's read.

- (g) Hit Alert from the ALPR system that a scanned license plate number may be in the National Crime Information Center (NCIC) or other law enforcement database for a specific reason including, but not limited to, being related to a stolen car, wanted person, missing person, domestic violation protective order or terrorist-related activity.

1305.3 AUTHORIZED AND PROHIBITED USES

An ALPR shall only be used for official law enforcement business.

Use of an ALPR is restricted to the purposes outlined below. Department members shall not use, or allow others to use the equipment or database records for any unauthorized purpose (Civil Code § 1798.90.51; Civil Code § 1798.90.53).

- (a) An ALPR shall only be used for official law enforcement business.
- (b) An ALPR may be used in conjunction with any routine patrol operation or to support criminal investigations. Reasonable suspicion or probable cause is not required before using an ALPR database.
- (c) Partial license plates and unique vehicle descriptions reported during crimes may be entered into the ALPR system in an attempt to identify suspect vehicles.
- (d) No member of this department shall operate ALPR equipment or access ALPR data without first completing department-approved training.
- (e) If practicable/feasible, the officer should verify an ALPR response through the California Law Enforcement Telecommunications System (CLETS) before taking enforcement action that is based solely on an ALPR alert. Once an alert is received, the operator should confirm that the observed license plate from the system matches the license plate of the observed vehicle. Before any law enforcement action is taken because of an ALPR alert, the alert will be verified through a CLETS inquiry via MDT or through Dispatch.
- (e)(f) Members will not take any police action that restricts the freedom of any individual based solely on an ALPR alert unless it has been validated. Because the ALPR alert may relate to a vehicle and may not relate to the person operating the vehicle, officers are reminded that they need to have reasonable suspicion and/or probable cause to make an enforcement stop of any vehicle. (For example, if a vehicle is entered into the system because of its association with a wanted individual, Officers should attempt to visually match the driver to the description of the wanted subject prior to making the stop or should have another legal basis for making the stop.)
- (f)(g) Hot Lists. Designation of hot lists to be utilized by the ALPR system shall be made by the ALPR Administrator or his/her designee. Hot lists shall be obtained or compiled from sources as may be consistent with the purposes of the ALPR system set forth in this Policy. Hot lists utilized by the Department's LPR system may be updated by agency sources more frequently than the Department may be uploading them and thus the Department's LPR system will not have access to real time data. Occasionally, there may be errors in the LPR system's read of a license plate. Therefore, an alert alone shall not be a basis for police action (other than following the vehicle of interest). Prior to initiation of a stop of a vehicle or other intervention based on an alert, Department members shall undertake the following:

(1) Verification of status on a Hot List. An officer must receive confirmation, from a Berkeley Police Department Communications Dispatcher or other department computer device, that the license plate is still stolen, wanted, or otherwise of interest before proceeding (absent exigent circumstances).

(2) Visual verification of license plate number. Officers shall visually verify that the license plate of interest matches identically with the image of the license plate number captured (read) by the LPR, including both the alphanumeric characters of the license plate, state of issue, and vehicle descriptors before proceeding. Department members alerted to the fact that an observed motor vehicle's license plate is entered as a Hot Plate (hit) in a specific BOLO (be on the lookout) list are required to make a reasonable effort to confirm that a wanted person is actually in the vehicle and/or that a reasonable basis exists before a Department member would have a lawful basis to stop the vehicle.

(3) Department members will clear all stops from hot list alerts by indicating the positive ALPR Hit, i.e., with an arrest or other enforcement action. If it is not obvious in the text of the call as to the correlation of the ALPR Hit and the arrest, then the Department member shall update with the Communications Dispatcher and original person and/or a crime analyst inputting the vehicle in the hot list (hit).

(4) General Hot Lists (SVS, SFR, and SLR) will be automatically downloaded into the ALPR system a minimum of once a day with the most current data overwriting the old data.

(5) All entries and updates of specific Hot Lists within the ALPR system will be documented by the requesting Department member within the appropriate general offense report. As such, specific Hot Lists shall be approved by the ALPR Administrator.

(6) Administrator (or his/her designee) before initial entry within the ALPR system. The updating of such a list within the ALPR system shall thereafter be accomplished pursuant to the approval of the Department member's immediate supervisor. The hits from these data sources should be viewed as informational; created solely to bring the officers attention to specific vehicles that have been associated with criminal activity.

All Hot Plates and suspect information entered into the ALPR system will contain the following information as a minimum:

- Entering Department member's name
- Related case number.
- Short synopsis describing the nature of the originating call

~~(g)~~(h) Login/Log-Out Procedure. To ensure proper operation and facilitate oversight of the ALPR system, all users will be required to have individual credentials for access and use of the systems and/or data, which has the ability to be fully audited.

Permitted/Impermissible Uses. The ALPR system, and all data collected, is the property of the Berkeley Police Department. Department personnel may only access and use the ALPR system for official and legitimate [California](#) law enforcement purposes consistent with this Policy. The following uses of the ALPR system are specifically prohibited:

1. Invasion of Privacy: Except when done pursuant to a court order such as a search warrant, is a violation of this Policy to utilize the ALPR to record license plates except those of vehicles that are exposed to public view (e.g., vehicles on a public road or street, or that are on private property but whose license plate(s) are visible

from a public road, street, or a place to which members of the public have access, such as the parking lot of a shop or other business establishment).

2. Harassment or Intimidation: It is a violation of this Policy to use the ALPR system to harass and/or intimidate any individual or group.
3. Use Based on a Protected Characteristic. It is a violation of this policy to use the LPR system or associated scan files or hot lists solely because of a person's, or group's race, gender, religion, political affiliation, nationality, ethnicity, sexual orientation, disability, or other classification protected by law.
4. Personal Use: It is a violation of this Policy to use the ALPR system or associated scan files or hot lists for any personal purpose.
5. First Amendment Rights. It is a violation of this policy to use the LPR system or associated scan files or hot lists for the purpose or known effect of infringing upon First Amendment rights.

(i) Anyone who intentionally engages in an impermissible use of the ALPR system or associated scan files or hot lists may shall be subject to administrative sanctions, up to and including termination, pursuant to and consistent with the relevant collective bargaining agreements and departmental policies. Partial license plates reported during crimes may be entered into the ALPR system in an attempt to identify suspect vehicles.

(j) Anyone who negligently engages in an impermissible use of the ALPR system or associated scan files or hot lists may be subject to administrative sanctions, up to and including termination, pursuant to and consistent with the relevant collective bargaining agreements and departmental policies. Partial license plates reported during crimes may be entered into the ALPR system in an attempt to identify suspect vehicles.

No ALPR operator may access California Law Enforcement Telecommunications System (CLETS) data unless otherwise authorized to do so. If practicable, the officer should verify an ALPR response through the California Law Enforcement Telecommunications System (CLETS) before taking enforcement action that is based solely on an ALPR alert.

1305.4 DATA COLLECTION

The Investigations Division Captain is responsible for ensuring systems and processes are in place for the proper collection and retention of ALPR data. Data will be transferred from vehicles to the designated storage in accordance with department procedures. ~~The Department should if feasible find a solution to transfer evidentiary hit data into its digital evidence repository through secure integration. Evidentiary hit data shall be transferred into the Department's digital evidence repository through secure integration.~~

All ALPR data downloaded to the ALPR server should be stored for no longer than 30 days, and in accordance with the established records retention schedule. Thereafter, ALPR data should be purged unless it has become, or it is reasonable to believe it will become, evidence in a criminal or civil action or is subject to a discovery request or other lawful action to produce records. In those circumstances the applicable data should be downloaded from the server and uploaded into BPD's digital evidence repository.

ALPR vendor, will store the data (data hosting) and ensure proper maintenance and security of data stored in their data towers. The ALPR vendor will purge their data at the end of the 30 days of storage. However, this will not preclude Berkeley Police Department from maintaining

any relevant vehicle data obtained from the system after that period pursuant to the established City of Berkeley retention schedule mentioned above or outlined elsewhere. Relevant vehicle data are scans corresponding to the vehicle of interest on a hot list. The ALPR vendor and Department shall ensure that the necessary data is captured and stored to accurately report the relevant data required in the Annual Surveillance Technology report. Once the City Council approves the Annual Surveillance Technology report all said data may be purged so long as it doesn't violate the Retention guidelines.

Restrictions on use of vendor Data: Information gathered or collected, and records retained by the vendor's cameras or any other Berkeley Police Department ALPR system will not be sold, accessed, or used for any purpose other than legitimate California law enforcement or public safety purposes.

1305.5 DATA ACCESS

- (a) No member of this department shall operate ALPR equipment or access ALPR data without first completing department-approved training.
- (b) No ALPR operator may access California Law Enforcement Telecommunications System (CLETS) data unless otherwise authorized to do so.
- (c) If practical, an operator should verify an ALPR response through the California Law Enforcement Telecommunications System (CLETS) before taking enforcement action that is based solely on an ALPR alert.

1305.6 DATA PROTECTION

Surveillance Use Policy-Fixed ALPRs

All saved data will be safeguarded and protected by both procedural and technological means. The Berkeley Police Department will observe the following safeguards regarding access to and use of stored data (Civil Code § 1798.90.51; Civil Code § 1798.90.53):

- (a) Non-law enforcement requests for access to stored ALPR data shall be processed according to the Records Maintenance and Release Policy in accordance with applicable law.
- (b) All ALPR data downloaded to any workstation or server shall be accessible only through a login/password-protected system capable of documenting all access of information by name, date and time (Civil Code § 1798.90.52).
- (c) Berkeley Police Department members approved to access ALPR data under these guidelines are permitted to access the data for legitimate California law enforcement purposes only, such as when the data relate to a specific criminal investigation or department-related civil or administrative action.
- (d) Aggregated ALPR data not related to specific criminal investigations shall not be released to any local, state or federal agency or entity without the consent of the Chief of Police or City Manager (i.e. If transportation department requested volume of vehicular traffic associated with specific events, it could conceivably be provided with the count of vehicles, but not the specific license plates with appropriate permissions).
- (e) Measures will be taken to ensure the accuracy of ALPR information. Errors discovered in ALPR data collected by ALPR units shall be marked, corrected or deleted in accordance with the type and severity of the error in question.
- (f) ALPR system audits will be conducted by the Professional Standards Bureau's Audit and Inspections Sergeant on a regular basis, at least biennial.
- (g) Such ALPR data may be released to other authorized and verified law enforcement officials and agencies for legitimate California law enforcement purposes.
- (h) Every ALPR Detection Browsing Inquiry must be documented by either the associated Berkeley Police case number or incident number, and/or a reason for the inquiry

For security or data breaches, see the Records Release and Maintenance Policy.

1305.7 CIVIL LIBERTIES AND RIGHTS PROTECTION

The Berkeley Police Department is dedicated to the most efficient utilization of its resources and services in its public safety endeavors. The Berkeley Police Department recognizes the need to protect its ownership and control over shared information and to protect the privacy and civil liberties of the public, in accordance with federal and state law. The procedures described within this policy (Data Access, Data Protection, Data Retention, Public Access and Third-Party Data Sharing) protect against the unauthorized use of ALPR data. These policies ensure the data is not used in a way that would violate or infringe upon anyone's civil rights and/or liberties, including but not limited to potentially disparate or adverse impacts on any communities or groups.

Surveillance Use Policy-Fixed ALPRs

1305.8 DATA RETENTION

All ALPR data belongs to the Department. All ALPR data downloaded to the ALPR server should be stored for no longer than 30 days, and in accordance with the established records retention schedule. Thereafter, ALPR data should be purged unless it has become, or it is reasonable to believe it will become, evidence in a criminal or civil action or is subject to a discovery request or other lawful action to produce records. In those circumstances the applicable data should be downloaded from the server and uploaded into BPD's digital evidence repository.

ALPR vendor, will store the data (data hosting) and ensure proper maintenance and security of data stored in their data towers. The ALPR vendor will purge their data at the end of the 30 days of storage. However, this will not preclude Berkeley Police Department from maintaining any relevant vehicle data obtained from the system after that period pursuant to the established City of Berkeley retention schedule mentioned above or outlined elsewhere. Relevant vehicle data are scans corresponding to the vehicle of interest on a hot list. The ALPR vendor and Department shall ensure that the necessary data is captured and stored to accurately report the relevant data required in the Annual Surveillance Technology report. Once the City Council approves the Annual Surveillance Technology report all said data may be purged so long as it doesn't violate the Retention guidelines.

1305.9 PUBLIC ACCESS

All data and images gathered by the ALPR are for the official use of this department. Because such data may contain confidential information, it is not open to public review.

The Department shall to the extent feasible aim to offer a transparency portal wherein the number of scans, hits, and queries is available to the public in real-time, or as near as real-time as feasible. All data shall be reported in the Annual Surveillance Technology Report.

1305.10 THIRD PARTY DATA-SHARING

The ALPR data may be shared only with other law enforcement or prosecutorial agencies for official law enforcement purposes or as otherwise permitted by law.

(a) A supervisor at the requesting agency will sign an acknowledgement letter stating that the shared data will only be used for the purposes that are aligned with the Berkeley Police Department's policy. The Berkeley Police Department does not permit the sharing of ALPR data gathered by the City or its contractors/subcontractors for purpose of federal immigration enforcement, these federal immigration agencies include Immigrations and Customs Enforcement (ICE) and Customs and Border Patrol (CBP). *See attached letter.*

(b) The signed letter is retained on file. Requests for ALPR data by non-law enforcement or non-prosecutorial agencies will be processed as provided in the Records Maintenance and Release Policy (Civil Code § 1798.90.55).

(c) All signed letters shall be routed to the Audit and Inspection Sergeant for compliance and reporting.

ALPR data is subject to the provisions of the Berkeley Police Department's Immigration Law Policy, and hence may not be shared with federal immigration enforcement officials.

1305.11 TRAINING

Training for the operation of ALPR Technology shall be provided by BPD personnel. All BPD

Surveillance Use Policy-Fixed ALPRs

employees who utilize ALPR Technology shall be provided a copy of this Surveillance Use Policy.

1305.12 AUDITING AND OVERSIGHT

ALPR system audits will be conducted by the Professional Standards Bureau's Audit and Inspections Sergeant on a regular basis, at least biannually. The data from the fixed ALPRs shall be reported annually in the Surveillance Technology Report.

Any ALPR data or images that are utilized for an investigation that becomes evidence in a case will be made available to the Office of the Director of Police Accountability (ODPA) as it relates to a specific complaint of misconduct. Additionally, the results of any audits will be shared with the ODPA upon their completion.

1305.13 MAINTENANCE

Any installation and maintenance of ALPR equipment, as well as ALPR data retention and access, shall be managed by the Investigations Division Captain or his or her designee. The Investigations Division Captain will assign members under his/her command to administer the day-to-day operation of the ALPR equipment and data. Equipment maintenance shall be provided by the vendor.

1305 APPENDIX A**BERKELEY POLICE DEPARTMENT SURVEILLANCE ACQUISITION REPORT – FIXED AUTOMATED LICENSE PLATE READERS**

FIXED AUTOMATED LICENSE PLATE READERS (ALPR)**A. DESCRIPTION**

Fixed Automated License Plate Readers (ALPRs) are cameras systems with software designed for license plate recognition. The camera systems are typically mounted on street poles, street lights, and highway overpasses.

ALPRs are designed to capture license plate numbers which come into view, along with the location, date and time. The data, which includes an image of the front or the back of the car displaying the license plate, is then uploaded to a central server operated by the vendor. The license plate data is cross referenced with systems such as Stolen Vehicle Systems (SVS), and other lists like Amber alerts to notice police of vehicles with hits.

This technology does not have facial recognition, and is not tied to any personal identifying information or used for traffic enforcement.

B. PURPOSE

Berkeley Police Department will utilize a network of fixed automated license plate readers. The ALPRs will be affixed to street poles, street lights, or other similar objects that are either owned by the City of Berkeley or wherein a right-of-way agreement has been established.

The use of ALPRs to alert police of a wanted or vehicle of interest entering into their respective jurisdiction has become increasingly more commonplace. This technology is being utilized on our local freeways, bridges, and in some instances in private parking lots.

Berkeley Police Department investigators have identified the following instances wherein the use of an effective deployment of ALPRs could have aided the Berkeley Police Department in it's efforts to focus on the wanted vehicle prior to a crime occurring in the City of Berkeley, and potentially avoided an instance of victimization from happening.

RECENT CASES OF INTEREST

- 1.) BPD had an armed robbery in which the victim was pistol-whipped. The suspects fled in a vehicle. BPD officers located the vehicle and a pursuit ensued. The license plate on the vehicle was reported as a wanted vehicle for an armed robbery in San Ramon. Had this vehicle entered the City of Berkeley, and the vehicle passed an ALPR- BPD Officers could have been focused on finding this offender in an advance of this violent robbery.
- 2.) Victim was carjacked of his Toyota Rav-4. The suspect vehicle two days later was used in a murder that occurred in a nearby East Bay City. This same vehicle was used in a robbery in Oakland. The stolen property in the Oakland robbery was tracked back into Berkeley. Then this same vehicle was used to commit a robbery in Berkeley at Woolsey

1305 APPENDIX A**BERKELEY POLICE DEPARTMENT SURVEILLANCE ACQUISITION REPORT – FIXED AUTOMATED LICENSE PLATE READERS**

and Telegraph. The vehicle was listed as a car-jacking vehicle from the initial crime, ALPRs could have alerted BPD prior to the property being discarded in Berkeley, as well as the final robbery listed in this synopsis.

3.) Home invasion robbery in Berkeley wherein the suspect came in a stolen vehicle, listed in SVS as a wanted vehicle. The suspect violently attacked the resident. The suspect was arrested shortly after in San Pablo due to an ALPR hit. Suspect was unknown but identified due to having the victims stolen property.

4.) An armed robbery occurred in Berkeley the suspects fled in a cold plated stolen vehicle, meaning the vehicle was listed as wanted in SVS. San Pablo PD stopped the suspect vehicle due to the want associated to the license plate. Suspect was arrested and was in possession of a firearm. Suspect was eventually also linked to a stranger sexual assault case.

5.) A robbery of Valero in Berkeley occurred. The suspect arrived in stolen vehicle. The suspect was subsequently arrested by San Mateo PD due to an ALPR hit.

6.) A Victim called BPD to report his carjacked/stolen vehicle (from Union City), was tracking in South Berkeley. The victim was originally carjacked via gun by a group of suspects in Union City a few days prior. Moreover, Officers responded to South Berkeley but were unable to locate the victim's vehicle. The victim later tracked his carjacked/stolen vehicle to 1370 University Ave. Officers responded to this location and located the victim's vehicle. Three juveniles and one adult fled from the vehicle but were captured by the Officers. A search of the vehicle yielded a concealed/loaded firearm.

CATALYTIC CONVERTER THEFTS WITH GUNFIRE

7.) A theft of a catalytic converter took place at 5th and Hearst. The suspect vehicle's license plate was captured on video surveillance. BPD put a felony stop on the vehicle. San Pablo PD located the vehicle using their ALPR system and arrested the driver who was in possession of a loaded handgun.

8.) A catalytic converter theft occurred at 145 Hillcrest Road. The suspect vehicle's license plate was captured on video surveillance. BPD put a felony stop on the vehicle. Pinole PD located the vehicle. During a search of the vehicle, BPD located an assault rifle (ghost gun) and arrested the suspect.

9.) A pickup truck, wanted in SVS due to it being reported as a stolen vehicle, entered Berkeley. The aforementioned was caught in the act of cutting a catalytic converter

1305 APPENDIX A**BERKELEY POLICE DEPARTMENT SURVEILLANCE ACQUISITION REPORT – FIXED AUTOMATED LICENSE PLATE READERS**

from a vehicle on the 1800 block of 4th Street. Witnesses and a Security guard confronted the suspects. The suspects fled, and then immediately returned to shoot at the witness and security guard.

PROPERTY CRIME

10.) An auto burglary occurred at 1316 San Pablo Avenue and the victim obtained a license plate. A felony entry was made on the license plate. Pittsburg PD located the suspect vehicle due to an ALPR hit. The vehicle failed to yield and crashed. The driver was arrested for the failure to yield and Pittsburg PD located a loaded handgun in her purse.

11.) A suspect drove into Berkeley in a stolen vehicle, listed in SVS. The suspect drove to the driveway of 1626 Berkeley Way and proceeded to steal that resident's vehicle.

12.) Two suspects drove a reported stolen auto to Berkeley Bowl West. The suspects then burglarized a victim's vehicle. The suspect then proceeded to Emeryville where they used the Victim's identity to commit identity theft.

13.) A series of auto burglaries were committed in the area of San Pablo and Gilman. The suspects were seen getting into a vehicle which was listed in SVS as a stolen vehicle. Two days later a nearby city reported the same vehicle was used in a murder in that city. ALPR system could have notified officers of that wanted vehicle and helped in the capture of the suspects, and potentially intervened before the subsequent murder.

HOMICIDE

14.) Another agency reported a vehicle used in a murder, with a known license plate was entered into SVS with a felony want (associated with a murder). On 08/02/22 the vehicle was located in Berkeley. The associated suspects were located after fleeing from officers.

15.) BPD officers responded to a report of a person casing a house. Upon their arrival the suspects fled in a white sedan. That sedan was determined to be a reported stolen auto. The sedan fled from officers after they activated their emergency lights and sirens. The same vehicle was reported to be involved in a road rage incident in an adjacent city wherein the suspects shot and killed the victim on the freeway.

SEX/DV CRIMES

16.) This is a DV case in which the suspect fought with his adult girlfriend causing visible injury and then chased his girlfriend's 12 year old daughter down the street and shot at

1305 APPENDIX A**BERKELEY POLICE DEPARTMENT SURVEILLANCE ACQUISITION REPORT – FIXED AUTOMATED LICENSE PLATE READERS**

her with a firearm. San Pablo PD had an ALPR hit from this Berkeley PD case. The suspect ran from San Pablo PD and a gun was recovered from him.

17.) This is a series of peeping and prowling incidents against female UC Berkeley students. The suspect was driving for a ride share service and was in and out of Berkeley for the several months. The suspect was homeless, and thereby conventional methods of locating the suspect weren't fruitful.

C. LOCATION

BPD proposes to install 52 fixed ALPRs in the City of Berkeley. While the cameras are permanent installations, if found ineffective in the installed location, the Department can elect to move the camera to another location at nominal cost. It's preferred to leave cameras installed in locations for periods of minimally a year. Locations will be determined using crime data, known locations of ingress or egress into the City of Berkeley, and commonly known direction of travel after criminal acts based on information provided from investigators. The Department will balance the need to deploy the camera systems equitably across the City of Berkeley with the need to deploy the cameras in an effective manner. BPD will solicit input from the vendor for an effective deployment.

D. IMPACT

The Berkeley Police Department is dedicated to the most efficient utilization of its resources and services in its public safety endeavors. The Berkeley Police Department recognizes the need to protect its ownership and control over shared information and to protect the privacy and civil liberties of the public, in accordance with federal and state law. The procedures utilized with ALPR Units will help to ensure unauthorized use of its data. The procedures will ensure the data is not used in a way that would violate or infringe upon anyone's civil rights and/or liberties, including but not limited to potentially disparate or adverse impacts on any communities or groups.

E. MITIGATION

All saved data will be safeguarded and protected by both procedural and technological means which are implemented to safeguard the public from any impacts identified in subsection (D). See subsection (G) for further.

F. DATA TYPES AND SOURCES

Images of license plates and location metadata may be obtained through the use of ALPR cameras. The vendor's system may have searching capabilities due to technology from machine learning

1305 APPENDIX A**BERKELEY POLICE DEPARTMENT SURVEILLANCE ACQUISITION REPORT – FIXED AUTOMATED LICENSE PLATE READERS**

that allow officers to search by vehicle type, make, color, license plate state, bumper sticker (the presence of a bumper sticker, not the image or content), decals (again the presence of a decal, not the image or content) and roof racks. All data stored in the vendor's servers shall be securely protected with end-to-end encryption.

G. DATA SECURITY

BPD takes data security seriously. All saved data will be safeguarded and protected by both procedural and technological means. The Berkeley Police Department will observe the following safeguards regarding access to and use of stored data (Civil Code § 1798.90.51; Civil Code § 1798.90.53):

- (a) Non-law enforcement requests for access to stored ALPR data shall be processed according to the Records Maintenance and Release Policy in accordance with applicable law.
- (b) All ALPR data downloaded to any workstation or server shall be accessible only through a login/password-protected system capable of documenting all access of information by name, date and time (Civil Code § 1798.90.52).
- (c) Berkeley Police Department members approved to access ALPR data under these guidelines are permitted to access the data for legitimate law enforcement purposes only, such as when the data relate to a specific criminal investigation or department-related civil or administrative action.
- (d) Aggregated ALPR data not related to specific criminal investigations shall not be released to any local, state or federal agency or entity without the consent of the Chief of Police or City Manager.
- (e) Measures will be taken to ensure the accuracy of ALPR information. Errors discovered in ALPR data collected by ALPR units shall be marked, corrected or deleted in accordance with the type and severity of the error in question.
- (f) ALPR system audits will be conducted by the Professional Standards Bureau's Audit and Inspections Sergeant on a regular basis, at least biennial.
- (g) Such ALPR data may be released to other authorized and verified law enforcement officials and agencies for legitimate law enforcement purposes.
- (h) Every ALPR Detection Browsing Inquiry must be documented by either the associated Berkeley Police case number or incident number, and/or a reason for the inquiry

For security or data breaches, see the Records Release and Maintenance Policy.

1305 APPENDIX A**BERKELEY POLICE DEPARTMENT SURVEILLANCE ACQUISITION REPORT – FIXED AUTOMATED LICENSE PLATE READERS**

H. FISCAL COST

Since the City of Berkeley has not acquired the specific cameras, the costs can only be estimated. BPD expects the individual camera costs to range from \$2500-\$5000 each, with the installation to vary. BPD believes that for the proposed 52 camera deployment the cost to purchase and install to not exceed an initial cost of \$250,000. The yearly subscription cost may fluctuate but is expected to range from \$125,000 to \$175,000 a year.

I. THIRD-PARTY DEPENDENCE AND ACCESS

ALPR vendor would store the data (data hosting) and ensure proper maintenance and security of data stored in their data towers. The vendor will purge their data at the end of 30 days of storage. However, this will not preclude Berkeley Police Department from maintaining any relevant vehicle data obtained from the system after that period pursuant to the established City of Berkeley retention schedule (i.e. if detectives establish a hit results in evidentiary value it should be incorporated into the digital evidence of that specific case, and thereby would be kept longer than the aforementioned 30 days).

Restrictions on use of fixed ALPR Data: Information gathered or collected, and records retained by the Vendor will not be sold, accessed, or used for any purpose other than legitimate law enforcement or public safety purpose unless allowed by policy (i.e. metadata will be permissible use for annual surveillance reporting).

An ALPR shall only be used for official law enforcement business.

Use of an ALPR is restricted to the purposes outlined below. Department members shall not use, or allow others to use the equipment or database records for any unauthorized purpose (Civil Code § 1798.90.51; Civil Code § 1798.90.53).

- (a) An ALPR shall only be used for official law enforcement business.
- (b) An ALPR may be used in conjunction with any routine patrol operation or to support criminal investigations. Reasonable suspicion or probable cause is not required before using an ALPR.
- (c) Partial license plates and unique vehicle descriptions reported during major crimes should be entered into the ALPR system in an attempt to identify suspect vehicles.

The ALPR system, and all data collected, is the property of the Berkeley Police Department. Department personnel may only access and use the ALPR system for official and legitimate law enforcement purposes consistent with this Policy. The following uses of the ALPR system are specifically prohibited:

- (1) Invasion of Privacy: Except when done pursuant to a court order such as a search warrant, is a violation of this Policy to utilize the ALPR to record license plates except

1305 APPENDIX A

BERKELEY POLICE DEPARTMENT SURVEILLANCE ACQUISITION REPORT – FIXED AUTOMATED LICENSE PLATE READERS

those of vehicles that are exposed to public view (e.g., vehicles on a public road or street, or that are on private property but whose license plate(s) are visible from a public road, street, or a place to which members of the public have access, such as the parking lot of a shop or other business establishment).

(2) Harassment or Intimidation: It is a violation of this Policy to use the ALPR system to harass and/or intimidate any individual or group.

(3) Use Based on a Protected Characteristic. It is a violation of this policy to use the ALPR system or associated scan files or hot lists solely because of a person's, or group's race, gender, religion, political affiliation, nationality, ethnicity, sexual orientation, disability, or other classification protected by law.

(4) Personal Use: It is a violation of this Policy to use the ALPR system or associated scan files or hot lists for any personal purpose.

(5) First Amendment Rights. It is a violation of this policy to use the LPR system or associated scan files or hot lists for the purpose or known effect of infringing upon First Amendment rights.

Anyone who engages in an impermissible use of the ALPR system or associated scan files or hot lists may be subject to administrative sanctions, up to and including termination, pursuant to and consistent with the relevant collective bargaining agreements and departmental policies.

The ALPR data may be shared only with other law enforcement or prosecutorial agencies for official law enforcement purposes or as otherwise permitted by law.

(a) A supervisor at the requesting agency will sign an acknowledgement letter stating that the shared data will only be used for the purposes that are aligned with the Berkeley Police Department's policy. The Berkeley Police Department does not permit the sharing of ALPR data gathered by the City or its contractors/subcontractors for purpose of federal immigration enforcement, these federal immigration agencies include Immigrations and Customs Enforcement (ICE) and Customs and Border Patrol (CBP).

(b) The signed letter is retained on file. Requests for ALPR data by non-law enforcement or non-prosecutorial agencies will be processed as provided in the Records Maintenance and Release Policy (Civil Code § 1798.90.55).

J. ALTERNATIVES

An alternative is the deployment of additional police resources. The inherent problems with this alternative is that it is difficult to hire and train additional police officers and the cost would be

1305 APPENDIX A

BERKELEY POLICE DEPARTMENT SURVEILLANCE ACQUISITION REPORT – FIXED AUTOMATED LICENSE PLATE READERS

significantly higher than adding technology. Furthermore, this technology furthers the Department's goal in protecting and safeguarding our community through precision based policing strategies.

K. EXPERIENCE OF OTHER ENTITIES

Currently, in Alameda County, the following cities have ALPR programs, The Alameda County Sheriff's Office, Alameda PD, Emeryville PD, Fremont PD, Hayward PD, Livermore PD, Newark PD, Oakland PD, Piedmont PD, Pleasanton PD, San Leandro PD, Union City PD, and the California Highway Patrol. The only agency in Alameda County to not utilize ALPRs is Albany PD.

Representatives from Newark indicated success with their program. No notable issues have arisen as a result of this program. Additionally, no unexpected expenditures have come from this program that were unforeseen.

Representatives from indicated similar to the above, success with their program. No notable issues have arisen as a result of this program. Additionally, no unexpected expenditures have come from this program that were unforeseen.



Office of the City Manager

July 25th, 2023

To: Honorable Mayor and City Council Members

From: Dee Williams-Ridley, City Manager

Submitted by: Jennifer Louis, Chief of Police

Subject: Response to the PAB Objections and PSPC on Surveillance Ordinance item related to Fixed Automated License Plate Readers (ALPRs)

CURRENT SITUATION AND ITS EFFECTS

The Berkeley Police Department received feedback regarding the proposed policies from the Police Accountability Board at an ad hoc PAB meeting on 6/16/23 and the Public Safety Policy Committee meeting on 6/20/23. The purpose of this memorandum is to address those concerns.

On June 16, 2023, Chief Louis received via electronic mail an Objection to the Berkeley Police Department Surveillance Acquisition Report – Fixed Automated License Plate Readers (ALPR) and Proposed Policies 422 and 1305 from PAB Chair John “Chip” Moore. That document listed four primary concerns with eight subsections that are restated and addressed below.

1.) Civil Liberties Protections: The proposed acquisition report and policies need to provide stronger safeguards and assurances for protecting civil liberties and privacy rights. It is essential to ensure that the acquisition and use of ALPRs do not infringe upon the rights of individuals in our community. For example:

a. One PAB member expressed concerns that the acquisition report or the policies don’t provide safeguards for this surveillance technology or its data being used in a way that could run afoul of reproductive rights by recording movements or location patterns of individuals seeking medical attention or health services for reproductive rights.

BPD Response:

At the recommendation of a PAB Member on 6/20/23, the Department has modified the language to include “California” law enforcement purposes to address this concern. The policy was changed from “legitimate law enforcement purposes” to “legitimate **California** law enforcement purposes”

b. The PAB stated concern that the Department indicates “*Reasonable suspicion or probable cause is not required before using an ALPR*”, but provides no clear

SURVEILLANCE ORDINANCE ITEMS

examples of a scenario where the technology may be required to be used without reaching these important legal thresholds.

BPD Response:

ALPR is a tool that assists law enforcement in several manners. First, it is proactive by alerting patrol officers when a wanted vehicle passes through an intersection that is equipped with an ALPR. Additionally, as the Department shared in both the PAB subcommittee meeting on 6/16/23 and the PSPC meeting on 6/20/23, ALPR also has a second use as a potential to aid in developing probable cause. An example of this use would be if a shooting occurred at Sacramento and Ashby with a white vehicle fleeing. The use of an ALPR could further the detective's ability to establish probable cause and further an investigation. Additionally, officers investigating missing person cases would be able to add a vehicle license plate to the missing person report, but not every missing person case would have probable cause or reasonable suspicion as it's not necessarily a crime.

Furthermore, in a PAB meeting, it was clarified that in this language that the PAB cites (from Policy 422.5(b) and 1305.3(b)) the Department has added Reasonable suspicion or probable cause is not required before using an ALPR **database**. This further refines the point that this applies to the database. It was not intended to mislead that an enforcement stop could be conducted outside of the constitutionally guided authority.

c. There appears to be unclear language about retention periods. In one section the Department indicates, "*The ALPR vendor will purge their data at the end of the 30 days of storage.*" Then, the Department includes seemingly contradictory language in its policy: "*However, this will not preclude Berkeley Police Department from maintaining any relevant vehicle data obtained from the system after that period pursuant to the established City of Berkeley retention schedule mentioned above or outlined elsewhere.*" (see Section 1305.4 of the proposed policy).

BPD Response:

This language indicates that any ALPR hit that becomes part of a case would be downloaded into the digital evidence repository and subject to the pre-established retention guidelines for evidence pursuant to BPD Policy 804 Records Release Management.

2) Lack of Empirical Support or Data justifying the need or its intended use: We have noted a lack of empirical evidence or data demonstrating the effectiveness of the technology in achieving its intended goals here in the City of Berkeley. While the PAB is aware the BPD has reported an increase in crime in specific categories over the years, comparable jurisdictions with or without this technology have not been analyzed to

SURVEILLANCE ORDINANCE ITEMS

determine potential effectiveness for those crime categories. Before moving forward with the acquisition, it is crucial to have solid evidence that ALPRs will significantly contribute to solving criminal investigations and enhancing public safety beyond the highlighted cases the Department cites in the Acquisition Report.

a. The ODPa's report cited the IACP (2022) survey³ which indicated, "*Although research is sparse, there is some evidence that suggests LPR use is effective at preventing crime.*" However, the Acquisition Report fails to adequately provide a data-based justification for why the City of Berkeley needs to adopt this technology.

BPD Response:

The Department has brought forth this item in response to a City Council Budget Referral Item. However, in 2020 Berkeley Police reported to the FBI a total of 805 vehicle thefts. As of 6/20/23, in the past 180 days, Berkeley Police had 704 reported vehicle thefts. This data indicates that for the first half of 2023, the City has reached 87% of vehicle thefts for the entire year of 2020. If that trend continues that could lead to a 74% increase in vehicle thefts. According to a record management query, BPD year to date has noted the loss in vehicle thefts for the City of Berkeley (only those reported to BPD, not including BART, or UCPD-Berkeley as of 6/26/23) is \$1,949,386 in losses just from the vehicles; which does not include lost wages, or emotional losses.

b. As noted in the ODPa report, as currently written, the *Purpose* section of the BPD's Acquisition Report does not explicitly mention a data-based justification for the use of ALPRs (beyond the highlighted cases of interest). To strengthen the justification for the acquisition, the BPD needs to provide statistical analyses (or other data analyses) demonstrating the effectiveness of ALPRs in reducing the specific crime problems the City would like to resolve.

BPD Response:

The item was drafted in response to a City Council Budget referral. However, as it relates to effectiveness, it's difficult to empirically capture the expected effectiveness though the Department expects there to be both a deterrent effect as well as a direct measurable impact. While some cities like Alameda have few entrances and exits to the city via roadway, Berkeley has several dozens of roadways that enter and exit our neighboring cities. BPD is not recommending tracking all of those avenues but rather focuses on the main corridors with the limited number of cameras proposed. BPD is proposing in this item a two-year trial period wherein the data can be tracked in the Annual STO report. At the end of the trial period City Council will ultimately decide on the extent of continued use.

3) Concerns about True Financial Costs: The PAB has concerns about the true costs

SURVEILLANCE ORDINANCE ITEMS

associated with the technology, including potential hidden costs, maintenance expenses, and long-term financial commitments. It is essential to have a comprehensive understanding of the financial implications and ensure that the benefits outweigh the costs.

BPD Response:

BPD is confident in our ask for Council authority as outlined in section H of the Acquisition Report, where BPD indicates that the initial cost is not to exceed \$250,000 and that the annual subscription cost is not to exceed \$175,000 a year based on the current costs. This is an all-inclusive cost as the equipment is leased, and all maintenance is assumed by the vendor.

4) Lack of Completeness of the Acquisition Report and Proposed Policies: The proposed policies require further clarity, elaboration, and editing. Particularly, the Department should clearly outline the intended uses of the data, retention periods, access controls, and measures to protect against potential misuse or unauthorized access (to include more information about minimum training requirements for the users of the technology). For example:

a. The PAB stated that in the proposed policies, the Department uses language to emphasize the importance of data privacy, protection of civil liberties, and accountability but has a weak approach to misuse in Section 422.5 of the proposed policy, “ *Anyone who engages in an impermissible use of the ALPR system or associated scan files or hot lists **may be subject to administrative sanctions**, up to and including termination, pursuant to and consistent with the relevant collective bargaining agreements and departmental policies.*” (emphasis added). Adherence to the policy needs to be nonnegotiable, therefore the Department needs to modify the language to indicate that impermissible uses **SHALL** be subject to administrative sanctions.

BPD Response:

BPD proposes the following edit as discussed at PSPC on 6/20/23:

Anyone who intentionally engages in an impermissible use of the ALPR system or associated scan files or hot lists shall be subject to administrative sanctions, up to and including termination, pursuant to and consistent with the relevant collective bargaining agreements and departmental policies.

Anyone who negligently engages in an impermissible use of the ALPR system or associated scan files or hot lists may be subject to administrative sanctions, up to and including termination, pursuant to and consistent with the relevant collective bargaining agreements and departmental policies.

SURVEILLANCE ORDINANCE ITEMS

b. Section 422.10 of the proposed policy mentions the requirement for training but does not specify what that will look like. As noted in the ODPa report, the BPD should outline the minimum training requirements provided to officers on the proper use of ALPRs and adherence to privacy and civil rights standards.

BPD Response:

Training is offered by FLOCK upon entering into a contract. The training will cover the use of the technology, equipment, and policy. BPD will help in the creation of robust training to ensure officers are able to properly and lawfully utilize the ALPRs upon Council approval.

c. Without clear articulation of the minimum training requirements, the Board has concerns regarding Sections 422.5 and 1305.3 of the proposed policies which encapsulate conditions for use, standards to be observed for various circumstances (stop of car vs. stop of person for example) and required verification before certain activities can be taken.

BPD Response:

The Department does not anticipate the use of ALPRs to lead to stops of persons, also referred to as pedestrian stops. However, as explained at the PAB meeting on 06/27/23, nothing changes the legal parameters that guide the permissibility of detentions.

As with any new or updated policy issued by the Department, an appropriate training plan will be developed to ensure personnel are aware of how to use technology and the policy that guides its use. For this technology, training will be provided by the vendor. It's premature to develop a training plan in advance of Council approval, and without knowing the vendor for certain. If the vendor is Flock they offer a training program which will be made available on the Department's Website. As for concern for adherence to the policy, all policy violations are enforced pursuant to Policy 1010. Regardless of training, no officer can use the system without acknowledging the policy and understanding the consequences of policy violations.

OTHER CONCERNS ADDRESSED:**PAB reviewing ALPR data**

PAB/DPA sought language added to the policy to codify their ability to review materials related to the ALPR system.

BPD Response:

The Department has included the following language in the policy (422.10 & 1305.12):

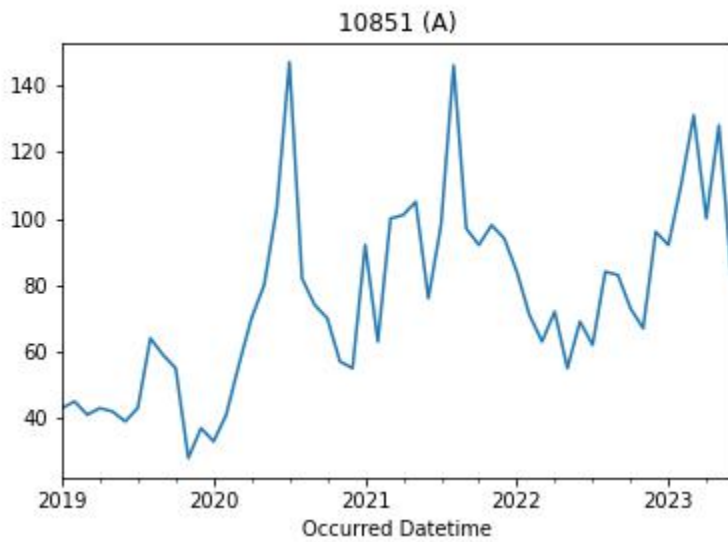
Office of the Director of Police Accountability

SURVEILLANCE ORDINANCE ITEMS

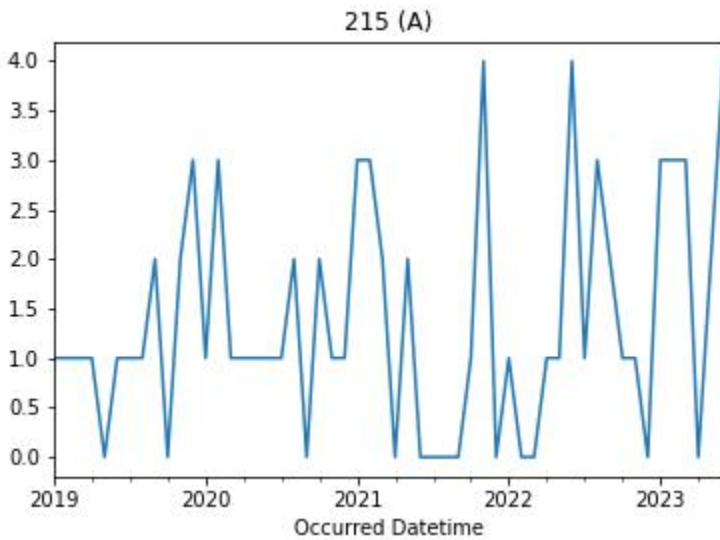
Any ALPR data or images that are utilized for an investigation that becomes evidence in a case will be made available to the ODPa as it relates to a specific complaint of misconduct. Additionally, the results of any audits will be shared with the ODPa upon their completion.

A member asked about Berkeley's Stolen Vehicle trends

BPD Response:



According to BPD Law Enforcement Records Management System (VC 10851 – vehicle theft)



According to BPD Law Enforcement Records Management System (PC 215 – Car-jacking)

SURVEILLANCE ORDINANCE ITEMS

A member asked about other nearby agencies utilizing ALPR's and any data as to the effectiveness.

BPD Response:

	# of ALPR	Population 2021	Annual Auto Thefts-2020 FBI UCR	Cameras per #persons
BART			100	
Piedmont	34	11,107	67	1:326
El Cerrito	40	25,845	105	1:646
Hercules	25	26,091	39	1:1043
Benicia	45	26,819	48	1:596
San Pablo	84	31,773	306	1:378
UC Berkeley		45,057	38	
Alameda (City)	35	76,362	470	1:2181
Richmond	40	115,639	1,511	1:2890
BERKELEY	*52	117,145	805	1:2252
Concord	65	124,074	695	1:1908
Vallejo	98	124,886	1,067	1:1274

ODPA Mitigation and Data Security

While the Department indicates that it will safeguard and protect data through procedural and technological means, Policy 1305 should be strengthened to reflect this commitment. Specifically, the BPD should consider revising 1305.4 Data Collection in the following manner:

BPD Response:

Current Language: The Department should if feasible find a solution to transfer evidentiary hit data into its digital evidence repository through secure integration.

Suggested Language: *Evidentiary hit data shall be transferred into the Department's digital evidence repository through secure integration.*

The Department accepted this suggested language as proposed.

ODPA -Third Party Dependencies.

The ODPAs asserts concern that the use of ALPRs may lead to racial disparities.

BPD Response:

The Department does not anticipate the placement of ALPR may yield racial disparities. The cameras capture objective evidence and provide objective results or notifications.

SURVEILLANCE ORDINANCE ITEMS

This technology further supports the Department's goal of providing precision-based policing. The Department believes this technology furthers the goal of reducing racial disparities by leveraging objective evidence.

The Department would also like to advise the Council that California legislatures currently have AB 1463 which would restrict retention periods, require annual audits, and prohibit out-of-state sharing without a valid subpoena, court order, or warrant. This legislation is pending further approval.

On 6/20/23 at the direction of the Public Safety Policy Committee, the Department agreed to submit an off-agenda item with the placement of the ALPRs pending the Council's approval of the item.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

None identified.

CONTACT PERSON

Captain Mike Durbin, Police, Professional Standards Division (510) 981-5760



TIME CRITICAL AGENDA MATERIAL

Meeting Date: July 25, 2023

Item Description: Police Accountability Board (PAB) response to # 38. Surveillance Ordinance items related to Fixed Automated License Plate Readers (ALPRs)

Berkeley Municipal Code 2.99 “Acquisition and Use of Surveillance Technology” requires that the City Manager present a Surveillance Use Policy for each Surveillance Technology to the Police Review Commission¹ before City Council adoption. The Police Accountability Board (PAB) must receive the corresponding Surveillance Acquisition Report presented to the Council for that Surveillance Technology. Within 30 days of receiving a Surveillance Use Policy for review, the Police Review Commission must vote to recommend approval, object to the proposal, recommend modifications, or take no action.

To this end, on May 11, 2023, Berkeley Police Department Chief Louis presented the PAB with the proposed acquisition report and Policy 422 and Policy 1305—the proposed ALPR policies. On June 15, 2023, the ODPa provides a report to the PAB titled “Automatic License Plate Readers (ALPR) in the City of Berkeley: A Preliminary Review of Proposed BPD Policies by the Office of the Director of Police Accountability (ODPA) Submitted to the Police Accountability Board (PAB)”. On June 16, 2023, the PAB held a special meeting to discuss the proposed ALPR policies. The PAB voted to object to the acquisition report and proposed policies as presented. Subsequently, on that day, the PAB sent an objection letter to the BPD and City Council.

On June 20, 2023, the Public Safety Policy Committee held a special meeting to discuss the ALPR policies. The committee voted to send a qualified positive to the City Council on the condition that the PAB and BPD work to address the concerns of the PAB. On June 27, 2023, PAB Chair Moore, Board Member Wilson, Sgt. Ledoux, and ODPa Staff met to discuss the concerns of the PAB as articulated in the objection letter. On July 6, 2023, the BPD provided the PAB with the updated policies: the ALPR documents (proposed redline versions of the policies); and a memo prepared at the request of the Public Safety Policy Committee, responding to the concerns raised by the DPA/PAB. There was no change to the previously submitted Acquisition Report.

¹ * - BMC 2.99 currently references the predecessor agency the Police Review Commission (PRC). The PAB has assumed all duties and responsibilities of the PRC.

On July 6, 2023, the Office of the Director of Police Accountability (ODPA) held a virtual community input session to solicit further community input to present to the Board. During the session, ODPA staff provided the community an informative overview of various topics, including BMC 2.99 - Acquisition and Use of Surveillance Technology, BPD's Acquisition, Report for ALPRs, BPD's proposed Surveillance Use Policy, BPD's proposed Training and Operational Policy, Council Legislative History on ALPR, and the initial position of the Police Accountability Board (PAB) regarding these policies.

The PAB is in the process of reviewing the updated policies and further discuss their stance on ALPRs at their regularly scheduled July 12, 2023, meeting. On July 25, 2023, the BPD will present its acquisition report and use policies to the full City Council.

The DPA, in capacity of Secretary to the Board, respectfully requests that the Policy Committee of the City Council allow for the July 25, 2023, to include an agenda item following the presentation of **# 38. Surveillance Ordinance items related to Fixed Automated License Plate Readers (ALPRs)**. A proposed title for the agenda item can be **Police Accountability Board (PAB) response to Surveillance Ordinance items related to Fixed Automated License Plate Readers (ALPRs)**. Additionally, the DPA requests that the ODPA community input session documents be entered into the agenda packet for July 25, 2023, and any subsequent PAB produced communications pursuant to their July 12, 2023, meeting.

Attachments:

- ODPA Memorandum titled Recap of Community Input Session_ Automated License Plate Readers (ALPR): A Discussion on ALPRs in the City of Berkeley
- Invitational email
- Invitational flyer
- Opening remarks
- Input Session PowerPoint Presentation
- Transcript with YouTube video link
- Questions/comments made through the Q&A tool

Time Critical Items. A Time Critical item is defined as a matter that is considered urgent by the sponsor and that has a deadline for action that is prior to the next meeting of the Council and for which a report prepared by the City Manager, Auditor, Mayor or Council Member is received by the City Clerk after established deadlines and is not included on the Agenda Committee's published agenda.

The author of the report shall bring any reports submitted as Time Critical to the meeting of the Agenda Committee. **Per BMC 2.06.060 (D), Time Critical items must be accompanied by complete reports and statements of financial implications.**

If the Agenda Committee finds the matter to meet the definition of Time Critical, the Agenda Committee may place the matter on the Agenda on either the Consent or Action Calendar

ODPA Memorandum Titled “Recap of
Community Input Session_Automated
License Plate Readers (ALPR): A Discussion
ALPRs in the City of Berkeley” and Related
Documents



MEMORANDUM

Date: July 7, 2023
To: Police Accountability Board
From: Hansel A. Aguilar, Director of Police Accountability
Jose D. Murillo, Policy Analyst
Re: Recap of Community Input Session_ Automated License Plate Readers
(ALPR): A Discussion on ALPRs in the City of Berkeley

The purpose of this memorandum is to provide a summary of the virtual community input session that took place on Thursday, July 6, 2023, regarding the Berkeley Police Department's (BPD) proposed fixed Automated License Plate Readers (ALPR) acquisition report and policies. The session was organized by the Office of the Director of Police Accountability (ODPA) with the goal of gathering community feedback and perspectives on these important matters on behalf of the Police Accountability Board (PAB).

Key Details:

- Date: Thursday, July 6th, 2023; Time: 6:00 PM - 7:30 PM
- Location: Zoom Webinar
- Approximately 70 unique viewers participated in the session.
- Discussion format:
 - ODDPA Staff overview
 - Written Q&A available throughout the session and
 - Live comment section

During the session, ODDPA staff provided an informative overview of various topics, including BMC 2.99 - Acquisition and Use of Surveillance Technology, BPD's Acquisition Report for ALPRs, BPD's proposed Surveillance Use Policy, BPD's proposed Training and Operational Policy, Council Legislative History on ALPR, and the official position of the Police Accountability Board (PAB) regarding these policies.

The community members actively engaged in the discussion through the written Q&A format and the live comment section. Approximately 50 questions or comments were submitted through the Q&A feature, and an additional 20 were shared via the live comment section. The session facilitated diverse perspectives and inclusive dialogue, allowing participants to seek clarification, voice concerns, and express support for the proposed ALPR technology and related policies.

For your reference, the following documents are attached:

- Invitational email
- Invitational flyer
- Opening remarks
- Input Session Powerpoint Presentation
- Transcript with YouTube video link
- Questions/comments made through the Q&A tool

Overall, the staff believes the community input session was a successful platform for gathering valuable feedback and fostering dialogue on the proposed ALPR acquisition report and policies. The high level of participation demonstrates the community's interest and engagement in matters concerning public safety and surveillance technology. This forum holds great promise for future policy discussions and community involvement.

We were unable to address all comments and questions, but we will carefully review the questions, comments, and feedback received during the session to ensure a comprehensive understanding of the community's concerns and perspectives.

Public

ODPA Invitation Email to Community Members

Dear Community Members:

The Office of the Director of Police Accountability (ODPA) cordially invites you to a virtual community input session regarding the proposed fixed Automated License Plate Readers (ALPR) acquisition report and policies of the Berkeley Police Department. We value your input and believe that diverse perspectives and inclusive dialogue are essential for shaping the future of public safety in Berkeley.

During this session, our dedicated ODPA staff will provide an informative overview of the following key topics:

- BMC 2.99 - Acquisition and Use of Surveillance Technology
- Berkeley Police Department (BPD) Acquisition Report for ALPRs
- BPD Proposed Surveillance Use Policy
- BPD Proposed Training and Operational Policy
- Council Legislative History on ALPR
- Official Position of the Police Accountability Board (PAB) regarding these policies

Date: Thursday, July 6th, 2023

Time: 6:00 PM - 7:30 PM

Location: Zoom

Webinar

Webinar ID: 831 7606 7569

Link: <https://us02web.zoom.us/j/83176067569>

This community input session is a valuable opportunity for you to enhance your understanding of ALPR policies, seek clarification through questioning, and voice your concerns or show support for this technology in our community. We strongly encourage everyone to attend and actively participate in this important discussion. Please share this invitation with your friends, neighbors, and fellow community members who may have an interest in this topic. We welcome all voices and perspectives to ensure a comprehensive and well-informed discussion.

Attached to this email, you will find a flyer providing further details about the session. If you have any questions or require further information, please do not hesitate to reach out to us via email.

We look forward to your active participation and meaningful contributions to this community input session. Together, we can create a safer and more transparent environment for all residents of Berkeley.

--

Hansel Alejandro Aguilar
Director of Police Accountability
Office of the Director of Police Accountability
1947 Center St. – 5th floor
Berkeley, CA 94704

*The Police Accountability Board and the Director of Police Accountability replaced the Police Review Commission as of July 1, 2021.



COMMUNITY INPUT SESSION

A DISCUSSION ON AUTOMATED LICENSE PLATE READERS (ALPR) IN THE CITY OF BERKELEY

Join the Office of the Director of Police Accountability (ODPA) for a community input session about the Berkeley Police Department's proposed fixed Automated License Plate Readers (ALPR) acquisition report and policies.

During this session, ODPa staff will provide an overview of the:

- BMC 2.99- Acquisition and Use of Surveillance Technology
- BPD Acquisition Report for ALPRs
- BPD proposed Surveillance Use Policy
- BPD proposed Training and Operational Policy
- Council legislative history on ALPR
- Official position of the Police Accountability Board (PAB) concerning these policies.

This is an opportunity for community members to enhance their understanding of ALPR policies, seek clarification through questioning, and voice their concerns or show support for this technology in our community. We encourage everyone to attend and actively participate in shaping the future of public safety in Berkeley.



DATE & TIME

Thursday, July 6th, 2023
6:00 PM- 7:30 PM

ZOOM



Access the event by clicking the following link:

<https://us02web.zoom.us/j/83176067569>

Webinar ID:

831 7606 7569

OR

Join via phone by dialing


[+1\(669\) 900-6833](tel:+16699006833)

and entering the Webinar ID:

831 7606 7569.

PROMOTING PUBLIC TRUST THROUGH INDEPENDENT, OBJECTIVE, CIVILIAN OVERSIGHT OF THE BERKELEY POLICE DEPARTMENT

 dpa@berkeleyca.gov

 510-981-4950

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

Public



DPA AGUILAR OPENING REMARKS FOR July 6, 2023

- COMMUNITY INPUT SESSION -

AUTOMATED LICENSE PLATE READERS(ALPR): A DISCUSSION ON ALPRS IN THE CITY OF BERKELEY

Ladies and gentlemen, distinguished guests, and community members,

Good evening and welcome to this community input session. As the Director of Police Accountability for the City of Berkeley, it is an honor to stand before you today as we gather to discuss an important matter concerning public safety in our city. I would like to take a moment to acknowledge and recognize that discussions on matters of public safety can evoke strong opinions and sentiments. However, it is crucial that we approach this dialogue with open minds, respect for diverse perspectives, and a shared commitment to the well-being of our community.

Firstly, I would like to extend my gratitude to each and every one of you for taking the time to join us here today. Your presence here reflects your dedication to actively participating in the decision-making process that shapes our city's policies. It is through open and inclusive discussions like these that we can make informed decisions that truly serve the needs and aspirations of our community.

It is also worth noting that we are holding this community input session during a week that holds great significance to us as Americans—the week in which we celebrate our independence through the Fourth of July holiday. This occasion reminds us of the principles upon which our nation was founded, including the right to life, liberty, and the pursuit of happiness. It is in this spirit of freedom and community that we convene here today, striving to ensure that our city's policies uphold these cherished values.



The focus of today's discussion is the potential acquisition of automated license plate readers (ALPR) by our police department. These technological tools have the potential to impact the way law enforcement operates in our community, and it is crucial that we thoroughly evaluate their potential benefits and risks. As the Police Accountability Board considers the proposed policies regarding ALPRs, it is vital that we gather diverse input from community members like you. Your perspectives, concerns, and insights will greatly inform the decision-making process and help shape the policies that govern this technology's usage in our city.

Public

Let me emphasize that the purpose of this input session is to create an inclusive space for dialogue, where differing viewpoints can be shared and understood. We encourage everyone to engage respectfully and constructively, ensuring that all voices are heard and valued. By doing so, we can foster a sense of trust, collaboration, and accountability within our community.

Once again, thank you for your presence and your commitment to shaping the future of our city. Your input matters, and together, we can work towards a safer and more just community. I look forward to a productive and meaningful discussion tonight.

Thank you.



**COMMUNITY INPUT
SESSION**

Automated License Plate Readers (ALPR)

A Discussion on Automated License Plate Readers (ALPR)
in the City of Berkeley

July 6, 2023
Hosted by the ODPA

Image Source: Flock Safety

Overview

- I. Introductions and Presentation Overview
- II. Review of Community Agreements
- III. Overview of Berkeley Municipal Code 2.99 “Acquisition and Use of Surveillance Technology”
- IV. Overview of Automated License Plate Reader (ALPR) Technology
- V. Overview of the Berkeley City Council’s Legislative History on ALPR
- VI. Overview of the Berkeley Police Department’s Proposed ALPR Policies
- VII. Overview of Police Accountability Board’s (PAB) Position Concerning ALPR Policies.
- VIII. Open Discussion and Q&A Session

Community Agreements

- Be both teachers and learners:** We embrace the idea that everyone has something valuable to contribute and that we can all learn from each other.
- Challenge ideas, not people:** We encourage participants to focus their critiques and challenges on the ideas being presented rather than attacking or belittling individuals. We value diverse opinions and aim to engage in thoughtful discussion that promotes growth and understanding.
- Practice active listening:** We emphasize the importance of active listening in our discussions. This means giving our full attention to the speaker, seeking to understand their perspective before formulating a response, and refraining from interrupting.
- Show respect and empathy:** We value respect and empathy as foundational principles in our community discussions. We aim to create a safe and inclusive space where all individuals feel heard and valued.
- Take accountability:** We hold ourselves accountable for our words and actions within the community. We acknowledge that our contributions have an impact on others, and we take responsibility for fostering a positive and inclusive environment. If any conflicts or issues arise, we are committed to addressing them openly and collaboratively, seeking resolution in a respectful manner.

Berkeley Municipal Code 2.99 “Acquisition and Use of Surveillance Technology” (2018)

- City's goal: Establish a balanced process for procurement and use of Surveillance Technology, considering public safety and privacy/civil rights.
- Transparency is crucial in the consideration of Surveillance Technology.
- Surveillance Technology can benefit public order and safety but may jeopardize privacy and civil liberties.
- Decisions on Surveillance Technology should prioritize the impact on civil rights and civil liberties, as guaranteed by California and US Constitutions.

Chapter 2.99 ACQUISITION AND USE OF SURVEILLANCE TECHNOLOGY	
2.99.010	Purposes.
2.99.020	Definitions.
2.99.030	City Council Approval Requirement.
2.99.040	Temporary Acquisition and Use of Surveillance Equipment.
2.99.050	Compliance for Existing Surveillance Technology.
2.99.060	Determination by City Council that Benefits Outweigh Costs and Concerns.
2.99.070	Oversight Following City Council Approval.
2.99.080	Public Access to Surveillance Technology Contracts.
2.99.090	Enforcement.
2.99.100	Whistleblower Protections.
2.99.110	Severability.

Berkeley Municipal Code 2.99 “Acquisition and Use of Surveillance Technology” (Cont.)

- Evaluation of financial costs associated with acquisition, installation, use, and maintenance of Surveillance Technology is necessary.
- City Council should govern decisions on funding, acquisition, and use of Surveillance Technologies.
- Safeguards, including transparency, oversight, and accountability measures, are crucial at local, state, and federal levels.
- Data reporting measures ensure compliance with civil rights and civil liberties safeguards.



Chapter 2.99
ACQUISITION AND USE OF SURVEILLANCE TECHNOLOGY

Sections:

2.99.010	Purposes.
2.99.020	Definitions.
2.99.030	City Council Approval Requirement.
2.99.040	Temporary Acquisition and Use of Surveillance Equipment.
2.99.050	Compliance for Existing Surveillance Technology.
2.99.060	Determination by City Council that Benefits Outweigh Costs and Concerns.
2.99.070	Oversight Following City Council Approval.
2.99.080	Public Access to Surveillance Technology Contracts.
2.99.090	Enforcement.
2.99.100	Whistleblower Protections.
2.99.110	Severability.

The Police Accountability Board* & Surveillance Technology Under BMC 2.99

- City Manager must present** a Surveillance Use Policy for each Surveillance Technology to the Police Review Commission before City Council adoption
- The Police Accountability Board must receive** the corresponding Surveillance Acquisition Report presented to the council for that Surveillance Technology
- Within 30 days** of receiving a Surveillance Use Policy for review, the Police Review Commission must vote to recommend approval, object to the proposal, recommend modifications, or take no action
- Opposition or failure by the Police Accountability Board to act does not prevent the City Manager from proceeding with their own review and potential adoption.



Image Source: Getty Images

* - BMC 2.99 currently references the predecessor agency the Police Review Commission (PRC). The PAB has assumed all duties and responsibilities of the PRC.

What are Automated License Plate Readers?



Image Source: Electronic Frontier Foundation

- ALPR systems capture images of license plates automatically.
- The images are converted into text using special software.
- The converted plate number is compared with databases of vehicles of interest.
- Law enforcement and other agencies use ALPR to identify vehicles they are looking for.
- When a vehicle of interest is detected, the system notifies the officer.

Source:
Gullo, Karen, et al. "Automated License Plate Readers (ALPRs)." *Electronic Frontier Foundation*, 15 May 2020. www.eff.org/pages/automated-license-plate-readers-alpr.

What are ALPRs used for?

Rapidly identifying and locating vehicles of interest to law enforcement.

- Comparing license plate encounters with law enforcement databases ("hot lists") for active investigations, such as missing persons, stolen vehicles, or stolen license plates.
- Assisting in the identification of suspects, victims, and witnesses by canvassing license plates near crime scenes.
- Acting as a search tool with limited information, including partial license plate details.



Image Source: PIPS Technology

Source: "Automated License Plate Recognition." *International Association of Chiefs of Police*, www.theiacp.org/projects/automated-license-plate-recognition. Accessed 6 July 2023.

Berkeley City Council's Legislative History on ALPR

- November 1, 2021 – Public Safety Policy Committee of the City Council makes a budget referral proposing the acquisition of fixed ALPRs.
- November 30, 2021 – The budget referral was presented to the City Council and approved by a majority of Council.
- The budget referral included the installation of ALPRs at strategic locations, allocation of funds in the FY 23-24 budget for ALPRs, and the development of a policy governing the use of ALPRs by the Berkeley Police Department in compliance with relevant city ordinances, specifically Berkeley Municipal Code (BMC) 2.99.
- May 11, 2023 – Police Chief Louis presented the Board with Policy 422 and Policy 1305—the proposed ALPR policies.

Berkeley City Council's Legislative History on ALPR (Cont.)

- June 15, 2023 – The ODPa provides a report to the PAB titled "Automatic License Plate Readers (ALPR) in the City of Berkeley: A Preliminary Review of Proposed BPD Policies by the Office of the Director of Police Accountability (ODPA) Submitted to the Police Accountability Board (PAB)"
- June 16, 2023 – The PAB holds a special meeting to discuss the proposed ALPR policies. The PAB votes to object to the acquisition report and proposed policies as presented. The PAB sends an objection letter to the BPD and City Council.
- June 20, 2023 – The Public Safety Policy Committee holds a special meeting to discuss the ALPR policies. The committee votes to send a qualified positive to the City Council on the condition that the PAB and BPD work to address the concerns of the PAB.
- June 27, 2023 – PAB Chair Moore, Board Member Wilson, Sgt. Ledoux, and ODPa Staff meet to discuss the concerns of the PAB as articulated in the objection letter.
- July 6, 2023 – The BPD provides the PAB with the updated policies. The ALPR documents (proposed redline versions of the policies) as well as a memo prepared at the request of the Public Safety Policy Committee which provides specific responses to concerns raised by the PAB/PAB. There was no change to the previously submitted Acquisition Report.

Berkeley City Council's Legislative History on ALPR (Cont.)

- July 12, 2023 – The PAB will review the updated policies and further discuss their stance on ALPRs.
- July 25, 2023 – The BPD will present its acquisition report and use policies to the full City Council.

BPD's Proposed Acquisition Report

Purpose:

- Berkeley Police Department will utilize a network of fixed automated license plate readers (ALPRs).
- ALPRs will be affixed to street poles, street lights, or other similar objects owned by the City of Berkeley or covered by a right-of-way agreement.
- ALPRs are commonly used to alert police of wanted vehicles or vehicles of interest entering their jurisdiction.
- ALPR technology is increasingly used on local freeways, bridges, and sometimes in private parking lots.

BPD's Proposed Acquisition Report

Justification:

- Berkeley Police Department investigators have identified instances where effective ALPR deployment could have helped focus on wanted vehicles and potentially prevented crimes in the city.
 - Theft of vehicles
 - Incidents of armed robbery
 - Property-related crimes
 - Homicide cases
 - Sex/Domestic Violence Crimes

BPD's Proposed Acquisition Report

Location:

- BPD proposes to install 52 fixed ALPRs in the City of Berkeley. While the cameras are permanent installations, if found ineffective in the installed location, the Department can elect to move the camera to another location at nominal cost.
- It's preferred to leave cameras installed in locations for periods of minimally a year. Locations will be determined using crime data, known locations of ingress or egress into the City of Berkeley, and commonly known direction of travel after criminal acts based on information provided from investigators.
- The Department will balance the need to deploy the camera systems equitably across the City of Berkeley with the need to deploy the cameras in an effective manner.
- BPD will solicit input from the vendor for an effective deployment.

BPD's Proposed Acquisition Report

Impact:

- The Berkeley Police Department is dedicated to the most efficient utilization of its resources and services in its public safety endeavors.
- The Berkeley Police Department recognizes the need to protect its ownership and control over shared information and to protect the privacy and civil liberties of the public, in accordance with federal and state law.
- The procedures utilized with ALPR Units will help to prevent unauthorized use of its data. The procedures will ensure the data is not used in a way that would violate or infringe upon anyone's civil rights and/or liberties, including but not limited to potentially disparate or adverse impacts on any communities or groups.

BPD's Proposed Policies

BPD Policy 422 "Fixed Automated License Plate Readers (ALPRs)"

Purpose and Scope: *"The purpose of this policy is to provide guidance for the capture, storage and use of digital data obtained through the use of Automated License Plate Reader (ALPR) technology. Department Personnel shall adhere to the requirements of Fixed ALPRs in this policy as well as the corresponding Surveillance Use-Fixed ALPRs policy-1305."*

BPD's Proposed Policies

BPD Policy 1305 "Surveillance Use Policy – Fixed ALPRs"

"The purpose of this policy is to provide guidance for the capture, storage and use of digital data obtained through the use of Automated License Plate Reader (ALPR) technology. Department Personnel shall adhere to the requirements of the Surveillance Use-Fixed ALPRs in this policy as well as the corresponding Use Policy - 422.

The policy of the Berkeley Police Department is to utilize ALPR technology to capture and store digital license plate data and images while recognizing the established privacy rights of the public.

All data and images gathered by the ALPR are for the official use of this department. Because such data may contain confidential information, it is not open to public review.

The Berkeley Police Department does not permit the sharing of ALPR data gathered by the City or its contractors/subcontractors for federal immigration enforcement, pursuant to the California Values Act (Government Code § 7282.5; Government Code § 7284.2 et seq) – these federal immigration agencies include Immigrations and Customs Enforcement (ICE) and Customs and Border Patrol (CBP)."

PAB Stance on the Proposed Policies

The PAB expressed 4 areas of concerns but they have not taken a stance on the technology itself. Their concerns are the following:

- 1) **Civil Liberties Protections:** The proposed acquisition report and policies need to provide stronger safeguards and assurances for protecting civil liberties and privacy rights. The PAB emphasizes the importance of ensuring that the acquisition and use of ALPRs do not infringe upon the rights of individuals in the community.
- 2) **Lack of Empirical Support or Data:** The PAB has noted a lack of empirical evidence or data demonstrating the effectiveness of the technology in achieving its intended goals within the City of Berkeley. While acknowledging the reported increase in crime in specific categories, the PAB highlights the need for an analysis of comparable jurisdictions with or without this technology to determine its potential effectiveness. Solid evidence is crucial before moving forward with the acquisition to ensure its significant contribution to solving criminal investigations and enhancing public safety.

PAB Stance on the Proposed Policies (Cont.)

3) **Concerns about True Costs:** The PAB has expressed concerns about the true costs associated with the technology, including potential hidden costs, maintenance expenses, and long-term financial commitments. It is imperative to have a comprehensive understanding of the financial implications and ensure that the benefits outweigh the costs.

4) **Lack of Completeness of the Acquisition Report and Proposed Policies:** The proposed policies require further clarity, elaboration, and editing. Specifically, the PAB calls for a clear outline of the intended uses of the data, retention periods, access controls, and measures to protect against potential misuse or unauthorized access. The inclusion of more information about minimum training requirements for the users of the technology is also requested.

Comments and/or Questions

We will proceed as follows...

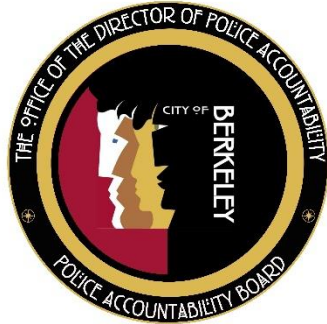
1. Comments in the Q&A list
2. Live questions
3. Closing Comments

Contact Us

Hansel Alejandro Aguilar
Director of Police Accountability

Jose De Jesus Murillo
Policy Analyst

Office of the Director of Police Accountability
1947 Center St. – 5th floor
Berkeley, CA 94704
T: 510-981-4950
E: DPA@Berkeleyca.gov



Community Input Session Transcript

Session Topic: “Automated License Plate Readers (ALPR): A Discussion on ALPRs in the City of Berkeley”

DISCLAIMER

This document is an automatically generated transcript produced by Zoom's transcription feature. The transcription process is automated and may not capture the exact wording, tone, or context of the original spoken conversation. Therefore, it is advised to exercise caution and refer to the original recording or seek further clarification when relying on this transcript for official or critical purposes. The accuracy and reliability of the transcript may vary based on factors such as audio quality and background noise.

The video recording is available for viewing through the following link: <https://youtu.be/00L2wYj-DAQ>.

TRANSCRIPT

[Jose Murillo, ODPa Policy Analyst] 18:00:37

Okay. Good afternoon everyone. My name is Jose Murillo. I'm a policy analyst with the Office of the Director of Police Accountability.

[Jose Murillo, ODPa Policy Analyst] 18:00:46

Today we're going to be providing you with a presentation on automatic license plate readers. And with that, I'll hand it over to the director who will get us started this afternoon.

[Hansel Aguilar, Director of Police Accountability] 18:01:00

Good evening committee members. We do see we got a quite a few folks here so we'll get started with our discussion.

[Hansel Aguilar, Director of Police Accountability] 18:01:07

We are on the clock so to speak. Just I do see we have at least one hand.

[Hansel Aguilar, Director of Police Accountability] 18:01:14

That's raised in the attendee section and just wanna make sure that I acknowledge you and that we will be able to get to community comments.

[Hansel Aguilar, Director of Police Accountability] 18:01:24

We just have to provide a overview about the agenda for today and how we'll proceed today. Do you get proceed with the next slide, please?

[Hansel Aguilar, Director of Police Accountability] 18:01:34

So here's our agenda for today. I am the, director of police accountability here in the city of Berkeley and I do wanna thank you and welcome you to this input, committee input session.

[Hansel Aguilar, Director of Police Accountability] 18:01:48

We're really. Grateful that use community members are able to join us today. As we stand as we sit here today to gather and to discuss an important matter concerning public safety in our city.

[Hansel Aguilar, Director of Police Accountability] 18:02:01

I just wanna take a moment to acknowledge and recognize that discussions on matters of public safety. They can evoke strong opinions and sentiments.

[Hansel Aguilar, Director of Police Accountability] 18:02:09

However, it is crucial that we a process dialogue with open minds respect for diverse perspectives in a shared commitment to the well being of our community.

[Hansel Aguilar, Director of Police Accountability] 18:02:19

First, I'd like to again extend my gratitude to each and every one of you for taking the time to join us here today.

[Hansel Aguilar, Director of Police Accountability] 18:02:25

You press this here, reflects your dedication to actively participating in decision making processes that shape our city's policies.

[Hansel Aguilar, Director of Police Accountability] 18:02:34

It is through this open and inclusive dialogue. That we can make sure that we make informed decisions that truly serve the needs and aspirations of our community.

[Hansel Aguilar, Director of Police Accountability] 18:02:44

It's also worth noting that we're holding this committee input session during a week that holds great significance to us.

[Hansel Aguilar, Director of Police Accountability] 18:02:52

The week in which we celebrate our independence to the Fourth of July holiday. This location reminds us of the principles upon which our nation was founded on.

[Hansel Aguilar, Director of Police Accountability] 18:03:00

And including the right to life, liberty and pursuit of happiness. So we is in this period. That, the spirit of freedom and community that we can be here today striving to ensure that our city's policies uphold these cherished values.

[Hansel Aguilar, Director of Police Accountability] 18:03:15

The focus of today's discussion is to potential acquisition of automated license plate readers or ALPR.

[Hansel Aguilar, Director of Police Accountability] 18:03:25

As are commonly referred to by the acronym. By our police department. These technological tools have the potential impact the way launch enforcement operates in our community and is crucial that we thoroughly evaluate the event their potential benefits and risk.

[Hansel Aguilar, Director of Police Accountability] 18:03:40

As the Police Accountability Board considers the proposed policies regarding It is vital that we gather diverse input for community members like you.

[Hansel Aguilar, Director of Police Accountability] 18:03:50

Your perspectives, concerns and insights will greatly inform the decision making process of the city council and help shape the policies that govern this acknowledges usage in our city if adopted.

[Hansel Aguilar, Director of Police Accountability] 18:04:01

Let me emphasize that the purpose of the input session is to create an inclusive space for dialogue where different viewpoints can be shared and understood.

[Hansel Aguilar, Director of Police Accountability] 18:04:09

We encourage everyone to engage respectfully and constructively. Ensuring that all voices are heard and valued. By doing so, we can foster a sense of trust, collaboration, and accountability within our community.

[Hansel Aguilar, Director of Police Accountability] 18:04:22

Was again, thank you for your presence and commitment to shaping the future of our city. So as you can see in the slide before you, the overview, we're going to, do a thorough review of what we like to call community agreements that spell out a little bit more about the agreements that we expect out of

[Hansel Aguilar, Director of Police Accountability] 18:04:42

this dialogue today. We're going to have an overview via policy analysts of the Berkeley municipal code, 2.9 9 the acquisition and user surveillance technology.

[Hansel Aguilar, Director of Police Accountability] 18:04:54

We're going to do an overview of the proposed. License plate vendors. Technology, excuse me, of the technology itself, then an overview of the legislative history, an overview of the department's proposed policies and the initial position of the police accountability boards on these policies.

[Hansel Aguilar, Director of Police Accountability] 18:05:15

Then we'll go ahead and open discussion and do QA. I do believe though our policy analyst has a note about the QA session.

[Hansel Aguilar, Director of Police Accountability] 18:05:23

If you can. Surprise and guidance there.

[Jose Murillo, ODPa Policy Analyst] 18:05:27

Sorry, I was muted for a moment. But yes, some of you have already found we have enabled the QA section.

[Jose Murillo, ODPa Policy Analyst] 18:05:35

As you have questions through the presentation, feel free to drop them in that chat box. So what we'll do at the end of the presentation is that we'll review the questions or comments are submitted there.

[Jose Murillo, ODPa Policy Analyst] 18:05:45

Zoom does have the feature, to upload any questions. So if you see a question in that chat box and you think, wow, that's a great question.

[Jose Murillo, ODPa Policy Analyst] 18:05:54

You could vote for it and I'll go up towards the top. We'll try to get to as many hands as we can during our, last portion as well.

[Jose Murillo, ODPa Policy Analyst] 18:06:01

Again, I also see that again, recognizing the hands are already raised. We will have that opportunity.

[Jose Murillo, ODPa Policy Analyst] 18:06:06

But again, the QA chat box is open in case there's any questions that come up through that process, feel free to drop them in there.

[Jose Murillo, ODPa Policy Analyst] 18:06:14

We'll be monitoring them as we go along.

[Hansel Aguilar, Director of Police Accountability] 18:06:18

And I do see a note about close captioning. Can you just confirm if that's already enabled for the community members?

[Hansel Aguilar, Director of Police Accountability] 18:06:27

You're muted.

[Jose Murillo, ODPa Policy Analyst] 18:06:32

Sorry, yes, it is enabled. Close captioning and then there's also a question about the QA.

[Jose Murillo, ODPa Policy Analyst] 18:06:39

That box that I'm referring to is where the comments are being. Submitted

[Hansel Aguilar, Director of Police Accountability] 18:06:51

So we'll go ahead and you can advance to the next slide.

[Hansel Aguilar, Director of Police Accountability] 18:06:59

Discuss our community agreement. Okay. One of the things that the main points here is to be both teachers and learners.

[Hansel Aguilar, Director of Police Accountability] 18:07:08

Challenge ideas, not people. Practice active listening, show respect and empathy and take accountability.

[Hansel Aguilar, Director of Police Accountability] 18:07:16

Again, I wanna emphasize that public safety discussions can, evoke a lot of strong emotions and sentiments.

[Hansel Aguilar, Director of Police Accountability] 18:07:23

Public

ALPR Community Input Session Transcript

July 6, 2023

We understand there's a lot at stake when we're authorizing the, our government, whether local or, at the state level or the federal level to be able to utilize technologies to monitor our community members.

[Hansel Aguilar, Director of Police Accountability] 18:07:39

We know that these have real life impacts. We also do know that community members are concerned for personal safety and also do know that community members are concerned for personal safety and also safety of property.

[Hansel Aguilar, Director of Police Accountability] 18:07:56

Viewpoints and making sure that we're providing the space we are again going to be reporting back to the police accountability board.

[Hansel Aguilar, Director of Police Accountability] 18:08:04

The, feedback that we're receiving here at the board continues to. Consider the department's proposed policies.

[Hansel Aguilar, Director of Police Accountability] 18:08:15

They will be meeting for their next regularly scheduled meeting on July 12. So it is our are in our task to, memorialize the feedback we receive here and present it to the board at this next board meeting.

[Hansel Aguilar, Director of Police Accountability] 18:08:33

And we can go ahead and, we'll revisit the community agreements, before we start the discussion.

[Jose Murillo, ODPa Policy Analyst] 18:08:39

Oh! Okay. So again, my name's Las Mudi. I'm the policy analyst here with the office of director of police accountability.

[Jose Murillo, ODPa Policy Analyst] 18:08:49

And we just wanna start today with, the Berkeley, 2 99 for the acquisition and use of surveillance technology.

[Jose Murillo, ODPa Policy Analyst] 18:08:58

I know during a lot of the police accountability boards meetings during the council meetings. You often hear us referring to BMC 2 99 or the surveillance ordinance which is what we'll be covering today so we just want to give that overview before we get into technology itself.

[Jose Murillo, ODPa Policy Analyst] 18:09:15

So the goal of BMC 2 99 is to essentially establish a process, for the procurement and use of surveillance technology, in a way that considers both public safety and privacy and civil rights.

[Jose Murillo, ODPa Policy Analyst] 18:09:29

Transparency is the main theme behind this ordinance. It's crucial in the consideration of any surveillance technology that we are transparent.

[Jose Murillo, ODPa Policy Analyst] 18:09:38

Public

ALPR Community Input Session Transcript

July 6, 2023

And again, it emphasizes that surveillance technology can benefit public order and safety. But it could also jeopardize privacy and civil liberties if it's a abuse.

[Jose Murillo, ODPa Policy Analyst] 18:09:48

So the decision on surveillance technology, should always prioritize impact on civil rights and civil liberties, as guaranteed by the California and US constitutions.

[Jose Murillo, ODPa Policy Analyst] 18:10:00

And under that general principle is that the city passed this ordinance.

[Jose Murillo, ODPa Policy Analyst] 18:10:08

Again, part is part of the ordinance there requires an evaluation of the financial costs associated with the acquisition.

[Jose Murillo, ODPa Policy Analyst] 18:10:15

The installment, the use and the maintenance of any surveillance technology. It states that city council should govern decisions on funding acquisition on the use of the surveillance technology so this is where you hear a lot of the mandate for a policy like recovery today.

[Jose Murillo, ODPa Policy Analyst] 18:10:31

And it also includes, or it also requires that certain safeguards, including transparency, the idea of oversight is terms of the scope of our work.

[Jose Murillo, ODPa Policy Analyst] 18:10:41

And I accountability measures are set in place. Of course. And then there's data reporting.

[Jose Murillo, ODPa Policy Analyst] 18:10:49

Just to measure that there's compliance with the initial intent and that civil liberties civil rights and civil leaders are being safeguarded.

[Jose Murillo, ODPa Policy Analyst] 18:11:00

Right. So. Our role or rather the role of the police accountability board. With BMC 2 99 is that we are in essentially the review.

[Jose Murillo, ODPa Policy Analyst] 18:11:11

A body for some of these policies. The city manager whenever there will be a new surveillance technology on behalf of the police department.

[Jose Murillo, ODPa Policy Analyst] 18:11:20

Must present a surveillance use policy for each technology to the police review commission which is now of course the police accountability board before city council adopts it or essentially considers it for adoption.

[Jose Murillo, ODPa Policy Analyst] 18:11:36

The police accountability board must receive a corresponding surveillance acquisition report as well as the surveillance policy and then the use policy which will differentiate as we go later on so it's 3 documents that accompany these reviews.

[Jose Murillo, ODPa Policy Analyst] 18:11:52

These policies have to be given to the police accountability board within 30 days. Or rather the review has to be completed within a 30 days of receiving the policy.

[Jose Murillo, ODPa Policy Analyst] 18:12:03

And the board has to vote whether to accept whether to recommend approval eject to the proposal recommend modifications or take no action of course, the opposition or failure by the police accountability board to act on these policies.

[Jose Murillo, ODPa Policy Analyst] 18:12:18

Does not prevent the city manager from, proceeding with their own review and potential adoption.

[Jose Murillo, ODPa Policy Analyst] 18:12:24

Again, we're recommending body. In this regard.

[Jose Murillo, ODPa Policy Analyst] 18:12:31

So what are automatic license plate readers? Lpr systems, are essentially cameras that capture images of license plates automatically.

[Jose Murillo, ODPa Policy Analyst] 18:12:42

The images are converted into text using special software. They convert plate numbers and. They essentially capture plate numbers and compare with databases.

[Jose Murillo, ODPa Policy Analyst] 18:12:53

Of vehicles of interest. Law enforcement and other agencies use ALPRs to identify vehicles they're looking for.

[Jose Murillo, ODPa Policy Analyst] 18:13:00

When a vehicle of interest is detected the system notifies the officer through the procedures that various departments have.

[Jose Murillo, ODPa Policy Analyst] 18:13:09

So again, where do they use for? They're used for rapidly identifying and locating vehicles of interest law enforcement.

[Jose Murillo, ODPa Policy Analyst] 18:13:17

Again, they compare license plane counters with law enforcement databases, which is often referred to as sought list.

[Jose Murillo, ODPa Policy Analyst] 18:13:23

For active investigations such as missing persons stolen vehicles are stolen license place. They assess the identification of suspects, victims and witnesses by canvassing license plates near crime scenes.

[Jose Murillo, ODPa Policy Analyst] 18:13:36

And they're also used as acting as a search tool with limited information and comparing license plate. Details.

[Jose Murillo, ODPa Policy Analyst] 18:13:47

So just a bit of the legislative history. As we go into the final stages of this review. The ALPR discussion or at least some of the preliminary discussion started back in 2021 when the public safety policy committee made a budget made a recommendation for a budget referral proposing the acquisition of fixed

[Jose Murillo, ODPa Policy Analyst] 18:14:12

ALPRs on November thirtieth 2021 the budget referral was presented to the city council and it was approved by a majority of council.

[Jose Murillo, ODPa Policy Analyst] 18:14:21

The budget referral included the installation of ALPR as a strategic locations, the allocations of funds in the 2,024 fiscal year budget for and the development of a policy governing the use of ARPR policies which is what we're reviewing today.

[Jose Murillo, ODPa Policy Analyst] 18:14:36

So part of the condition was that a policy had to be developed and approved by the council before they could proceed.

[Jose Murillo, ODPa Policy Analyst] 18:14:44

On May eleventh, 2023, so about 2 years later, a little under 2 years.

[Jose Murillo, ODPa Policy Analyst] 18:14:50

Those policies were developed in their, transmitted to the police accountability board for review.

[Jose Murillo, ODPa Policy Analyst] 18:14:59

On June fifteenth after receiving those policies, the office of the director of police accountability provided a report to the police accountability board title and automatic license plate readers in the city of Berkeley, a preliminary review of proposed.

[Jose Murillo, ODPa Policy Analyst] 18:15:14

LPR policies by the office of director police accountability which was submitted to the police accountability board.

[Jose Murillo, ODPa Policy Analyst] 18:15:22

This report was primarily research of the different sources that are available. As well as some of the different policies that are currently implemented in place.

[Jose Murillo, ODPa Policy Analyst] 18:15:32

The next day the police accountability board held a special meeting to discuss the proposed LPR policies.

[Jose Murillo, ODPa Policy Analyst] 18:15:38

Public

ALPR Community Input Session Transcript

July 6, 2023

The board voted ultimately to object to the acquisition report and proposed and the proposed policies as presented. The police accountability board sets an objection lighter to the BPD and the city council.

[Jose Murillo, ODPa Policy Analyst] 18:15:52

Then on June twentieth, the public safety policy committee also held a special meeting. To discuss LPR.

[Jose Murillo, ODPa Policy Analyst] 18:15:59

The LPR policies and the considerations of, or rather the concerns of the police accountability board.

[Jose Murillo, ODPa Policy Analyst] 18:16:07

They voted to send the qualified positive to the city council, with condition that the board and the police department, work to address the concerns that were expressed in the board's letter.

[Jose Murillo, ODPa Policy Analyst] 18:16:19

On June 20 seventh chair more the chair of the police accountability board a board member willson sergeant widow and ODPa staff met to discuss and articulate some of the concerns of the objections of the letter.

[Jose Murillo, ODPa Policy Analyst] 18:16:33

This was not necessarily official position on the board, but it was really to set the framework for our upcoming meeting where, the board will make their, final decision, on the matter.

[Jose Murillo, ODPa Policy Analyst] 18:16:45

And then again, actually just today we received the updated policies for the board to include, in its next agenda packet.

[Jose Murillo, ODPa Policy Analyst] 18:16:59

And then of course as I stated on July 12, the board is going to convene for the regular meeting where the new ALPR policies will be discussed further and the board will further discuss further and the board will further discuss their stance on the technology.

[Jose Murillo, ODPa Policy Analyst] 18:17:13

And then of course on July 20 fifth the BPD will present its acquisition report and use policies to the full city council.

[Jose Murillo, ODPa Policy Analyst] 18:17:22

I do just want to make a note that tomorrow or it will be posting their agenda where we'll make these documents available.

[Jose Murillo, ODPa Policy Analyst] 18:17:31

Okay, director.

[Hansel Aguilar, Director of Police Accountability] 18:17:35

Public

ALPR Community Input Session Transcript
July 6, 2023

Thank you for that. So in In summary, what the acquisition report is as acknowledged or as representing the, ordinance.

[Hansel Aguilar, Director of Police Accountability] 18:17:44

To beMCO Ordin is the police department or the city manager has to make the case for why they want to acquire a news of surveillance technology or they want to utilize from, with the support of nearby departments.

[Hansel Aguilar, Director of Police Accountability] 18:18:01

In this case, the, Brooklyn Police Department's acquisition report, provided this, a purpose for acquiring this, surveillance technology.

[Hansel Aguilar, Director of Police Accountability] 18:18:12

They are just to also clarify, ALPRs can be, a fixed as, as our policy analysts mentioned on, vehicles at this time, it is not the department's, wish to do so.

[Hansel Aguilar, Director of Police Accountability] 18:18:27

They want to fix them at any location. So if it's a street pull street lights or other similar objects owned by the state of Berkeley or cover by right away agreement.

[Hansel Aguilar, Director of Police Accountability] 18:18:36

The AOPRs are commonly used to alert police of wanted vehicles. Or vehicles of interest entered into jurisdiction.

[Hansel Aguilar, Director of Police Accountability] 18:18:43

And the, technology is increasingly used on local freeways bridges and sometimes in private parking lot.

[Hansel Aguilar, Director of Police Accountability] 18:18:50

So this is language directly from the acquisition report which is publicly available. It has been included in our agenda packets and also in the.

[Hansel Aguilar, Director of Police Accountability] 18:18:58

City councils or public safety committee packet and feel free to contact us at any time if you want to have access to these documents.

[Hansel Aguilar, Director of Police Accountability] 18:19:08

The next slide, please.

[Hansel Aguilar, Director of Police Accountability] 18:19:12

Okay, the justification as articulated in the acquisition report, the police departments investigators, they have identified instances where the effective deployment of this technology could have helped focus on wanted vehicles and potentially prevented crimes in the city.

[Hansel Aguilar, Director of Police Accountability] 18:19:31

They noted these different categories of crime, a depth of vehicles, incidents of armed robbery. Property related crimes, homicide cases, sex, domestic violence crimes and in the acquisition

report they do provide several cases where they could have utilized this technology solve those crimes.

[Hansel Aguilar, Director of Police Accountability] 18:19:52
If you could proceed with the next slide, please.

[Hansel Aguilar, Director of Police Accountability] 18:19:56
Another element of this is the location and where will these how many and where will they be placed around the city.

[Hansel Aguilar, Director of Police Accountability] 18:20:05
The police department, proposes to install 52, ALPRs in the city of Berkeley.

[Hansel Aguilar, Director of Police Accountability] 18:20:13
Again, there's a permanent locations. They are going to be the specific locations haven't been identified yet but they will, want to solicit input from the vendor, who has not been chosen at this time, because they're in the, in the process of getting

[Hansel Aguilar, Director of Police Accountability] 18:20:34
council approval to acquire them. So if the council were to approve this technology in the city, the police department would then potentially, will, identify vendor and they want to work with that vendor to.

[Hansel Aguilar, Director of Police Accountability] 18:20:48
Look at the locations around the city where they will put these, fixed cameras in.

[Hansel Aguilar, Director of Police Accountability] 18:20:57
The impact as articulated by the police department in their acquisition report. They wanna utilize, their resources effectively as we know the city is, facing a hybrid crisis, hiring a retention crisis and not only in the police department or across many departments.

[Hansel Aguilar, Director of Police Accountability] 18:21:17
If you haven't looked at the city auditors, recent report, that gives you good context of the current state of the city right now in terms of hiring and retention.

[Hansel Aguilar, Director of Police Accountability] 18:21:27
But one of the One of the ways that police departments not just, the Brooklyn Police Department, but other departments around the country have been able to overcome some of these challenges in in personnel is through the adoption of these technologies which is what the department proposes here.

[Hansel Aguilar, Director of Police Accountability] 18:21:47
They do recognize the department the need to protect ownership and patrol over shared information and protect the privacy and civil liberties of the public in accordance with federal state law.

[Hansel Aguilar, Director of Police Accountability] 18:21:58

Public

ALPR Community Input Session Transcript
July 6, 2023

And also, noted, in the, acquisition report that the units will help to prevent unauthorized there will be procedures in place that help prevent unauthorized use of the data the procedures will ensure that data is not used in any way that would violate or a upon any more

[Hansel Aguilar, Director of Police Accountability] 18:22:19
civilized inner liberties, including but not limited to potentially desperate for adverse impacts on any community groups. And again, this is language from the acquisition report.

[Hansel Aguilar, Director of Police Accountability] 18:22:28
You can proceed with the next slide.

[Hansel Aguilar, Director of Police Accountability] 18:22:32
Okay, so there are 2 in addition to the proposed the acquisition report there are 2 policies that the department has drafted.

[Hansel Aguilar, Director of Police Accountability] 18:22:43
There it's what will fall on the directions for the officers at the street level in any of the.

[Hansel Aguilar, Director of Police Accountability] 18:22:52
Operators of this technology and then there is the other policy that provides more of the, articulation that is legally required, for this use of technology.

[Hansel Aguilar, Director of Police Accountability] 18:23:05
But policy, BPD, POSI, 4 22, in the purpose of this policy is to provide guidance for the capture storage and usage of the digital data obtained through use of ALPR technology department personnel shall adhere to the requirements of fix ALPRs in this policy as well as corresponding surveillance use

[Hansel Aguilar, Director of Police Accountability] 18:23:24
fix AOPR policy 1305 and could advance to the next slide please. Okay, so the The other policy that is.

[Hansel Aguilar, Director of Police Accountability] 18:23:38
Attached to the this surveillance technology policy is 1305 and the purpose of that policy is to provide guidance.

[Hansel Aguilar, Director of Police Accountability] 18:23:47
Again, very similar language, but this one is to ensure that it is meeting. The legal requirements both.

[Hansel Aguilar, Director of Police Accountability] 18:23:54
At the state level, federal level, but also in compliance with any, Berkeley, or Berkeley, local laws in the.

[Hansel Aguilar, Director of Police Accountability] 18:24:07
We get it.

[Hansel Aguilar, Director of Police Accountability] 18:24:10
Okay.

[Jose Murillo, ODPa Policy Analyst] 18:24:12
Okay, so as we noted earlier, at their June sixteenth meeting, The police accountability board voted to write.

[Jose Murillo, ODPa Policy Analyst] 18:24:23
To the public safety policy committee as well as the city council and the Berkeley Police Department to express their concerns about the policies that were proposed to the board.

[Jose Murillo, ODPa Policy Analyst] 18:24:32
There's 4 primary areas that the board was concerned about, and that they had an opportunity to address to the public safety committee.

[Jose Murillo, ODPa Policy Analyst] 18:24:39
The first one was of course, the concerns over civil liberty protections. The proposed acquisition report and the, or as the board stated, the proposed acquisition report and policies need to be need to provide stronger safeguards and assurances for protecting civil liberties and privacy rights.

[Jose Murillo, ODPa Policy Analyst] 18:24:58
The PAB emphasizes the importance of ensuring that the acquisition and use of ALPRs do not infringe upon the rights of individuals in the community.

[Jose Murillo, ODPa Policy Analyst] 18:25:07
The second concern was that there's lack of empirical support or data. The police accountability board as they stated has noted a lack of empirical evidence or data demonstrating the effectiveness of that technology and achieving its intended goals within the City of Berkeley while acknowledging the reported increase in crimes in specific categories, the

[Jose Murillo, ODPa Policy Analyst] 18:25:28
PAB highlights the need for an analysis of comparable jurisdictions with their without this technology to the terminus potential effectiveness.

[Jose Murillo, ODPa Policy Analyst] 18:25:37
Solid evidence is crucial before moving forward with the acquisition to ensure it's significant contribution to solving crime investigations and enhancing public safety.

[Jose Murillo, ODPa Policy Analyst] 18:25:46
So again, those were just 2 of the 4 and I'll proceed to the next 2.

[Jose Murillo, ODPa Policy Analyst] 18:25:52
There is also concerns about the true cost. In their letter the board noted that rather the police accountability board state that it has expressed concerns about the true cost of associated with the technology included potential hidden costs, maintenance expenses, and long-term financial commitments.

[Jose Murillo, ODPa Policy Analyst] 18:26:13

It is imperative to have a comprehensive understanding of the financial implications and ensure that the benefits outweigh the cost.

[Jose Murillo, ODPa Policy Analyst] 18:26:21

And then lastly the last concern that was noted was the lack of completeness of acquisition report and the proposed policies.

[Jose Murillo, ODPa Policy Analyst] 18:26:29

And again in their letter they stated the proposed policies require further clarity, collaboration, and editing, specifically the PAB cause for a clear outline of the intended use of the data retention periods access controls and measures to protect against potential misuse or unauthorized access.

[Jose Murillo, ODPa Policy Analyst] 18:26:47

The inclusion of more information about minimum training requirements for the users of the technology is also requested. So again, these were the analysis that was, Initially provide these this was in response to the initial policies that were provided to the board and have been workshop with the department to an extent.

[Jose Murillo, ODPa Policy Analyst] 18:27:07

The board has not taken, official position just yet in terms of the ALPR policies, but these were just their initial analysis.

[Jose Murillo, ODPa Policy Analyst] 18:27:17

And that they'll continue at the next meeting on. July twelfth.

[Jose Murillo, ODPa Policy Analyst] 18:27:25

Okay. Okay, so we've reached the end of our presentation. We're very conscious to allow time.

[Jose Murillo, ODPa Policy Analyst] 18:27:34

For folks to provide their input. As I noted at the start of the presentation the way that we will be.

[Jose Murillo, ODPa Policy Analyst] 18:27:44

With this is that we'll be looking at the QA list first to see if there are any questions there that haven't been answered.

[Jose Murillo, ODPa Policy Analyst] 18:27:48

We have been monitoring and we see that there's a few comments there. That wants to be for the record and we assure you that they will Well, we'll then open it up to live questions.

[Jose Murillo, ODPa Policy Analyst] 18:27:58

Again, we do have a good amount of participants here joining us today. And we do have a few hands raised so we'll make sure to, give enough time for folks to express their comments.

[Jose Murillo, ODPa Policy Analyst] 18:28:08

Public

ALPR Community Input Session Transcript
July 6, 2023

And then we'll end up with any closing comments, as we move forward to the next steps.

[Jose Murillo, ODPa Policy Analyst] 18:28:14

So with that said, we'll just take a few minutes to look over the QA.

[Jose Murillo, ODPa Policy Analyst] 18:28:17

Again if you don't necessarily wish to speak but you still wanna answer your question that's a great or ask a question.

[Jose Murillo, ODPa Policy Analyst] 18:28:23

It's a great tool.

[Hansel Aguilar, Director of Police Accountability] 18:28:27

And, could you please put the, community agreements? Just as a reminder to guide us as we engage in this conversation.

[Jose Murillo, ODPa Policy Analyst] 18:28:28

Okay.

[Jose Murillo, ODPa Policy Analyst] 18:28:37

Yes.

[Hansel Aguilar, Director of Police Accountability] 18:28:37

And I do want to, if I may, and just make sure that we're communicating effectively the board position at this moment.

[Hansel Aguilar, Director of Police Accountability] 18:28:48

It was to object the the acquisition report and the policies as presented they have sought, they have provided guidance to the police department and we did receive, a response to some of the the concerns that were raised by the board, those responses were provided today by the police department.

[Hansel Aguilar, Director of Police Accountability] 18:29:11

They will be in the agenda packet and the board will further discuss their stance based on this new information and the address and the concerns that have already, been brought forth by the police accountability board.

[Jose Murillo, ODPa Policy Analyst] 18:29:27

Okay. And then we just, I'll start with the QA questions. The first question that I have and it's more of a procedural aspect on our end.

[Jose Murillo, ODPa Policy Analyst] 18:29:39

Our closing comments going to be from attendees or from the PAB. So we will go ahead director.

[Hansel Aguilar, Director of Police Accountability] 18:29:49

Public

ALPR Community Input Session Transcript

July 6, 2023

So I do wanna just say that we are our assistant the board in this process this is not a board meeting per se so the comments that we would the office will make as we facilitate this in procession will not necessarily be representations of the board.

[Hansel Aguilar, Director of Police Accountability] 18:30:09

We do have individual board members and we have a lot of community members logged in. And they're more than welcome to make any comments, throughout this discussion, but I do want to make sure that we're communicating that effectively that this is not necessarily a event that's host being hosted by the Police Accountability

[Hansel Aguilar, Director of Police Accountability] 18:30:27

Board, but rather by the office in our capacity as the administrative support of the board.

[Jose Murillo, ODPa Policy Analyst] 18:30:37

Okay, so quite a few questions.

[Jose Murillo, ODPa Policy Analyst] 18:30:42

Oh, and there's a clarifying question as to that. Do attendees have a chance to make comments. I only ask specific questions. Yes, you will have the opportunity to make comments.

[Jose Murillo, ODPa Policy Analyst] 18:30:55

When we get to the live questions aspects of it. My apologies if we weren't clear with that.

[Jose Murillo, ODPa Policy Analyst] 18:30:58

But yes, you will be allowed to either ask a question or make a comment. Okay, so the next question is, so what is the estimated cost of performing the case control studies that the PAB and the case is needed to inform this proposal.

[Jose Murillo, ODPa Policy Analyst] 18:31:14

How do these costs compare to the program cost?

[Hansel Aguilar, Director of Police Accountability] 18:31:19

So that's great question. Another disclaimer in this conversation. There's some questions that may be beyond the scope of what we, intend to do tonight.

[Hansel Aguilar, Director of Police Accountability] 18:31:28

We will register any questions and we'll try to follow up with any community member. That has a more targeted question that's gonna require more research.

[Hansel Aguilar, Director of Police Accountability] 18:31:37

But feel free again to register your questions and comments. The goal here is to receive input so the board can make informed decisions in their recommendations.

[Jose Murillo, ODPa Policy Analyst] 18:31:52

The next question is will BPD have a contractor actually operating the cameras collecting the data, etc.?

[Hansel Aguilar, Director of Police Accountability] 18:32:03

So it is the, in the acquisition report and the policies they do describe the logistics and the mechanics by which.

[Hansel Aguilar, Director of Police Accountability] 18:32:12

The operators will be able to utilize this. So, there are, there will be officers if the department, is approved to have this technology.

[Hansel Aguilar, Director of Police Accountability] 18:32:25

The vendor will then provide training. There will also be some training to ensure legal compliance and the operators, that are trained to utilize the technology would be able to access the databases.

[Hansel Aguilar, Director of Police Accountability] 18:32:38

In that. Yeah, where the license plates, are being, kept and be able to access that information.

[Hansel Aguilar, Director of Police Accountability] 18:32:46

So there is a training component that's being provided by the vendor, but also by different, different, components like the legal requirements that will be necessary to ensure compliance with this technology.

[Jose Murillo, ODP Policy Analyst] 18:33:01

Then the next question you've briefly touched on, Director, will I be Pd department officials have access to the surveillance data.

[Hansel Aguilar, Director of Police Accountability] 18:33:10

As the policy and acquisition report currently reads, it will be individuals that are trained on this. Department.

[Hansel Aguilar, Director of Police Accountability] 18:33:19

It is not. My understanding that all of department members will necessarily be trained on this, but anybody that Does utilize the technology will be trained on it.

[Jose Murillo, ODP Policy Analyst] 18:33:35

Then this is a set of 3 questions. But they all relate. So in regards to the data, will it be shared with other law enforcement agencies and our private organizations?

[Jose Murillo, ODP Policy Analyst] 18:33:47

How many wrong arrests have been made using ALPR technology. Is there data to support the claim that ALPR does in fact solve crime.

[Hansel Aguilar, Director of Police Accountability] 18:33:57

So then those are great questions in terms of sharing. Those are the sort of, nuances that I think the board was.

[Hansel Aguilar, Director of Police Accountability] 18:34:06

Public

ALPR Community Input Session Transcript

July 6, 2023

I'm very concerned about it making sure that the language is clear on that if there is a legal requirement for the department, to share any, information like a subpoena is provided to the department, then that would need to be considered.

[Hansel Aguilar, Director of Police Accountability] 18:34:22

But there was also a conversation at the Public Safety Committee. What role, will the department and or our city attorney office play in potentially quashing any subpoenas that would potentially contradict our current policies and or audiences within the city.

[Hansel Aguilar, Director of Police Accountability] 18:34:42

So there is some element where there may be sharing, with other law enforcement agencies. There is, No, to my knowledge and, please correct me, Mr. Mario.

[Hansel Aguilar, Director of Police Accountability] 18:34:55

Is there any intention of sharing this information with private organizations. If we don't have that information, we certainly get back to community member.

[Jose Murillo, ODPa Policy Analyst] 18:35:03

We can certainly get back, but our other standing with the conversations that the board had at the special meeting.

[Jose Murillo, ODPa Policy Analyst] 18:35:10

And at the policy, committee by on behalf of council. Private organizations are not being contemplated.

[Jose Murillo, ODPa Policy Analyst] 18:35:18

There's a big emphasis that the policy, there's a big emphasis within the policy that the data wouldn't be shared without outside agencies.

[Jose Murillo, ODPa Policy Analyst] 18:35:27

They specifically drop and this isn't necessarily private agency, but more of a federal agency with ICE or other federal agencies for those enforcement matters.

[Jose Murillo, ODPa Policy Analyst] 18:35:37

Again, you noted, previously in terms of whether, they're legally obligated to, is a different question that has to be considered on a case by case basis.

[Jose Murillo, ODPa Policy Analyst] 18:35:48

But again, the BPD at least has written through the policy in the recent conversations, expresses that the information won't be shared with other agencies again, unless there's legal obligation to do so.

[Jose Murillo, ODPa Policy Analyst] 18:36:02

Okay, so we do have a few more questions that trickled in.

[Jose Murillo, ODPa Policy Analyst] 18:36:09

And I will. Okay.

[Jose Murillo, ODPa Policy Analyst] 18:36:17

So this question says, will ALPR be provided to the police to help identify automobiles nearby the locations at times of crimes reported to the BPD.

[Hansel Aguilar, Director of Police Accountability] 18:36:33

I'm sorry, I'm trying to look for. We have questioning.

[Jose Murillo, ODPa Policy Analyst] 18:36:37

It's towards the

[Hansel Aguilar, Director of Police Accountability] 18:36:41

What's the time stamp on it?

[Jose Murillo, ODPa Policy Analyst] 18:36:43

6 34.

[Hansel Aguilar, Director of Police Accountability] 18:36:49

We provide to to the police. To help identify automobiles nearby the locations at times when crimes reported to the BPD.

[Hansel Aguilar, Director of Police Accountability] 18:36:58

So the way the technology works, they if there is. A license plate or a vehicle of interest they could potentially answer that into the database and that would then, potentially, if that vehicles identified in one of the other fixed cameras, a woman around the city, it can give a hit for the officer to be able to flag

[Hansel Aguilar, Director of Police Accountability] 18:37:20

it as a vehicle of interest. There are other legal thresholds that the department must the officers must be able to satisfy before any enforcement action is taking place.

[Hansel Aguilar, Director of Police Accountability] 18:37:34

So they would need to have reasonable suspicion and probable cause to pursue. Any further action, even if they have a hit of a vehicle license plate.

[Jose Murillo, ODPa Policy Analyst] 18:37:50

Okay, the other question that came in around that time is will the operators who have access to data be bonded and have to take an oath to confidentiality?

[Hansel Aguilar, Director of Police Accountability] 18:38:01

So the operators of the of the technology they are there's language within the policies. Regarding the privacy implications of this data and also they are there's language regarding any repercussions for the unlawful or impermissible use of this technology.

[Hansel Aguilar, Director of Police Accountability] 18:38:22

So they do have to ensure that they're complying with current, oaths of office that they have as officers or operators.

[Jose Murillo, ODPa Policy Analyst] 18:38:31

And then you briefly touched on this next question. But the question is, 10 officers asked for the trained officers to retrieve data from the ALPR database and provide it to them.

[Hansel Aguilar, Director of Police Accountability] 18:38:44

Then those are their, great logistical questions. So if that is part of an investigative procedure, the individual that is seeking or is access in the database would have to be trained.

[Hansel Aguilar, Director of Police Accountability] 18:38:58

The operator would need to consider whether a fellow officer or a person within the department seeking information is doing it for lawful purposes.

[Hansel Aguilar, Director of Police Accountability] 18:39:11

So there would need to be a discussion there. Why are you accessing the data? And have that conversation.

[Hansel Aguilar, Director of Police Accountability] 18:39:16

But that, is, I think, one of the the logistical questions of how this looks in real life when you have so the department officers or department employees are trained and others that aren't.

[Hansel Aguilar, Director of Police Accountability] 18:39:34

So that is something that needs to be contemplated further.

[Jose Murillo, ODPa Policy Analyst] 18:39:39

Okay.

[Jose Murillo, ODPa Policy Analyst] 18:39:42

Next question is what example of civil liberties that will be impacted by implementing these cameras and are there reports that this happens in other cities?

[Jose Murillo, ODPa Policy Analyst] 18:39:53

Where this has been implemented.

[Hansel Aguilar, Director of Police Accountability] 18:39:57

And if you can go back to. The slide we got in the boards. There is an articulation there about the board's concerns.

[Hansel Aguilar, Director of Police Accountability] 18:40:09

With civil liberties And when we're talking about amassing the data like this, there's always implications on privacy and how will this data be used and how will it be protected.

[Hansel Aguilar, Director of Police Accountability] 18:40:23

Where it's not just a license plate itself which is in public view and this not necessarily.

[Hansel Aguilar, Director of Police Accountability] 18:40:28

Public

ALPR Community Input Session Transcript

July 6, 2023

Expectation of privacy would your license pay per se, but you had, what an important, considerations here is that the, the technology allows for the tracking of movement.

[Hansel Aguilar, Director of Police Accountability] 18:40:40

So the, ALPR data could potentially indicate if you have 52 cameras around the city the movements of a particular license way throughout.

[Hansel Aguilar, Director of Police Accountability] 18:40:50

The city and that is the civil liberty component of this And we have to ensure that we're utilizing this technology in a judicious manner.

[Jose Murillo, ODPa Policy Analyst] 18:41:02

And thank you. Okay, and I'll get to some of the questions now from folks that haven't.

[Jose Murillo, ODPa Policy Analyst] 18:41:10

Have their question and, answer just yet. This question states where will the information reside on locally controlled servers or on the server of the provider.

[Jose Murillo, ODPa Policy Analyst] 18:41:21

And I'll just tie this in with another question that was asked in. Which kind of ties in since we don't have a vendor, how can you guarantee they'll comply with the COB surveillance policy and data sharing.

[Jose Murillo, ODPa Policy Analyst] 18:41:36

I think. Sorry, I connected those 2 questions because in a way they sort of, answer each other in one way or the other.

[Jose Murillo, ODPa Policy Analyst] 18:41:48

At this time we don't necessarily again because there isn't a vendor. We don't know the specific way that the data will be stored.

[Jose Murillo, ODPa Policy Analyst] 18:41:58

There's talks with them the department from what we've been informed. That they're looking more at a cloud based.

[Jose Murillo, ODPa Policy Analyst] 18:42:06

Platform as many of the vendors offer that service it's supposed to be more cost effective than storing large amount of data locally.

[Jose Murillo, ODPa Policy Analyst] 18:42:15

And that's in terms of answer that question. And then again, to the previous question about how could we guarantee they follow Bp's policy.

[Jose Murillo, ODPa Policy Analyst] 18:42:23

It is also our understanding that vendors tailor the product to the specific city and their policy.

[Jose Murillo, ODPa Policy Analyst] 18:42:35

Public

ALPR Community Input Session Transcript
July 6, 2023

Okay. So again, we won't be able to get through all of our questions today in terms of the QA, but we will get back to them as many as we can.

[Jose Murillo, ODP Policy Analyst] 18:42:45

We're gonna move on to the live comment just because we do have a good amount of folks waiting to provide their comment there.

[Jose Murillo, ODP Policy Analyst] 18:42:52

So again, we see in here your questions. They are part of our record.

[Jose Murillo, ODP Policy Analyst] 18:42:58

Just for the interest of time, we're gonna move on to live comment. You're more than free to participate there as well.

[Jose Murillo, ODP Policy Analyst] 18:43:07

Okay.

[Jose Murillo, ODP Policy Analyst] 18:43:13

Okay, one moment.

[Jose Murillo, ODP Policy Analyst] 18:43:21

Okay. So John Cannon, you're being granted permission to speak. We're asking you folks to try to limit their comment for 2 to 3 min at most just because we do have.

[Jose Murillo, ODP Policy Analyst] 18:43:34

A good amount of folks. So we'll go ahead and give you that permission.

[Jose Murillo, ODP Policy Analyst] 18:43:40

Again, John.

[John Caner] 18:43:43

Yes, thank you. I'm John Kayner. In my day job, I'm CEO of the downtown Berkeley Association.

[John Caner] 18:43:50

But I'm not speaking on our but on that behalf because our board hasn't had a chance to win on this.

[John Caner] 18:43:57

I'm speaking. As a neighbor and on a on a personal level my husband and i live 3 blocks from the police department.

[John Caner] 18:44:06

And since the beginning of the year, we've had 2 carjackings within a block of our house.

[John Caner] 18:44:11

We've had a student. Badly beaten and robbed. 3 blocks where we've had a 70 year old woman who was, who was attacked and robbed and we're not feeling safe in our neighborhood.

Public

[John Caner] 18:44:28

We fully support automated license plates readers. We need to discourage criminals from committing crimes in Berkeley and we need to provide BPD the pool the tools that they need to apprehend.

[John Caner] 18:44:42

Folks who engage in criminal criminal activity. So, please, please, please, fully support this.

[John Caner] 18:44:50

And, thank you very much. Bye.

[Jose Murillo, ODPa Policy Analyst] 18:44:53

Thank you.

[Jose Murillo, ODPa Policy Analyst] 18:44:59

Okay. So we will now go on to Sagar Jitani and I apologize if I'm pronounced any names in advance.

[Jose Murillo, ODPa Policy Analyst] 18:45:09

But, you should have permission to speak now.

[Sagar Jethani] 18:45:13

Thank you. You know, 3 years ago the city council voted to reimagine policing. Part of that overhaul was this idea that police shouldn't be conducting routine traffic stops because of racially disparate outcomes.

[Sagar Jethani] 18:45:25

So the preferred solution, creating a Department of Transportation was blocked on other grounds, legal grounds.

[Sagar Jethani] 18:45:30

You fast forward to today. As John was just saying, we're in the midst of a significant increase in crime in Berkeley, especially violent crime like what he described.

[Sagar Jethani] 18:45:39

We're seeing residents held up a gun point by criminals riding into town from other communities, dramatic number of carjackings and other violent crimes involving vehicles.

[Sagar Jethani] 18:45:48

You know, the goal was to reimagine policing, not abolish it. Licensed by readers are an easy, cost effective solution.

[Sagar Jethani] 18:45:57

One that's used by thousands of other communities around the country. I'm sure you guys know the stat but nearby Vacaville saw a 33% decrease in auto theft.

[Sagar Jethani] 18:46:05

And a 35% increase in arrests. After installing LPRs. Meanwhile, here in the city of Berkeley.

[Sagar Jethani] 18:46:13

We've seen a 43% increase in auto thefts over just the past 6 months.

[Sagar Jethani] 18:46:18

You know, it's time to get behind this. Reasonable measure. There's perception that sometimes the PAB will block whatever it is the police department wants.

[Sagar Jethani] 18:46:26

This is a great chance to prove those critics wrong. The concerns that are raised are perfectly reasonable. But I think that those concerns have been addressed.

[Sagar Jethani] 18:46:34

By the Berkeley Police Department and I'm hoping that people can get behind this and we can start getting a lid on reducing violent crime in Berkeley.

[Sagar Jethani] 18:46:43

Thanks so much.

[Jose Murillo, ODP Policy Analyst] 18:46:44

Thank you.

[Jose Murillo, ODP Policy Analyst] 18:46:51

Ted Sagenar, you haven't. A lot permission to speak.

[Kitt Saginor] 18:46:55

Hi, my name is Kit Sagar. I'm really concerned about effectiveness. And whether or not, and it appears not that ALPRs will actually help in the prevention of crime.

[Kitt Saginor] 18:47:07

And then there's several different aspects to this. I'll try to be brief. One, issue actually is the an error rate and some of that error rate.

[Kitt Saginor] 18:47:17

I don't know what the cause of it is, but it means that people who are not committing a crime can in fact get in trouble and put put on the hot list and so forth.

[Kitt Saginor] 18:47:26

One issue I know that it just that it contributes the error, the error rate is people actually altering their license plates.

[Kitt Saginor] 18:47:32

You really need to find out what's happening in New York City at this point. In New York City, there's this huge rash of plates being altered or false plates being particularly false paper plates

being being put on cars even by people who are otherwise law-abiding in order to defeat parking tickets and highway

[Kitt Saginor] 18:47:53

tolls. So APR, ALPR technology becomes rather ineffective if all the people you're trying to catch are obscuring or changing their plates.

[Kitt Saginor] 18:48:04

The the strategies for defeating LPRs are already known to criminals and who already use it.

[Kitt Saginor] 18:48:11

It's you're foolish if you think that criminals will not adapt to a increase in ALPR technology in terms of car theft.

[Kitt Saginor] 18:48:21

Criminals can switch license plates with a parked car. They can use counterfeit plates.

[Kitt Saginor] 18:48:26

They can steal a car. If you know 10 pm complete their crimes during the night and dump the car before the owner has realized in the morning that the car is missing and reported is stolen.

[Kitt Saginor] 18:48:39

Particularly swapping plates is is something that it can go for without detection for some time.

[Kitt Saginor] 18:48:46

Most people, if they go out in the morning, will not notice that the license played on their car is not the same license plate that was on it yesterday.

[Kitt Saginor] 18:48:52

So it can be quite some time before a stolen license place gets reported. Meanwhile, the person who the legitimate owner of a car is driving around with a stolen plate on their car that was put on their car by the thief.

[Kitt Saginor] 18:49:06

And so that causes even more problems. What we really need is prevention of crime and particularly in the case of vehicle theft.

[Kitt Saginor] 18:49:14

There are ways to look at where the thieves are, what's happening with the thefts and to look into that.

[Kitt Saginor] 18:49:21

It was just mentioned that there was a 43% in auto thefts in Berkeley just recently.

[Kitt Saginor] 18:49:27

The largest part of that increase in fact I think the entire increase was caused by increased theft of Kias and Hyundai.

[Kitt Saginor] 18:49:35

I'm not sure how to pronounce that, which apparently we're sold with the defective technology making them so easy to steal that you can look at a YouTube video and go steal a car in 15 min or less.

[Kitt Saginor] 18:49:46

The other type of car that's easy to steal our Honda Civics and Honda Accords that are 20 years old or older.

[Kitt Saginor] 18:49:55

Once you know which cars are the ones that, and this is not just, Berkeley throughout the state of California, the statistics from the California Highway Patrol show that 31% of the automobiles stolen in California in 2022 were the Kia's Hayonda, Hyundai's.

[Kitt Saginor] 18:50:14

or old Hondas. So for prevention, right, fix the software, pressure the companies to fix the software on the newer cars and on the older cars those the owners of those cars can be provided with information and resources about protecting their vehicles, perhaps even including a program to help them obtain low-cost trackers to hide

[Kitt Saginor] 18:50:35

in their cars and that way it will be easier to find those particular cars if they're stolen. And if you can cut down considerably on the theft of those cars you will have actually prevented prevented in advance from its happening a lot of vehicle theft.

[Kitt Saginor] 18:50:51

And I think some of the other things that involve tracking a vehicles need to be looked at the same way.

[Kitt Saginor] 18:50:57

So that you can do, we can, the city should be doing prevention rather than trying to chase after them with ALPRs at which point the criminals just adjust their their methods so as to make your ALPR readers rather not very helpful for finding particularly those cars that are involved with commission of a crime.

[Kitt Saginor] 18:51:19

Thank you very much and and please also look as I said at the error rate for ALPR readers.

[Kitt Saginor] 18:51:25

Thank you.

[Jose Murillo, ODPa Policy Analyst] 18:51:27

Thank you.

[Jose Murillo, ODPa Policy Analyst] 18:51:33

Okay, just one moment.

[Jose Murillo, ODPa Policy Analyst] 18:51:38
Okay.

[Jose Murillo, ODPa Policy Analyst] 18:51:43
Mari Mendesa you should be allowed to speak now.

[Mari Mendonca] 18:51:48
Okay, hello. Hi. Okay, great. Thank you.

[Jose Murillo, ODPa Policy Analyst] 18:51:50
Yes, we could hear you.

[Mari Mendonca] 18:51:53
Good evening and I appreciate all the work. I wanna thank you both for presenting this evening and allowing an opportunity for.

[Mari Mendonca] 18:51:59
Community to chime in and thank you for all your work and trying to be thorough and how you're looking at all of the aspects.

[Mari Mendonca] 18:52:06
That the considerations will, or have the potential to affect the entire diverse community. One of the Most interesting things that I think we all have to Continue to remind ourselves.

[Mari Mendonca] 18:52:22
And I think Kit's point about criminals adopting 2 roles and even the fact that we have all kinds of laws and rules.

[Mari Mendonca] 18:52:29
And people committing crime even still that we have those laws. In rules and even cameras and whatnot.

[Mari Mendonca] 18:52:36
Crime, is typically and acted and especially in a society where there's much, much foundational and systemic injustice.

[Mari Mendonca] 18:52:47
You know, and we always look at crime as pointing the finger at people being criminal. But the initial crime in our society is in equity, right?

[Mari Mendonca] 18:52:56
It's predatory capitalism. It's the way that that we marginalize people with the least and keep them pinned down in a place of no return, right?

[Mari Mendonca] 18:53:07

Currently our economy has gotten to the place where people cannot afford to live. We can't afford the apartments.

[Mari Mendonca] 18:53:13

The percentages in terms of how we define even affordable housing is not accurate because we take in the highest earners in our community to the lowest.

[Mari Mendonca] 18:53:24

And so when we find a median, it doesn't even, it doesn't even, support or help.

[Mari Mendonca] 18:53:29

Low income income extremely low income because we're looking at at this vast difference of folks in our community.

[Mari Mendonca] 18:53:37

So, it's really important also to look historically at how police Surveve, has been used in racial profiling and discrimination.

[Mari Mendonca] 18:53:50

And like I said, when colonizers came to the community and came to this continent.

[Mari Mendonca] 18:53:56

It's the similar kind of propaganda that we're hearing now. Right. It's It's making criminals out of the folks who are not.

[Mari Mendonca] 18:54:05

Conforming or the folks who are not determining and defining what is, the. Society that is creating all the rules, right?

[Mari Mendonca] 18:54:19

Roles and regulations and systems for which that society is going to operate. And we are in a dangerous moment now because you can see that this is paralleling exactly that same kind of tactic we have folks who are coming in, they're grabbing land, they're, you know, people who can afford the high price.

[Mari Mendonca] 18:54:37

And inflation of the cost of housing, which should be a human right constitutionally when we go back to what we said at the beginning in terms of life liberty and the pursuit of happiness, housing is a human right.

[Mari Mendonca] 18:54:48

Housing is something that should not be commodified and we just excuse the market in the commodification of it to be fine with creating homelessness.

[Mari Mendonca] 18:54:57

Seniors are going to be the next big wave of homeless people and are we just gonna just turn our cheek and just say oh it's the economy and it's their fault. We have to take responsibility.

[Mari Mendonca] 18:55:06

We are in a day and age where we have so much information. We have information, we have history.

[Mari Mendonca] 18:55:13

My son is studying in high school my youngest son all this history and they talk about the bourgeoisie they talk about all these times in history where we've seen this exact same tactic.

[Mari Mendonca] 18:55:22

Being used to criminalize communities and you know use and extract and take whatever the powers that be want to come and extract.

[Mari Mendonca] 18:55:34

Whether it's land, whether it's resources, whether it's slave labor, whatever it is.

[Mari Mendonca] 18:55:39

So we have a responsibility as human beings, supposedly the most intelligent creature on the planet Earth. To have some integrity to set practice humanity.

[Mari Mendonca] 18:55:52

To understand that it is the structure and the foundation of white supremacy and the society and the culture that we live in.

[Mari Mendonca] 18:56:02

That is not, we're not fighting crime people. You know, we are looking at things that are harming.

[Mari Mendonca] 18:56:10

The community, we're harming people. We're harming the planet. We're harming everything.

[Mari Mendonca] 18:56:14

We need to have a holistic. And truthful approach to how we are going to address equity and injustice and terrorism really, that, is just rampant.

[Mari Mendonca] 18:56:30

It's not just here, it's global. So. I appreciate the work that's going into this, you know, the other thing I will just add on, you know, you at the beginning you said.

[Mari Mendonca] 18:56:39

That to have an open mind right include diverse perspectives and that this conversation and art and theoretically all of our conversations with counsel and elected are to inform and shape their decisions.

[Mari Mendonca] 18:56:53

But what I've witnessed is that there are particular agendas that support other agendas and the folks who usually control those are the people with the most wealth and power because they have the most voice and influence.

[Mari Mendonca] 18:57:04

And so, we actually aren't having robust conversations. We actually aren't including diverse perspectives.

[Mari Mendonca] 18:57:12

We actually aren't including the truth of all the different people in our community. We are protecting the civil liberties of all people.

[Mari Mendonca] 18:57:19

So we need to step that up. We need to be accountable. We need to be honest, we need to be truthful and and really do engage in the way that that you had presented at the beginning, right?

[Mari Mendonca] 18:57:29

True open mind, true inclusivity. Inclusivity, true diverse perspective, true harmony humanity and love.

[Mari Mendonca] 18:57:39

And I think, The folks who are talking about reimagining public safety, there nothing has been implemented.

[Mari Mendonca] 18:57:44

The community has had a beautiful vision and some community members actually have taken their personal time to do training to do with people who are going through mental health crisis so that as a community member they are having training to step in and do something that's more peaceful that's more mindful that's more based in humanity to deal with those

[Mari Mendonca] 18:58:02

things. We haven't seen any of that implemented by the promises and the people who have campaigned for that.

[Mari Mendonca] 18:58:08

We haven't seen that implemented. So we should not, you know, be careful about attacking that because no one's even really tried that yet.

[Mari Mendonca] 18:58:15

And again, thank you for the opportunity to speak and to share and for, you know, including us in the conversation this evening.

[Hansel Aguilar, Director of Police Accountability] 18:58:22

Thank you. Mr. Mario, could we, put a timer or at least, not a visual one, then have a one.

[Hansel Aguilar, Director of Police Accountability] 18:58:33

Chime up. We do have a few more members in committee. I wanna engage and we are. At this time.

[Hansel Aguilar, Director of Police Accountability] 18:58:39

Going to be going to 7 30 so we wanna make sure that will budget in time accordingly.

[Hansel Aguilar, Director of Police Accountability] 18:58:45

Yeah, and the screen to, then at least just have, the timer go off at the 2 min mark.

[Jose Murillo, ODPa Policy Analyst] 18:58:46

Yes, one moment.

[Jose Murillo, ODPa Policy Analyst] 18:58:54

Yes, one moment.

[Hansel Aguilar, Director of Police Accountability] 18:58:56

Okay, and while you're doing that, I'll go ahead and allow the next speaker.

[Hansel Aguilar, Director of Police Accountability] 18:59:04

Miss.

[Ms. Omowale Fowles] 18:59:07

Yes, thank you very much. I appreciate the time that the Accountability group has giving us, I wanted to be sure that you are.

[Ms. Omowale Fowles] 18:59:17

Focused on not only our rights as civilians. And our human rights but also a question that was asked earlier.

[Ms. Omowale Fowles] 18:59:27

Was whether or not the cars of interest. Would be. If they were if they were parked somewhere in somebody's neighborhood and this was a neighborhood that didn't have.

[Ms. Omowale Fowles] 18:59:41

Off street parking where you have residents. Parked in front of their homes. Would the license plates?

[Ms. Omowale Fowles] 18:59:48

Of the neighbors who are parked in front of their homes also be put through the data ringer with the car of interest.

[Ms. Omowale Fowles] 18:59:58

And that question was not answered directly. There was something about training and something about something else, but we didn't we didn't hear whether or not the rights of the people.

[Ms. Omowale Fowles] 19:00:07

Who own the house or the house is or the neighborhood. Who have to park on the street. We're going to be violated by the license plate readers.

[Ms. Omowale Fowles] 19:00:17

I would like to have that question answered by your by your staff. Thank you.

[Hansel Aguilar, Director of Police Accountability] 19:00:22

Jose, were you able to get the, Okay. Okay, and I do wanna, just address that and it wasn't my intention to avoid that question.

[Jose Murillo, ODPa Policy Analyst] 19:00:25

Yes.

[Hansel Aguilar, Director of Police Accountability] 19:00:34

I, there are some logistical questions and how this technology is going to be used. Some investigative logistics that it's not clear to our office or to the board at this moment.

[Hansel Aguilar, Director of Police Accountability] 19:00:46

In general though if there's a vehicle of interest the police department can answer that into the database.

[Hansel Aguilar, Director of Police Accountability] 19:00:52

Again, they will still need to meet legal established legal thresholds to take community, to take, any enforcement action, but, I, and I apologize if I attempted to answer that question earlier and didn't do it.

[Hansel Aguilar, Director of Police Accountability] 19:01:05

We're satisfaction, but I can definitely register that question and then follow up with the police department if so they can provide work guidance or clarity on that particular matter.

[Hansel Aguilar, Director of Police Accountability] 19:01:21

Would be good. Go on to the next speaker.

[Jose Murillo, ODPa Policy Analyst] 19:01:24

Okay.

[Jose Murillo, ODPa Policy Analyst] 19:01:29

Jp, you have been granted permission to speak.

[JP] 19:01:34

Can you hear me? Okay. First I'd like to comment that the first caller, the crime is that the first caller were was concerned about.

[Jose Murillo, ODPa Policy Analyst] 19:01:36

Yes.

[JP] 19:01:48

That the. The setup of the APLRs as they're presented.

[JP] 19:01:56

None of the crimes that Caller mentioned would be affected in any way whatsoever. By the ALPR. They would not be caught.

[JP] 19:02:07

They would not be detected. The ALPRs are proposed to ring the city, not be downtown around the police station.

[JP] 19:02:16

But more than that. I would like to address the question of the effectiveness. And has questioned the effectiveness and said that there are there is not a lot of data on the effectiveness of the But I would like to suggest that there is a vast amount of data on the effectiveness of ALPRs.

[JP] 19:02:44

And that the Pub and the City Council and the police need to look at it. And that data is.

[JP] 19:02:52

The crime statistics for the United States over the last couple of decades. Right. ALPRs are said to reduce.

[JP] 19:03:03

The rate of crimes of certain crimes of all crime depending on who you listen to. Okay, but If you look at the data and this is readily available online, just look at the data.

[JP] 19:03:19

You will see that crime What most crimes. We're reduced over The time from about the year 2,000 to the year 2010 or 2012.

[JP] 19:03:31

We 4 ALPRs were ever deployed on a massive scale in the United States. And then if you look at the crime data from 2,012 for the next 10 years.

[JP] 19:03:45

What you will see. Is that crime? Crimes remained the same or increased. Right?

[JP] 19:04:00

So, but that was exactly the time when ALPRs were deployed and mass throughout the United States.

[JP] 19:04:05

So the rate of auto theft instead of going down in the last decade actually went up a little bit.

[JP] 19:04:13

So there is no evidence whatsoever. Through this massive database across the entire US. That ALPRs.

[JP] 19:04:22

We do reduce the theft of auto rate. If you look at murders, you'll see the same thing.

[JP] 19:04:30

Public

ALPR Community Input Session Transcript

July 6, 2023

If you look at the general crime rate, you'll see the same thing. So there is no effectiveness to this to this technology.

[JP] 19:04:40

It doesn't do what it's advertised to do, even though anecdotally, of course, you can find a couple of circumstances where it catches something or whatever, but at my statistically it simply is not effective and therefore the cost is essentially infinite because you're spending money that could be better used that could be

[JP] 19:05:03

infinitely better used elsewhere because it just doesn't work.

[Jose Murillo, ODP Policy Analyst] 19:05:09

Thank you.

[Jose Murillo, ODP Policy Analyst] 19:05:16

Okay. Steve, I should be allowed to speak. I'll start the timer once you unmute.

[Jose Murillo, ODP Policy Analyst] 19:05:27

And I apologize if I mispronounced your last name.

[Steve Ravellette] 19:05:29

Oh, you got it correctly. Thank you very much. Let's just start on Wednesday, June 20 first of this year.

[Steve Ravellette] 19:05:37

A man attacked a summer exchange female student. Near College Avenue and Hay Street. In an effort to sexually assault her.

[Steve Ravellette] 19:05:46

He had followed her from a bar. Near campus, you know, telegraph and Durant.

[Steve Ravellette] 19:05:49

BPD, sex crime detectives investigated. And they were able to identify the suspect and his car in S.

[Steve Ravellette] 19:05:58

Saturday, June 20 fourth, the suspect was arrested around midnight. VPd patrol officer notice the vehicle license plate and the mail occupant that match the wanted person.

[Steve Ravellette] 19:06:10

The district attorney is charged as suspect with kidnapping to commit a sex crime and assault with intent to commit a sex crime.

[Steve Ravellette] 19:06:18

What do I mention this? The suspect felt completely comfortable to go back to the city of Berkeley to hunt more victims.

[Steve Ravellette] 19:06:25

Just 3 days earlier he had dragged a 21 year old female into the bushes, sexually assaulted her and got away.

[Steve Ravellette] 19:06:33

Well, BP did excellent police work, investigating and ultimately arresting the suspect. The suspect was so confident to roam the city of Berkeley and commit more criminal acts just 3 days later.

[Steve Ravellette] 19:06:44

It BPD would have had a readily available assistive technology. In the case.

[Steve Ravellette] 19:06:52

Place in strategic locations throughout the city. The suspect most likely would not have had the opportunity to hunt victims again 3 additional days.

[Steve Ravellette] 19:07:01

It's also should be noted that the suspect was emboldened. That he was arrested just a half block where he originally stalked his first victim.

[Steve Ravellette] 19:07:11

Berkeley residents, students, visitors, deserve and implore. The police accountability board in partnership with the community to approve and utilize license plate rears as proposed by the Berkeley Police Department.

[Steve Ravellette] 19:07:23

Thank you for your time.

[Hansel Aguilar, Director of Police Accountability] 19:07:27

Thank you. We're going ahead and We're gonna adjust the time. To.

[Hansel Aguilar, Director of Police Accountability] 19:07:34

30 for the interest of time, make sure that we can get our community members that are waiting to see.

[Hansel Aguilar, Director of Police Accountability] 19:07:43

We'll go ahead and, you're muted. We'll say.

[Jose Murillo, ODP Policy Analyst] 19:07:52

Sorry, just one moment.

[Hansel Aguilar, Director of Police Accountability] 19:08:04

Now go ahead and allow the next speaker. While you're doing it, LM, you are on right now.

[LM] 19:08:14

Hello, can you hear me?

[Jose Murillo, ODP Policy Analyst] 19:08:16
Yes.

[LM] 19:08:18
Hi, good evening and I appreciate the initial presentation where you guys really shared. Objectively both sides of the issue and I really appreciate you asking.

[LM] 19:08:30
To listen intently and be open minded and first speaker talking really start the court with me and definitely can relate to all the crime that it's happening and made me make makes me think what can we all do to prevent it.

[LM] 19:08:48
And toll catch criminals as soon as possible. So therefore I'm really here to show the support for ALPR and some on a call already mentioned by transparency hub that was established here in Berkeley.

[LM] 19:09:03
Actually, there is a sixth increase. percent increase in card and 50% increase in overall crime.

[LM] 19:09:12
All this is happening why police is under staff by 2030%. In neighboring cities, mansion, or in San Mateo and others, data actually shows that Taft has increased by 30% since installation of this.

[LM] 19:09:28
Readers. It's also throws that getting this information into efficiency to what Steve was talking about and lower times needed for police to investigate the crimes.

[LM] 19:09:39
It actually also minimized police presence. Needed to monitor interact with individuals causing crimes. Also, this technology is already used for collecting parking tickets and it's even also done without actual police being present.

[LM] 19:09:56
Ticket just arrives to the address for the person to pay. So if this technology makes me think if this technology is used.

[LM] 19:10:03
Enforce parking and for city profits. I sure hope it can be used to protect this really crime-er communities where criminals are really brazen and come back day after day to commit the crimes.

[LM] 19:10:22
I feel concerned about privacy as well. And, What we know is that technology captures the license plate, make of the car, color of the car, which actually none of them are person, personal indenti for us and therefore risk is very law of privacy issues.

[LM] 19:10:44

Public

ALPR Community Input Session Transcript

July 6, 2023

I agree that measures needs to be put around this technology and access and security but it's done many times in many technologies where privacy is the problem.

[LM] 19:10:54

So I believe really that pros for this technology outweigh the. And it's really high time for Berkeley to increase its focus on proactively preventing to increase its focus on proactively preventing crimes and capturing ones who commit crime as soon as possible.

[Hansel Aguilar, Director of Police Accountability] 19:11:08

Thank you, Alan, for your comment. Jose, are we able to get the, The timer up.

[Jose Murillo, ODPa Policy Analyst] 19:11:15

Yes.

[Hansel Aguilar, Director of Police Accountability] 19:11:15

That was under. Okay. And I do also want to.

[Hansel Aguilar, Director of Police Accountability] 19:11:19

Just highlight 1 point that the last speaker made of she indicated she went on the transparency hub and that is something that we we hope that more community members are engaging with that data.

[Hansel Aguilar, Director of Police Accountability] 19:11:34

It is an important tool that community members have at their disposal to be able to look at these trends and these patterns.

[Hansel Aguilar, Director of Police Accountability] 19:11:39

So thank you for plugging that in here.

[Hansel Aguilar, Director of Police Accountability] 19:11:42

Next video, please.

[Jose Murillo, ODPa Policy Analyst] 19:11:49

At, you have permission to speak. As soon as you're unmuted, I'll get the timer going.

[AT] 19:11:55

Hi, thank you for giving me a chance to give your comments. Okay, I'm the parents for UC Berkeley.

[AT] 19:12:06

The UC Berkeley, so you earned a number 3 spa on the list of most dangerous college ranking.

[AT] 19:12:12

By the business insider with us recent burglary amounting of 23,000. The safety issue in Berkeley is already rotten.

[AT] 19:12:21

Public

ALPR Community Input Session Transcript

July 6, 2023

Everybody knows. This is not a safe city to stay to live and to hang out. You think the criminal didn't know that?

[AT] 19:12:31

They know this is this is a see that it's so easy to commit crime and they have so many of easy target which are what I mean is the Cal students.

[AT] 19:12:41

So now any tools that will help to reduce the crime is a Moscow item. We do not have enough police personnel in Berkeley.

[AT] 19:12:51

By at least to establish an image to make Berkeley. A city that's hard to commit crime.

[Jose Murillo, ODPa Policy Analyst] 19:12:56

Okay.

[AT] 19:12:59

Many Bay Area cities already. Have license plate readers. CPU again, let me remind you of reported a 33% decrease in vehicle thefts.

[AT] 19:13:13

And the 35% increase in related arrests. In connection with the ALPR program.

[AT] 19:13:21

If we don't catch up. All the criminals will start flowing our directions. And the citizen in Berkeley which will including the Cal students the easy target.

[AT] 19:13:33

Will become the victims of this proposal rejection. Bye them, I think. Who is responsible for that?

[AT] 19:13:40

You know, think about it. Thank you.

[Jose Murillo, ODPa Policy Analyst] 19:13:45

Thank you.

[Jose Murillo, ODPa Policy Analyst] 19:13:48

Okay.

[Jose Murillo, ODPa Policy Analyst] 19:13:54

Okay, Robert, you have been granted permission to speak. I have restarted the timer and as soon as you're muted we'll get that going.

[Roberto] 19:14:01

Yes, good evening and thank you for providing us with such useful information in regards to the AI PRs.

[Roberto] 19:14:09

Really appreciate it. I'd like to start off with Give me now a shot off to All of the victims are hardworking victims that have been, victims of Theft and violent crime.

[Roberto] 19:14:26

People that have worked hard to but purchase a automobile that has been stolen. People that have bought multiple catalytic converters.

[Roberto] 19:14:38

That have to put their hard earned money into such purchases because we are not willing to spend money to, protect these people.

[Roberto] 19:14:48

And I cannot even speak of the people that have been victims. A violent crime, some of which were mentioned earlier tonight.

[Roberto] 19:14:59

I think it's time. To do some common sense. Police work and the ALPRs will provide us with the opportunity to do so.

[Roberto] 19:15:09

We are in danger of falling behind some of our a neighboring communities in regards to this type of technology.

[Roberto] 19:15:16

So common sense police, you know, police, you know, I'm sorry, is, long overdue.

[Roberto] 19:15:23

The problem is that we are lacking common sense decision making and I think it's about time. We put an end to that.

[Roberto] 19:15:32

Be able to track the stolen car or. Person, a child. That has just been abducted.

[Roberto] 19:15:40

I mean People talk about the cost of this and the reliability. And so forth. We need to start talking about what can.

[Roberto] 19:15:50

Be done with these with this technology such as being able to save an adaptive abductic child and we know that.

[Roberto] 19:15:59

In in Berkeley. Things like this have been attempted. Abductions of adults and children alike.

[Roberto] 19:16:08

So I just wanna say that, you know, please. Let's have a little bit more common sense.

[Roberto] 19:16:13

Let's put our politics aside. Let's look at technology we consider our city to be progressive.

[Roberto] 19:16:19

Well, now is the time to take a step forward by catching up to everybody else. Thank you.

[Roberto] 19:16:25

Good night.

[Jose Murillo, ODPa Policy Analyst] 19:16:28

Thank you.

[Jose Murillo, ODPa Policy Analyst] 19:16:31

Okay, now we have former council member Cheryl Dabblers.

[Jose Murillo, ODPa Policy Analyst] 19:16:37

You have been. A lot permission to speak.

[Cheryl Davila Former Councilmember, Founder CEMTF] 19:16:42

Hi. So we already heard from many people, I agree with Maori, Kit.

[Cheryl Davila Former Councilmember, Founder CEMTF] 19:16:50

And the people that have. Are in opposition of these ALPRs. They don't provide crimes.

[Cheryl Davila Former Councilmember, Founder CEMTF] 19:17:03

They might. A and solving them, but it's gonna all be after the fact. But if you invested in community and humanity and people.

[Cheryl Davila Former Councilmember, Founder CEMTF] 19:17:17

And created jobs and opportunities that will also reduce crime. And. What you don't realize.

[Cheryl Davila Former Councilmember, Founder CEMTF] 19:17:30

Is that these ALPRs will track? Each and every one of us and we were already know that the you know, Berkeley's police department.

[Cheryl Davila Former Councilmember, Founder CEMTF] 19:17:45

Has documented history. And probably present. Because during COVID it increased it, which is the racial disparity in stocks.

[Cheryl Davila Former Councilmember, Founder CEMTF] 19:17:59

This is well documented and the CPE report. In the draft report. Since COVID, racial profiling has gone up.

[Cheryl Davila Former Councilmember, Founder CEMTF] 19:18:10

So to give this a tool to a police department that doesn't.

[Cheryl Davila Former Councilmember, Founder CEMTF] 19:18:19
Treat people equally or fairly. And equitably is going to be, you know, exasperate.

[Cheryl Davila Former Councilmember, Founder CEMTF] 19:18:28
This increase the problem that already exists. And.

[Cheryl Davila Former Councilmember, Founder CEMTF] 19:18:37
For instance, I know someone like that went out to Dublin. With someone that had been arrested.

[Cheryl Davila Former Councilmember, Founder CEMTF] 19:18:45
And so when they entered the town, they knew that they entered because of their license plate readers. It was either Dublin or a little bit more.

[Cheryl Davila Former Councilmember, Founder CEMTF] 19:18:54
They got pulled over on their way home out of that town. And that they knew where they went.

[Cheryl Davila Former Councilmember, Founder CEMTF] 19:19:01
They knew that they didn't purchase anything when they went shopping in the mall. They knew what stores they went in in the mall.

[Cheryl Davila Former Councilmember, Founder CEMTF] 19:19:06
This is the tracking that can happen and it can also impact transgender folks that are coming here for whatever reasons from another state, immigrants, you know, all kinds of things.

[Cheryl Davila Former Councilmember, Founder CEMTF] 19:19:19
People that come to this area to receive, abortions or that type of situation so it can be used against us and.

[Cheryl Davila Former Councilmember, Founder CEMTF] 19:19:35
And it's gonna mostly impact black and brown. Indigenous people. So that's what I would say.

[Cheryl Davila Former Councilmember, Founder CEMTF] 19:19:42
Invest in humanity and opportunities to prevent crime, not these license plate readers that are gonna make the problem worse for.

[Jose Murillo, ODPa Policy Analyst] 19:19:55
Thank you.

[Jose Murillo, ODPa Policy Analyst] 19:20:02
George Lippman, the mic is yours.

[George Lippman] 19:20:04
Thank you. Yes, I have a question for you. Staff. So, but first I wanna assume for the moment that Everybody here, everybody in this conversation supports both security and civil rights.

[George Lippman] 19:20:20

Public

ALPR Community Input Session Transcript
July 6, 2023

My question therefore is Will there be appropriate oversight? To make sure that any misuse of the data. possibly by improper sharing of data on the cloud.

[George Lippman] 19:20:36

Can be determined. I know that you've had difficulty as the PAB and the Office of the DPA getting across, access to departmental data, even though the city's charter gives you that power.

[George Lippman] 19:20:50

So, I don't know if this is come up. I think people were asking before, what's the format gonna be?

[George Lippman] 19:20:57

Where is this gonna be stored? Is it gonna be stored in the cloud. Will there be a mechanism?

[George Lippman] 19:21:03

That's guaranteed that that can guarantee that not be shared or taken by other agencies such as those that maybe up to nefarious purposes like, oh, who's going to California to get abortions, whatever the case may be.

[George Lippman] 19:21:22

So that's, my question. Will there be a chance for the board or the office to take a look at the data and see that that it's being taken care of appropriately.

[George Lippman] 19:21:37

And you know, we, we think, we, wanna think the best. Of authority.

[George Lippman] 19:21:46

We also need checks and balances just like they have in Washington DC and we need to not demean the oversight bodies as some in Washington are doing at this moment.

[George Lippman] 19:21:57

Thank you. So that's my question.

[Hansel Aguilar, Director of Police Accountability] 19:22:02

Say are you able to adjust the time to 2 min? I just want to make sure we get as many members of the public and members of the public, just if we are happy and adjusting the time as you see to make sure we get as many voices here tonight.

[Hansel Aguilar, Director of Police Accountability] 19:22:15

I do wanna just acknowledge that again that the police department did respond back to some of the board's concerns in the discussions over the last few weeks that have been concerns expressed by this office and the board, about the accountability portion.

[Hansel Aguilar, Director of Police Accountability] 19:22:32

And I do know that there's language, in the revised policies about access to information for the board in the office.

[Hansel Aguilar, Director of Police Accountability] 19:22:41

Public

ALPR Community Input Session Transcript
July 6, 2023

In pursuant to investigations. There also is an internal audit function that the, that is embedded within this proposed policies.

[Hansel Aguilar, Director of Police Accountability] 19:22:49

So the department, the administrator will be doing internal audits and those audits will be made available to the board in the office.

[Jose Murillo, ODPa Policy Analyst] 19:22:59

Okay. Crystal, you're a Coler. You have been granted permission to speak.

[Jose Murillo, ODPa Policy Analyst] 19:23:06

Okay.

[Christoverre Kohler] 19:23:06

Greetings everybody. I'm going to address a couple of things here. Some of which touches upon with previous speakers have already raised.

[Christoverre Kohler] 19:23:15

And one of the things that I think is important is that we're looking at data and that kind of information.

[Christoverre Kohler] 19:23:22

It's easy to make mistaken assumptions out of it. And I hear some of that I think tonight.

[Christoverre Kohler] 19:23:27

I had an experience with the ALPR views. That bit me hard, violated my civil rights badly.

[Christoverre Kohler] 19:23:35

And it happened in a way that I don't know that anybody could have anticipated. So here's a couple of things.

[Christoverre Kohler] 19:23:43

We have had aLPRs here in Berkeley, a couple of them for years. People don't always know that.

[Christoverre Kohler] 19:23:47

They've been used by the parking enforcement division. They drive around with them. They read the places they go and they give an alert if there's some liability.

[Christoverre Kohler] 19:23:57

And I have a, a vehicle that got booted. Here in Berkeley and.

[Christoverre Kohler] 19:24:02

I called in and I had one conversation with the sergeant or that division. And we noticed that my outstanding tickets were all the most trivial kind.

[Christoverre Kohler] 19:24:12

Public

ALPR Community Input Session Transcript

July 6, 2023

And proper display of, disability placard. Some time in the morning when the whole day was reserved for street sleep and I didn't prevent any.

[Christoverre Kohler] 19:24:22

So, I was using my truck at the time for emergency lodging. I was in between places.

[Christoverre Kohler] 19:24:28

And so they granted me that they would return the vehicle to me. I could have more time to spend the tickets and I'd have more time to do some free markets with some money to The next day my truck was booted again.

[Christoverre Kohler] 19:24:43

This is on on a Friday night. And I called the boot company. Now here's where it is complex.

[Christoverre Kohler] 19:24:50

We have the officer who booted it called in the boot the company that handles the boots and they're the people I called.

[Christoverre Kohler] 19:24:56

And we decided with the customer service rep that it was mistaken. That the opposite driven by those tickets were still on the record.

[Christoverre Kohler] 19:25:06

They alerted the officer who did not read the notes attached to the file. And in those notes were documented my conversation with the sergeant and the ration we had made.

[Christoverre Kohler] 19:25:17

She didn't see those so she had booted again. So I thought they were gonna send somebody out and take it off. They didn't.

[Christoverre Kohler] 19:25:23

Later that evening, I discovered that the, but, So I take it off and I called in to the sergeant.

[Christoverre Kohler] 19:25:31

I left voicemail messages about what should I do now. She never returned my calls. I called again the following week.

[Christoverre Kohler] 19:25:39

And, the, the book company who told me I was liable for a fee because I hadn't come in and paid everything off.

[Christoverre Kohler] 19:25:46

Like what you're supposed to do when you booted. And. I said it was a mistake and they hadn't confirmed that they had known anything.

[Christoverre Kohler] 19:25:53

Public

ALPR Community Input Session Transcript
July 6, 2023

So later that week, my truck in fact was hard. They have actually been going out to find the truck to take the boat off so that the truck was moved figured that I broke the boot and just on that assumption it took the truck.

[Christoverre Kohler] 19:26:08

I finally got it out again and I found out that the police department uses a couple of different databases.

[Christoverre Kohler] 19:26:15

They use a state one for criminal. They use an internal one for their purposes. I don't know if this is gonna be a third one.

[Christoverre Kohler] 19:26:20

But what we're gonna have is similar things where where the operator using ALPR for a particular purpose may or may not be fully informed.

[Christoverre Kohler] 19:26:31

Of everything they need to know before an act is made. That kind of complexity, I'm not clear on.

[Christoverre Kohler] 19:26:40

I've not seen any presentations satisfy me on that. The other thing I wanna point out is that the same data that was used a couple of years ago to show racial, disparity.

[Christoverre Kohler] 19:26:50

Actually, what was actually shown by that was almost all of those stops in the racially disparate were overnight.

[Christoverre Kohler] 19:26:56

And it's a national standard. Among all the experts that it's when you see that disparity in the daylight that you say are bias because at night it's much harder you're gonna see the race of an individual.

[Christoverre Kohler] 19:27:08

So really with that data showed was that our our police department is less dramatically less racially biased than others.

[Christoverre Kohler] 19:27:17

And it shows one other thing that I'm not seeing addressed as well, which is It may be at night we have a higher racial mix of one kind or another in Berkeley driving on the streets, in which case that could be part of the disparity as well.

[Christoverre Kohler] 19:27:34

I'm seeing that these ALPRs are intended to ring the city to look for incoming and outgoing traffic which says to my mind that they're looking for people not from Berkeley.

[Christoverre Kohler] 19:27:42

Public

ALPR Community Input Session Transcript
July 6, 2023

Or they wanna tracking for that reason and that would only be certain crimes I think. So I'm I'm not comfortable with the LPR.

[Christoverre Kohler] 19:27:53

So once that complexity is addressed in an innocent person shouldn't have to go through a lot of stuff.

[Christoverre Kohler] 19:27:55

I ended up losing my truck because of it. That people are be protected from things like that.

[Christoverre Kohler] 19:28:01

Secondly, if we have vendors and we have several databases and we have complexity. That has to get really well addressed before we rely on it.

[Christoverre Kohler] 19:28:09

Thank you.

[Hansel Aguilar, Director of Police Accountability] 19:28:09

Thank you. And I do wanna just give a another gentle reminder about the time we're gonna adjust it to.

[Hansel Aguilar, Director of Police Accountability] 19:28:17

1 min per speaker we're gonna knowledge the next 6 speakers that have their hands raised. We are trying to provide as much opportunity.

[Hansel Aguilar, Director of Police Accountability] 19:28:29

Do, remember that we're going to have the board is gonna have a meeting on July, the twelfth, which is next week.

[Hansel Aguilar, Director of Police Accountability] 19:28:34

They do have public comment sections. This item will be on the agenda if you want to. Share additional thoughts and commentary you're also more than welcome to email us we'll make sure that the email address is, provided and available for your, before your review before you leave the session tonight.

[Hansel Aguilar, Director of Police Accountability] 19:28:54

So the next few speakers are gonna have 1 min please.

[Geoff Lomax] 19:29:01

Good evening. Thanks very much. Just a couple of comments. First, the, The point on, you know, crime statistics, the only real stable variable that remains stable over time because of how things get reported as homicide rates.

[Geoff Lomax] 19:29:18

And they've dipped to some extent, which is true, but we still have horrendous homicide rates.

[Geoff Lomax] 19:29:24

Public

ALPR Community Input Session Transcript

July 6, 2023

We have the highest rates of any pretty much any country other than those experiencing active conflicts. So. The other the other types of crimes are simply going unreported or reported at much lower rates and they've changed a lot over time.

[Geoff Lomax] 19:29:40

Second, I really just caution about a recommendation. Of the level of study you're suggesting is necessary is effectively a case control study which would cost much more than the implementation of the policy.

[Geoff Lomax] 19:29:55

So simply implement the policy and do what everyone does. Evaluate it and see what its impact is over time under real world conditions.

[Geoff Lomax] 19:30:04

Thank you.

[Hansel Aguilar, Director of Police Accountability] 19:30:16

You're muted.

[maria sol] 19:30:19

Hello, can you hear me?

[Jose Murillo, ODPa Policy Analyst] 19:30:21

Yes.

[maria sol] 19:30:22

Okay, thank you very much for this and by the way on many meetings that put up a clock. You can politely.

[maria sol] 19:30:30

But the mic so that he can actually be adhered to. First of all, I've been the victim of a assault, stolen vehicles, hitting runs.

[maria sol] 19:30:39

Rape, etc. So I really empathize with anyone that is hurt. It's horrible to be violated.

[maria sol] 19:30:47

However, This is a complex issue. We have multiple crime sources. Or just because it's so darn profitable.

[maria sol] 19:30:58

It is extremely profitable. To be in organized crime. So who's that? But then more generally.

[maria sol] 19:31:05

We have desperate people. Desperate, overwhelmed, terrified people. Struggling to survive. So putting money.

[maria sol] 19:31:13

To support people in my view. Is preventing the harm. And that's, you know, an ounce of prevention is definitely worth a pound of cure.

[maria sol] 19:31:24

Thank you very much, all of you. Thank you.

[Jose Murillo, ODP Policy Analyst] 19:31:28

Thank you.

[Jose Murillo, ODP Policy Analyst] 19:31:36

Okay, and the caller ending with 7 8 7.

[] 19:31:43

Hello?

[Jose Murillo, ODP Policy Analyst] 19:31:43

Okay, yes, we could hear you.

[] 19:31:47

Yes. I believe prevention. Is the Just starts with our youth.

[] 19:31:57

Programs. We eliminated free recreation programs. A prevention outlet to grow our children into productive human beings.

[] 19:32:09

I disagree with your proposal. I have been victimized by police. And also have been victim of kidnap and rape.

[] 19:32:23

However, implicit bias is a well-documented It does exist. I'm convinced if My license is seen.

[] 19:32:34

I will automatically be seen as guilty or involved. In bad behavior.

[] 19:32:43

Paul will this procedure eliminate implicit bias the practice of bigotry? And hatred.

[Jose Murillo, ODP Policy Analyst] 19:33:01

And we just wanna confirm that that's the end of your comment in terms of the question. Director

[Hansel Aguilar, Director of Police Accountability] 19:33:08

Yes, if we can move to the next speaker at this time. We're just trying to make sure.

[Hansel Aguilar, Director of Police Accountability] 19:33:12

The last few speakers have an opportunity

[Jose Murillo, ODPa Policy Analyst] 19:33:15
Okay.

[Jose Murillo, ODPa Policy Analyst] 19:33:18
Okay, the speaker with citizen 5.

[Citizen Five] 19:33:24
Yes, hello, can you hear me?

[Jose Murillo, ODPa Policy Analyst] 19:33:26
Yes.

[Citizen Five] 19:33:28
Greetings, thank you. My name is Star Child and I am strongly against any additional surveillance.

[Citizen Five] 19:33:36
I want the surveillance that is already being, being constitutionally imposed on us to be eliminated. I understand some people are concerned about crime, but as I posted in the questions I don't know if everyone can read those.

[Citizen Five] 19:33:51
I would ask them to be unblocked so people can read them because I put in a link with some background information.

[Citizen Five] 19:33:56
Given that the government has actually stolen more money from people in the US in recent years than petty criminals.

[Citizen Five] 19:34:01
That's all petty criminals combine. That's not even counting non-consensual taxation, but simply money.

[Citizen Five] 19:34:07
And property seized in forfeitures. Where they put the burden on you, the victim. To show that your resources were not involved in criminal activity.

[Citizen Five] 19:34:16
In order to get your money or property back. Isn't it the height of stupidity if your goal is to reduce crime?

[Citizen Five] 19:34:23
To put more power in the hands of government. The number one criminal organization in the United States. By giving them more power to monitor and track people.

[Citizen Five] 19:34:32
And potentially seize their resources.

[Citizen Five] 19:34:36

And there is that's my question. And in, there's a link to the story confirming this allegation.

[Jose Murillo, ODPa Policy Analyst] 19:34:38

Hi.

[Citizen Five] 19:34:44

How in the past 20 years they've stolen 68 billion dollars. In forfeitures for American citizens.

[Citizen Five] 19:34:50

And Pro Publica says that for some law enforcement agencies for FIFTHED funds have been as much as 20% of their budgets.

[Citizen Five] 19:34:57

And quote, most of this money and property is coming from poorer people. Unquote and they say that's particularly frustrating when you consider the petty penalty pittance paid by most white collar criminals.

[Citizen Five] 19:35:09

So government using it's information to go after people. And primarily poor people are more likely to be brown black, etc.

[Citizen Five] 19:35:20

To seize their money and then people don't have the resources to fight them to get their property back.

[Citizen Five] 19:35:24

And if you allow more surveillance. You're enabling more of this kind of theft. From the number one criminal organization in the United States and that is the government.

[Citizen Five] 19:35:33

And I would like to hear responses. Thank you.

[Hansel Aguilar, Director of Police Accountability] 19:35:39

Thank you for your commentary. As we mentioned at this time, we're not going to be responding back.

[Hansel Aguilar, Director of Police Accountability] 19:35:45

We will be moving, the discussion to the to the police accountability board meeting if you're interested in engaging further.

[Hansel Aguilar, Director of Police Accountability] 19:35:53

If you can, allow the next speaker, please.

[Jose Murillo, ODPa Policy Analyst] 19:35:57

Rivka Blocknick.

[M. Rivka Polatnick] 19:35:57

Hi, this is RIFKa. I urge you to keep in mind the bigger picture of what public safety means certainly.

[M. Rivka Polatnick] 19:36:07

We all are unhappy with crime, but public safety includes having the means to survive live. You know, liver.

[M. Rivka Polatnick] 19:36:18

Thriving life and people deprived of that may. Turn to crime, but Also look at the budget because The issues of cost are important and effectiveness because there are so many competing claims for the limited money that we have and when something like this gets funded and it turns out to be much more expensive than at first look.

[M. Rivka Polatnick] 19:36:43

That means that other things are not getting funded or being cut. Programs that do prevention and intervene with youth and higher community members who themselves got in gangs or crime who regret it and are really eager to mentor youth and lead them away from crime.

[M. Rivka Polatnick] 19:37:07

There's all kinds of alternative ways. To reduce crime that don't. Cost an enormous fortune and I am afraid that this is gonna end up costing enormous price at the expense of other really important That would help our public safety.

[M. Rivka Polatnick] 19:37:26

So please, you know, keep that in mind.

[Jose Murillo, ODPa Policy Analyst] 19:37:30

Thank you. Okay. Wendy Gibson.

[Wendy Gibson] 19:37:39

Hello, thank you for having me. Wanted to read this real quick. This is the Berkeley Police Association tweet.

[Wendy Gibson] 19:37:46

Monday morning the entire understaffed graveyard team was on a home invasion robbery with foreign custody.

[Wendy Gibson] 19:37:52

Then a group of criminals committed a commercial bird really on Fourth Street. We had no officers to send.

[Wendy Gibson] 19:37:58

Next time it could be you that needs help and we have no officers available. These type that using technology.

Public

ALPR Community Input Session Transcript
July 6, 2023

[Wendy Gibson] 19:38:05

To aid the police department. Helps our community. It's not a 0 sum game. We can invest in humanity and we can also invest in technology that makes our community safer.

[Wendy Gibson] 19:38:17

Well, technically not preventing a crime in process. These readers can prevent future crimes because once they start helping capture criminals.

[Wendy Gibson] 19:38:27

The criminals, other criminals will decide they will have a higher chance of getting caught if they want to do bad things in Berkeley.

[Wendy Gibson] 19:38:35

In addition, catching criminals repeat criminals like a gentleman spoke earlier who was raping people they're gonna stop those crimes because you get those criminals off the streets.

[Wendy Gibson] 19:38:48

These readers do not know what you purchase at a mall or what stores you go into or the color of your skin.

[Wendy Gibson] 19:38:57

That's one of the things that makes them great. Thank you so much. I appreciate your time.

[Jose Murillo, ODP Policy Analyst] 19:39:03

Thank you.

[Jose Murillo, ODP Policy Analyst] 19:39:07

Okay, and we are at our last speaker for tonight.

[Jose Murillo, ODP Policy Analyst] 19:39:13

Ingrid, you have been granted permission to speak.

[Ingrid] 19:39:17

Bye. Can you hear me? Okay, thank you so much for giving me the time and the opportunity to speak here.

[Jose Murillo, ODP Policy Analyst] 19:39:19

Yes.

[Ingrid] 19:39:26

I wanted to mention that like some other speakers have said criminals usually flock to cities where they know there are holes and staffing.

[Ingrid] 19:39:34

We know Berkeley right now is under staffed. Most of this criminals come from outside of the city to terrorize.

[Ingrid] 19:39:42

The residence of the city. And, I think a misconception is that this license plate readers will catch or keep tabs on everybody and The way they work is they're not gonna track a license plate unless the license plate has been entered into the system based on a crime that has been reported, a stolen car or something like that.

[Ingrid] 19:40:06

So. I think for all those residents who are afraid that they're gonna be targeted, I think this will solve their problem.

[Ingrid] 19:40:15

It's just they're only gonna catch people that have already committed crimes and have been known to so I would appreciate if you can support this.

[Ingrid] 19:40:21

For the safety of all the Berkeley residents and the Cal Berkeley students. Thank you for your time.

[Jose Murillo, ODP Policy Analyst] 19:40:28

Thank you.

[Hansel Aguilar, Director of Police Accountability] 19:40:33

Thank you. This morning if we could put the Our contact information slide. That is going to conclude our opportunity for public comments if you want to continue to discussion we really appreciate that the feedback we received today we want to strive to have more of these conversations.

[Jose Murillo, ODP Policy Analyst] 19:40:40

Yes.

[Hansel Aguilar, Director of Police Accountability] 19:40:59

The the city charter that establishes the office and the board does. It's very clear about his intent of ensuring that there's community engagement when there's ever a policy review.

[Hansel Aguilar, Director of Police Accountability] 19:41:11

So please do continue to participate in this discussions, participate in the police accountability board meetings. There are always public comments.

[Hansel Aguilar, Director of Police Accountability] 19:41:21

The information is listed on our website. Our email address is listed here. If you have any questions regarding this or any of the policies we discussed today.

[Hansel Aguilar, Director of Police Accountability] 19:41:32

We want to make sure that any policy that is being considered by the police department by the city council is, receiving a rigorous review to ensure that we're upholding the values of this community and ensuring that they will be, appropriate accountability for compliance.

[Hansel Aguilar, Director of Police Accountability] 19:41:52

So again, we appreciate the feedback that we receive tonight. We want to make sure we continue this discussion.

[Hansel Aguilar, Director of Police Accountability] 19:41:58

We will memorialize. The commentary today that we received today and give it to the board at his next, meeting we're going to provide.

[Hansel Aguilar, Director of Police Accountability] 19:42:08

Our agenda packet is going to include a lot of the comments and questions that have been provided tonight.

[Hansel Aguilar, Director of Police Accountability] 19:42:17

So again, we thank you for your participation. If you want to have any final thoughts for the community.

[Jose Murillo, ODPa Policy Analyst] 19:42:23

I just wanna echo, what the director has mentioned. We greatly appreciate your participation. We'd also appreciate any feedback in terms of this community input forum.

[Jose Murillo, ODPa Policy Analyst] 19:42:34

One of the things we've already noted was the timing issue. And we apologize for the speakers that got less time towards the end.

[Jose Murillo, ODPa Policy Analyst] 19:42:41

But it does make us happy that we were in a position where, there's enough community members here to where the timing.

[Jose Murillo, ODPa Policy Analyst] 19:42:47

How to be shrunk down. So we'll work on that. But we also welcome any future feedback that you could have for us, to help these make to help us make these sessions are more useful for you the community member because at the end of the day and that's who we're here for.

[Jose Murillo, ODPa Policy Analyst] 19:43:03

So thank you very much for thank you everyone for coming today.

[Hansel Aguilar, Director of Police Accountability] 19:43:06

Have a good night.

ODPA Community Input Session: Automated License Plate Readers (ALPR): A Discussion on ALPRs in the City of Berkeley

July 6, 2023

Questions and Comments made Through the Q&A Tool

Question	Answer
thank you for this presentation, activating closed captioning and allowing attendees to save the transcript.	live answered
We cannot see the q and a.	live answered
It was said to keep an open mind and be inclusive of diverse perspectives... I have noticed that our electeds do not practice this value. In fact Dist 2 Council member frequently denies to participate in any conversation or dialogue for understanding of perspective as well as denying to consider statistics that are presented to affirm the harm that heavy surveillance has been proven to have in our society and the harmful ways that it it used against black and brown, low income, unhoused and other marginalized community members.	live answered
Insofar as the acquisition of ALPRs seems to be a fait accompli (as evidenced by the vote to acquire by the Public Safety Cmte unanimously) why is this being held now and not months ago?	
I'd just like to register my support for the license plate readers and look forward to them coming online soon and assisting in both deterring and helping to solve crime in Berkeley. Thank you.	
As we are supposedly in a Democracy and theoretically our 'input' is supposed to inform and shape our City Council's decisions -we have been witness to the fact that when they have a particular "agenda" they do not listen to nor consider nor inform or shape their decisions based on the diverse community input and proof of harm reported in audits and studies on discrimination and racial profiling.	

Public

Will it be shared will other law enforcement agencies and/or private organizations?

How many wrong arrests have been made using ALPR technology?

Is there data to support the claim that ALPR does in fact solve crime?

422.9 RELEASING ALPR DATA

The ALPR data may be shared only with other law enforcement or prosecutorial agencies for official law enforcement purposes or as otherwise permitted by law.

(a) A supervisor at the requesting agency will sign an acknowledgement letter stating that the shared data will only be used for the purposes that are aligned with the Berkeley Police Department's policy. The Berkeley Police Department does not permit the sharing of ALPR data gathered by the City or its contractors/subcontractors for purpose of federal immigration enforcement, these federal immigration agencies include Immigrations and Customs Enforcement (ICE) and Customs and Border Patrol (CBP). See attached letter.

(b) The signed letter is retained on file. Requests for ALPR data by non-law enforcement or non-prosecutorial agencies will be processed as provided in the Records Maintenance and Release Policy (Civil Code § 1798.90.55).

(c) All signed letters shall be routed to the Audit and Inspection Sergeant for co

Public

<p>Will all BPD department officials have access to this surveillance data?</p>	<p>422.4.1 ALPR ADMINISTRATOR The Investigations Division Captain, or his/her designee, shall be responsible for compliance with the requirements of Civil Code § 1798.90.5 et seq. This includes, but is not limited to (Civil Code § 1798.90.51; Civil Code § 1798.90.53): (a) Only properly trained sworn officers, crime analysts, communication operators, records clerks, parking enforcement officers, and police assistants are allowed access to the ALPR system or to collect ALPR information.</p>
<p>The procedures that are supposedly in use now that “ensure” that they do not infringe upon the civil liberties of members of our community currently are not ensured in actuality, it is just a theory... many community members are harmed -this concept of assurance is not valid and they can certainly not uphold that assurance in regards to the ALPR equipment and the police conduct in use of this technology</p>	
<p>Will BPD have a contractor actually operating the cameras, collecting the data, etc.?</p>	
<p>Are “Closing Comments” going to be from the attendees? Or from the PAB?</p>	live answered
<p>So what is the estimated cost of performing the case control studies that the PAB indicates is needed to inform this proposal? How do those costs compare to the program costs?</p>	
<p>I mean, do attendees have a chance to make comments tonight, or only ask specific questions?</p>	live answered

Public

BPD already has documented racial profiling, quotas & problematic discriminatory behavior, ALPRs has the opportunity to increase this disparity, what are you doing to prevent that?	
Since you don't have a vendor, how can you guarantee they will comply with COB surveillance policy and data sharing?	
What is example of civil liberties that will be impacted by implementing these cameras and are there reports that this happened in other cities this has been implemented?	live answered
But can officers ask for the trained officers to retrieve data from the ALPR database and provide it to them?	
Will ALPR be provided to the police to help identify automobiles nearby the locations at times of crimes reported to the BPD ?	
Will the operators who have access to data be bonded and have to take an oath to confidentiality?	
where will the information reside on locally controlled servers or on the server of the provider	
How many members of the public are listening?	At one point during this session we had near 60 participants

Public

<p>If your license is scanned how long is your license in the system?</p>	<p>The license plate is scanned, not the driver's license. "All ALPR data downloaded to the ALPR server should be stored for no longer than 30 days, and in accordance with the established records retention schedule. Thereafter, ALPR data should be purged unless it has become, or it is reasonable to believe it will become, evidence in a criminal or civil action or is subject to a discovery request or other lawful action to produce records. In those circumstances the applicable data should be downloaded from the server and uploaded into BPD's digital evidence repository." (422.6 DATA COLLECTION AND RETENTION)</p>
<p>Who has the power to get BPD and the City to seriously consider what alternatives to ALPR could be used to reduce and PREVENT crime? In terms of vehicle theft, Berkeley could get more effective PREVENTION by identifying which kinds of vehicles are more vulnerable to theft and take steps to make those vehicles more difficult to steal and easier to recover. From the California Highway Patrol website, I learned that out of 72,665 automobiles stolen in California in 2022, 31% were Kias, Hyundais, or old Hondas. This Spring, BPD themselves reported a huge recent upsurge in theft of Kias and Hyundais due to software deficiencies. That's what needs to be fixed. For the old Hondas, the owners of those vehicles should be provided with information and resources about protecting their vehicles - perhaps including a program to help them obtain low cost trackers to hide in their cars. I'd like to comment on this, but am typing in for your records.</p>	<p style="background-color: #cccccc;"></p>
<p>Berkeley meter maids have had license plate readers for years, does anyone here think it's reasonable for meter maids to have better technology to write parking tickets than the police to stop and solve crime?</p>	<p></p>
<p>What is the definition of, "Operator"?</p>	<p>live answered</p>

Public

What is the definition of, “Operator”?	ALPR Operator: Trained Department members who may utilize ALPR system/equipment. ALPR operators may be assigned to any position within the Department, and the ALPR Administrator may order the deployment of the ALPR systems for use in various efforts.
Could this be used to e-ticket a car that ran a red light.	
Is it true that Flock is the presumed vendor? Also that Flock stores the data in the “cloud?” Also, will the PAB have an oversight function to make sure that data not be shared inappropriately?	
Why are the ALPRs so dramatically more affordable than the vidcams?	
Another area that I want in your record - Will the effectiveness or lack of effectiveness of ALPR be taken into account by PAB or by City Council? Vehicle thieves. Criminals have several strategies to defeat ALPRs. They can switch license plates with a parked car, they can use counterfeit plates, they can steal a car, complete their crime and dump the car before the owner realizes and reports that it has been stolen. Counterfeit plates, stolen plates, and also alteration of plates can also be used by persons wanted for crimes other than vehicle theft. If Berkeley installs an extensive ALPR network, criminals will adapt and the use of these techniques will also expand proportionately. In New York, ALPR evasion through counterfeit plates and altering plates has become very widespread, even among otherwise law-abiding people, (who want to evade highway tolls and parking tickets). Please look at the ALPR situation in NY or other areas before Berkeley spends money to install it here.	
This is rude; and off topic; moderate this meeting	
Can this speaker be limited to 3 minutes?	
Can you enforce the 2-3 min time limits please	
Hansel’s audio is cutting out intermittently	
Isn’t the plan to mount the cameras on Berkeley thoroughfares, not in residential neighborhoods?	

Public

<p>I have heard that Piedmont has used ALPRs for many years and their crime rate is extremely low. I think, given the loss of so many active police officers, it would be a positive addition to Berkeley's policing tools. Can you comment?</p>	
<p>Is there a way to get the entire transcript, I got to the meeting late.</p>	<p>Yes, the transcript may be saved. If anyone is having difficulties downloading it, you may contact our office for a copy dpa@berkeleyca.gov</p>
<p>Thank you Director Aguilar and analyst Murillo for conducting this community meeting. You have done a wonderful job hosting, facilitating and informing us this evening. We are grateful for your service and committed work in and with the community.</p>	
<p>Can I speak as a member of the public?</p>	
<p>Given that the government has actually stolen MORE money from people in the U.S. in recent years than petty criminals – not even including non-consensual taxation, but simply money and property seized in forfeitures, where they put the burden on you the victim to show that your resources were NOT involved in criminal activity in order to get your money or property back – isn't it the height of STUPIDITY, if your goal is to REDUCE CRIME, to put MORE power in the hands of government, the #1 criminal organization in the United States, by giving them more power to monitor and track people (and potentially seize their resources)?</p>	
<p>We have a city manager who just appointed a chief without completing a proper investigation of multiple allegations of misconduct in our Police Dept. We do not have trust of the City Manager and the Police Dept to do oversight or "ensure" equity and safety of all residents... don't forget that the accountability prior to now has been poor to say the least.</p>	
<p>It seems that some speakers are using scare tactics. These cameras have NO way of knowing what stores in a mall you entered or what and/or if you purchased anything. BIPOC folks are actually protected with this technology as it cannot see the people in the car.</p>	

Public

<p>Here is a link to a story confirming the allegation contained in my question (that the U.S. government is stealing more from Americans than ordinary criminals are):</p> <p>https://boingboing.net/2020/12/21/us-police-have-stolen-68-billion-in-the-past-20-years-from-american-citizens-without-due-process.html</p>	
<p>What is the purpose of the timer? It has been showing 6 zeros for 3 min</p>	
<p>Some further background from the link that shows how this is a racial and social justice issue:</p> <p>“ProPublica adds:</p> <p>For some law enforcement agencies, forfeiture funds have accounted for as much as 20% of their budgets, and are sometimes used for seemingly nonessential purchases. A police department in Georgia, for example, once spent \$227,000 on an armored personnel carrier, and a sheriff in New Mexico splashed out \$4,600 for an awards banquet. In one recent case, a suburban Atlanta sheriff spent \$70,000 in forfeiture funds on a muscle car, a Dodge Charger Hellcat, that he uses solely to drive to and from work. The U.S. Justice Department called that purchase ‘extravagant.’</p> <p>The fact that most of this money and property is coming from poorer people is particularly frustrating, when you consider the penalty pittance paid by most white collar criminals.”</p>	
<p>https://www.sacbee.com/news/politics-government/capitol-alert/article276848586.html</p>	
<p>Can the questions/comments I’ve posted here please be made visible to the public, so anyone interested can see them in writing and read more at the link to the story I posted?</p>	

Public

CLEARLY, that last speaker doesn't understand RACISM! SADly....which is the PROBLEM!

Caller says that ALPR will only track those who have committed crimes, but that is, as you well know, false. All cars are tracked for 30 days; only cars that are in the database are flagged immediately. You should correct this misconception.



Office of the City Manager

ACTION CALENDAR
July 25, 2023

To: Honorable Mayor and Members of the City Council
 From: Dee Williams-Ridley, City Manager
 Submitted by: Jennifer Louis, Chief of Police
 Subject: Assembly Bill 481, 2022 Annual Military Equipment Report

RECOMMENDATION

Adopt a Resolution approving the 2022 Annual Military Equipment Report.

FISCAL IMPACTS OF RECOMMENDATION

The fiscal impacts are limited to staff time for reporting and continuous training.

CURRENT SITUATION AND ITS EFFECTS

Assembly Bill 481 mandates an annual report on law enforcement use of specified military equipment be provided to the governing body of the agency.

BACKGROUND

On May 11th, 2021 the City of Berkeley adopted the Police Equipment and Community Safety Ordinance, Ordinance NO. 7,760-N.S. The Police Equipment and Community Safety Ordinance requires the Police Department submit to Council for approval an annual report on the usage of specified equipment. The 2022 annual report pursuant to this ordinance was approved by the Police Accountability Board on April 21, 2023 and the City Council approved the annual report on June 6, 2023.

On September 30, 2021, after the City of Berkeley adopted our City ordinance, Assembly Bill 481 was approved by California Governor Gavin Newsom, requiring law enforcement agencies to obtain approval of the applicable governing body (Mayor and City Council), by adoption of a military equipment use policy prior to funding, acquisition, or use of military equipment as defined in Assembly Bill 481. Like the Police Equipment and Community Safety Ordinance, this bill required an approval process for the continued use of military equipment that law enforcement agencies already possessed. In accordance with the assembly bill, the Berkeley Police Department authored Policy 709, Military Equipment policy, which was approved by the City Council on July 26, 2022.

Also similar to Berkeley’s Police Equipment and Community Safety Ordinance, Assembly Bill 481 requires law enforcement agencies to submit to the governing body an annual report for each type of military equipment they possess. The required information in the annual report per Assembly Bill 481 is similar to the City of Berkeley ordinance. However, Berkeley’s Police Equipment and Community Safety Ordinance requires the capturing of significantly more details on police equipment compared to Assembly Bill 481. The City ordinance requires the police department track all cases where military equipment was deployed and used (88 incidents in 2022) whereas Assembly Bill 481 only requires the tracking of military equipment that was used (15 incidents in 2022). Thus, the City ordinance provides greater detail to the Council, Police Accountability Board and community as a whole.

Additionally, the equipment required to be reported on slightly differ. Below is a table comparing the list of equipment required to be reported on per the Police Equipment and Community Safety Ordinance and Assembly Bill 481. The differences appear at the end of both lists.

Police Equipment and Community Safety Ordinance (City Ordinance)	Assembly Bill 481
<ul style="list-style-type: none"> • M4/Patrol Rifle Associated .223 duty and training rounds • Remington 700 Precision Rifle Associated .308 rounds • Barret Model 99 Precision Rifle Associated .50 rounds • Penn Arms single 40MM launcher • Milkor LTL 40 MM multi-launcher Associated 40mm rounds • FN 303 Launcher Associated FN rounds Associated FN Pava rounds • <u>Oleoresin capsicum (OC spray)</u> • <u>Chlorobenzylidene Malononitrile and Oleoresin capsicum</u> • Light/sound distraction device • Long Range Acoustic Device (LRAD) • 36” batons 	<ul style="list-style-type: none"> • M4/Patrol Rifle Associated .223 duty and training rounds • Remington 700 Precision Rifle Associated .308 rounds • Barret Model 99 Precision Rifle Associated .50 rounds • Penn Arms single 40MM launcher • Milkor LTL 40 MM multi-launcher Associated 40mm rounds • FN 303 Launcher Associated FN rounds Associated FN Pava rounds • <u>Oleoresin capsicum (OC spray)</u> • <u>Chlorobenzylidene Malononitrile and Oleoresin capsicum</u> • Light/sound Diversionary Device • Long Range Acoustic Device (LRAD) • Mobile Command Vehicle • ReconRobotics Recon Scout XT Robots • Andros Remotec HD-1 Hazardous Duty Robot

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

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

RATIONALE FOR RECOMMENDATION

It is required by law and policy that an annual report on military equipment be submitted to the City Council.

ALTERNATIVE ACTIONS CONSIDERED

None.

CONTACT PERSON

Jennifer Louis, Chief of Police, (510) 981-5700

Mike Durbin, Captain Professional Standards Division, (510) 981-5760

Peter Lee, Audits and Inspections Sergeant, (510) 981-5734

PLee@BerkeleyCA.Gov

Attachments:

1: Resolution

2: Annual Military Equipment Report

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

ANNUAL REPORTING AND IMPACT STATEMENTS: POLICE EQUIPMENT AND
COMMUNITY SAFETY ORDINANCE

WHEREAS, California Governor Gavin Newsom passed Assembly Bill 481 governing the funding, acquisition and use of military equipment on September 30, 2021; and

WHEREAS, Government Code 7071(a) requires all law enforcement agencies to obtain approval of the applicable governing body (Mayor and City Council), by adoption of a military equipment use policy prior to funding, acquisition, or use of military equipment; and

WHEREAS, the Berkeley City Council approved Berkeley Police Department Policy 709, Military Equipment Use Policy, on July 26th 2022; and

WHEREAS, Government Code 7072 (a) requires any agency that receives approval for a Military Equipment Use Policy submit to the governing body an Annual Military Equipment Report.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that it approves the Berkeley Police Department's 2022 Annual Military Equipment Report.

Berkeley Police Department 2022 Annual Military Equipment Report



CONTENTS

Our Mission, Vision, and Values.....	Page 1
Background.....	Page 2
Summary of Military Equipment Use.....	Page 4
Military Equipment Use.....	Page 4
Fiscal Cost.....	Page 9
Conclusion.....	Page 15



Our Mission, Vision and Values

Our **Mission** is to safeguard our diverse community through proactive law enforcement and problem solving, treating all people with dignity and respect.

The Berkeley Police Department **Vision** is:

We will be a team of leaders at every level. We will foster strong relationships with our community, inspiring trust through our service, building on our historic tradition of progressive policing, and dedicated to the safety of all. As members of this community, we will provide proactive law enforcement and problem solving, holding these as our core **Values**:

- **Integrity:** We are ethical, fair, and trustworthy in all we do.
- **Safety:** We strive to keep our community and each other safe.
- **Respect:** We will fulfill our duties with dignity, compassion, and empathy.
- **Diversity:** We value the strength of a diverse workplace and community. We endeavor to reflect the community we service, promoting inclusion and fairness.
- **Professionalism:** We are committed to organizational excellence through progressive training, positive attitude and superior performance.



BACKGROUND

On September 30, 2021, Assembly Bill 481 was approved by California Governor Gavin Newsom, requiring law enforcement agencies to obtain approval of the applicable governing body (Mayor and City Council), by adoption of a military equipment use policy prior to funding, acquisition, or use of military equipment as defined in AB 481. This bill required the same approval process for the continued use of military equipment that law enforcement agencies already possessed. In accordance with the assembly bill, the Berkeley Police Department authored Policy 709, Military Equipment policy, which was approved by the City Council on July 26, 2022.

Furthermore, Assembly Bill 481 requires law enforcement agencies to submit to the governing body an annual report for each type of military equipment. The Annual Report must contain the following information:

- (1) A summary of how the military equipment was used and the purpose of its use.
- (2) A summary of any complaints or concerns received concerning the military equipment.
- (3) The results of any internal audits, any information about violations of the military equipment use policy, and any actions taken in response.
- (4) The total annual cost for each type of military equipment, including acquisition, personnel, training, transportation, maintenance, storage, upgrade, and other ongoing costs, and from what source funds will be provided for the military equipment in the calendar year following submission of the annual military equipment report.
- (5) The quantity possessed for each type of military equipment.
- (6) If the law enforcement agency intends to acquire additional military equipment in the next year, the quantity sought for each type of military equipment.



Inventory of Military Equipment

The Berkeley Police Department does not possess any tactical equipment that was obtained from the military nor does the Berkeley Police Department receive surplus military equipment from any organization.

Below is a list and inventory of military equipment (as defined in Assembly Bill 481) that is possessed by the Berkeley Police Department. The list includes consumable military equipment, namely .223 and .308 rounds, 40 MM and FN 303 launcher rounds, and diversionary devices. The inventory of consumable military equipment varies throughout the year due to training. While the Berkeley Police Department strives to be accurate in its reporting, the inventory of consumable equipment in this report are captured in a moment in time and are approximate.

- M4/Patrol Rifle (96)
 - Associated .223 duty and training rounds (123,000)
- Remington 700 Precision Rifle (6)
 - Associated .308 rounds (2,600)
- Barret Model 99 Precision Rifle (1)
 - Associated .50 rounds (520)
- Penn Arms single 40MM launcher (20)
- Milkor LTL 40 MM multi-launcher (2)
 - Associated 40mm rounds (724)
- FN 303 Launcher (8)
 - Associated FN rounds (5,445)
 - Associated FN Pava rounds (150)
- Oleoresin capsicum (OC spray) (190)
- Chlorobenzylidene Malononitrile and Oleoresin capsicum (CS Canister) (204)
- Light/sound Diversionary Device (50)
- Long Range Acoustic Device (LRAD) (2)
- Mobile Command Vehicle (1)
- ReconRobotics Recon Scout XT Robots (2)
- Andros Remotec HD-1 Hazardous Duty Robot (1)



An internal equipment audit was conducted to gather and confirm data for this report. Based on this audit, it was determined that there were no identified violations of equipment use, or any complaints concerning the above listed equipment.

Summary of Military Equipment Usages

The variety of equipment provides the Berkeley Police Department with options that assist in critical incidents and bring dangerous situations to a safe resolution. While the Berkeley Police Department possess the above listed military equipment, officers de-escalated almost all the situations that might have otherwise warranted the use of it. The use of military equipment is governed by Berkeley Police Department Policies and local, state, and federal laws. The use of the military equipment is restricted to only officers who have been trained in the use of the specific equipment.

The Berkeley Police Department responded to 62,245 calls for service in 2022. Of the 62,245 calls the Recon Scout XT Robot was used twice, the LRAD was used three times, and the mobile command vehicle was used only during UC Berkeley football games as a command post.

Additionally, 5,183 stops were conducted by the Berkeley Police Department in 2022. Three of the 5,183 stops resulted in the use of the Penn Arms 40MM launcher, also known as “less lethal.” These statistics illustrate the extremely rare instances (0.00057%) of the time less lethal munitions are used in relation to overall contacts.

Military Equipment Usages

Penn Arms 40MM Launcher

The purpose of the Penn Arms 40MM is to preserve life, minimize the use of force and allow time for de-escalation. Less lethal projectiles allow the user to maintain a safe distance from a subject who is armed and/or demonstrates the intent to be violent. The ability to maintain a safe distance – while still providing a level of control over the subject – allows officers to employ de-escalation techniques, request additional resources and develop a plan to safely resolve the situation with the least amount of risk. The following are summaries of the three incidents where the Penn Arms 40MM launcher was used:



- 1) A caller reported that his housemate was high on methamphetamine and was destroying the house. The subject was screaming and throwing things. Officers responded and utilized de-escalation tactics. They attempted to negotiate with the subject and calm him, but he displayed the inability to calm down and yelled at the officers to shoot him. The subject yelled "there's a pedo inside the house and I'm going to kill him. I am ready to die." He launched several items at the officers including a wrench and screwdriver. Had the objects hit the officers it could have caused a significant injury. An officer launched a 40mm round at the subject. He immediately complied and was placed on a psychiatric evaluation hold after medical attention was provided.
- 2) At 4:20AM, a caller reported seeing a suspect with bolt cutters cutting a hole in the chain-link fence to a business. The caller was watching this unfold through the security cameras from a remote location. Officers established a perimeter for this burglary in-progress incident. They saw the suspect and gave commands that were ignored. The suspect ran from officers. Officers lost sight of the suspect, but located him hiding in the heavily foliated area of the property. Officers gave more commands and provided ample time for the suspect to comply, but he refused. The suspect's hands were hidden and it was unknown at the time if he was armed. Officers warned the suspect that the 40mm launcher would be utilized, but the suspect continued to ignore the officers. Two officers launched a single 40mm round each at the suspect. One projectile missed and the other hit the suspect's thigh. The suspect immediately surrendered and complied. Medical aid was provided. Officers located two screw drivers and a window smashing tool on the suspect. They also located a single bullet where the suspect was hiding. A records check showed the suspect was on bail for multiple felonies. He was arrested for burglary and possession of fentanyl.
- 3) Investigators were serving an arrest/search warrant for child abuse. The suspect, mother of the reported child abuse case, charged at a detective with a large kitchen knife over her head. She plunged the knife downwards into the detective's chest. The knife did not puncture his Kevlar vest, but broke his body worn camera. 40mm launcher was utilized and hit her, but she held onto the knife. The detective and suspect fell onto the floor where they struggled for the knife. She cut a supervisor's finger before the knife was wrestled out of her hand. She was placed on a psychiatric evaluation hold and subsequently charged with attempted murder of the police detective.



Mobile Command Vehicle (MCV)

This vehicle is used as a mobile command post for any large-scale events or as a communications center in the event the communications center in the Public Safety Building is inoperable. Some examples of large-scale events include Solano Stroll, Juneteenth, 4th of July, Cal Berkeley football games, critical incidents or natural disasters. In 2022, the MCV was utilized as a command post during the Cal Berkeley football games that took place in Berkeley. Below is list of the dates the Cal Berkeley football team played in Berkeley and when the MCV was used:

September 3, 2022
September 10, 2022
September 24, 2022
October 22, 2022
October 29, 2022
November 19, 2022
November 25, 2022

ReconRobotics Recon Scout XT Robots (Throw Bot)

The Recon Scout XT robot is intended to safely provide police officers valuable information during high-risk, rapidly evolving situations via real-time audio and video footage. It can be operated a distance away, creating space between the officer and potential danger, thus decreasing the likelihood of injury to those involved in the event, or even a violent encounter between police officers and a dangerous subject. This asset furthers our commitment to the sanctity of life by offering time and distance in critical incidents. The following are the two high risk situations in 2022 the throw bot was utilized to safely clear rooms prior to police entry:

- 1) A hotel employee called the police to report a vehicle with extensive damage parked in the hotel lot. Officers arrived and discovered that the car was stolen. Investigations led officers to a hotel room where one of the two suspects slammed the door shut on officers. Further investigation showed one suspect has prior arrest history for firearms and the other has several felony arrest warrants for her arrest. A perimeter was established. The suspect was



- contacted via telephone and agreed to exit the hotel room. She was arrested on the arrest warrants and possession of a stolen vehicle. Prior to entry into the hotel room the XT Robot was utilized to partially clear the room. The second suspect was not located in the room.
- 2) An armed robbery occurred where one suspect pointed a gun at the victim's face while a second suspect beat up the victim and stole his property. Investigations lead to several search warrants including a high-risk warrant served by the Special Response Team. Prior to entry into the residence the XT Robot was utilized to partially clear the residence. Two AR-15 pistols and a handgun were located during the warrant service. This case is an on-going investigation.

Long Range Acoustic Device (LRAD)

The LRADs are designed for clear long-range communication. The LRAD’s ability to communicate over a long distance is far superior to any megaphone or Public Address (PA) system mounted to a police vehicle. Below are the three times the LRAD was utilized in 2022.

- 1) A volcanic eruption in the southwest Pacific Ocean produced a tsunami that affected the entire Pacific Ocean. A tsunami warning was issued. Police officers responded code-3 (emergency response) to evacuate the marina. The LRAD was utilized to help with the evacuation.
- 2) The Special Response Team served a search warrant in connection to multiple armed robbery cases from Berkeley and from another jurisdiction. The LRAD was used to communicate with occupants in the residence and safely call them out of the residence. Evidence was located during the search warrant service.
- 3) An armed robbery occurred where one suspect pointed a gun at the victim's face while a second suspect beat up the victim and stole his property. Investigations lead to several search warrants including a high-risk warrant served by the Special Response Team. The LRAD was used to communicate with occupants in the residence. Two AR-15 pistols and a handgun were located during the warrant service. This case is an on-going investigation.



Drone/Unmanned Aerial System (UAS)

The Berkeley Police Department does not possess any UAS, also commonly known as a drone, but requested for mutual assistance from the Alameda County Sheriff's Office for a drone in the below two incidents. Drones are used in limited situations to enhance the Department's mission of protecting lives. The use of a drone below was governed by Berkeley Municipal Code 2.99.020. Both uses of drones were approved by the City Manager through the proper chain of command under the exigent circumstances exception. The Department is currently seeking Council approval to implement drone use policies for the City.

It should be noted that reporting on the use of a drone in a mutual assistance capacity in Berkeley is the responsibility of the agency that provided the assistance. The Berkeley Police Department is not required to report on the mutual assistance drone usages to prevent double reporting, but to ensure transparency, below are details of the two incidents where a drone was utilized. The two incidents were also reported in the Berkeley Police Department's Annual Surveillance Technology Report in November of 2022.

- 1) BPD officers responded to an armed robbery with gunfire at 2625 San Pablo Ave. The offenders fled into the 1100 block of Carleton Street. Officers secured the perimeter and requested mutual assistance from the Alameda County Sheriff's Office Drone Team. With the assistance of the Drone Team, officers were able to safely detain and arrest four suspects who were hiding in the block, and recovered four guns (2 ghost guns including a short-barreled rifle, and 2 Glock semi-automatic firearms- all loaded).
- 2) BPD officers attempted to detain a person who was wanted in connection with a murder in another jurisdiction. The offender fled on foot from BPD officers. Officers secured a perimeter and requested mutual assistance including the request for a drone. Alameda County Sheriff's Office responded and assisted BPD. With the assistance of the drone officers were able to locate the suspect in the 1100 block of Chaucer Street. No injuries were sustained by the officers, and the offender had minor injuries as a result of jumping over fences while fleeing from BPD officers, however no injuries were sustained from the detention and arrest.



Fiscal Cost

Funding for all training and ongoing cost in military equipment are sourced from the Berkeley Police Department's existing budget. The only military equipment that was purchased in 2022 was consumable equipment, .223 ammunition and diversionary devices, that was used in training. The projected military equipment acquisitions in 2023 will be for .223 ammunition, .50 caliber ammunition, and diversionary devices.

The Berkeley Police Department conducts in-house training on all specialized equipment that the department possesses. This ensures officers are fully trained to utilize the tools in the department's possession to safeguard our community. The cost of in-house training is staff-time. Some of the training on specialized equipment must be conducted externally. The only fiscal cost on external training related to military equipment in 2022 was the cost from 9 police officers attending M4/patrol rifle training (\$3,370) and one armorer attending armorer school (\$46). Additionally, three police recruits attended the police academy where they received Patrol Rifle training. The cost of the police academy for each police recruit was \$1,576 (\$4,728 total).

M4/Patrol Rifle

Rifle prices, like other firearms, will range depending on current market demand and availability. While M4 rifles purchased several years ago cost between \$1,000 and \$1,200 each, current rifles cost between \$1,400 and \$1,600. It should be expected that these prices will fluctuate and likely increase over time.

Ammunition costs fluctuate with the costs of components (brass, primers, gunpowder, and bullets) and supply/demand. Current costs for .223 Remington range from \$0.50 to \$0.75 a round for training ammunition (55 grain) and \$1.25 to \$1.50 a round for duty ammunition (62 grain). 404 cases of .223 ammunition were acquired in 2022 with a fiscal impact of \$49,279.40. The projected acquisition of .223 ammunition in 2023 is 10,000 rounds for training.

Every officer that is authorized to carry a rifle on duty must attend a minimum 16-hour CA POST approved rifle instruction course before being authorized to carry the rifle on duty. This course may be administered by Berkeley Police Firearm Instructors or by other POST approved agencies. Tuition for the CA POST approved class is dependent on the hosting agency. If conducted in-house the cost only includes the officer's hourly



wage, range fee, and ammunition costs (all vary). Outside agencies charge between \$25 to \$500 depending on the range location and duration (some classes are 32-hours while POST only requires 16-hours.) Additionally, all officers issued a rifle receive specific 8-hour rifle training every two years by POST certified Berkeley Police Department Firearm Instructors.

Typical round count for such classes range between 800 rounds and 1200 rounds per student. Additionally, all officers issued a rifle receive specific 8-hour rifle training every two years by a BPD firearm instructor which constitutes an additional 500 or so rounds per officer.

Maintenance costs vary depending on use over time. Traditionally, various springs and pins need to be replaced every five years and may cost between \$3 and \$30 per rifle. Other parts such as the barrel and bolt need to be replaced around ten years and range between \$150 and \$300 per rifle.

Penn Arms 40MM Single Launcher

Penn Arms 40MM single launchers purchased by the department cost \$815.00 each. Ongoing cost for Penn Arms single launcher should be based on the projectiles used in training and on duty. This will fluctuate based on department trainings, projectile availability and events that unfold in the city and surrounding region.

Every officer authorized to deploy a less lethal launcher must pass a certification course administered by a Berkeley Police Department Firearms Instructor. The certification class consists of classroom, range qualification and scenario application if the venue allows. This class is largely handled in house thus the cost only includes staff time, range fees, and projectile costs, which all vary.

Maintenance costs vary depending on use. Generally, various springs and pins need to be replaced every 5 years which can cost \$3 to \$30.

Milkor LTL Multi-Launcher

Milkor LTL Multi-Launchers purchased by the department cost \$3,950.00 each. The ongoing cost for the Milkor LTL launcher should be based on the projectiles used in training and on duty. This will fluctuate based on department trainings, projectile availability and events that unfold in the city and surrounding region.



Every officer authorized to deploy a less lethal launcher must pass a certification course administered by a Berkeley Police Firearm Instructor. The certification class consists of classroom, range qualification and scenario application if the venue allows. This class is largely handled in house thus the cost only includes the officer's hourly wage, range fees, and projectile costs which all vary.

Maintenance costs vary depending on use. Generally, various springs and pins need to be replaced every 5 years which can cost \$3 to \$30.

FN 303 and FN Pava Impact Projectile

FN 303s purchased by the department cost \$800.00 each. Ongoing cost associated with the FN303 launcher should be based on the projectiles used in training and on duty. This will fluctuate based on department trainings, projectile availability and events that unfold in the city and surrounding region.

Every officer authorized to deploy a less lethal launcher must pass a certification course administered by a Berkeley Police Firearm Instructor. The certification class consists of classroom, range qualification and scenario application if the venue allows. This class is largely handled in house thus the cost only includes the officer's hourly wage, range fees, and projectile costs which all vary.

Maintenance costs vary depending on use. Generally, O-rings need to be replaced every 3,000 rounds and cost \$30 per kit.

OC (Oleoresin Capsicum) Spray

The MK-3 OC spray cost approximately \$19 per unit and the MK-9 OC spray costs approximately \$60 per unit. The manufacturer is Defense Technology and the Berkeley Police Department purchase each unit from Galls Police Supply or LC Action Police Supply. Purchases for these tools are made when inventory gets low which is typically determined by the number of OC spray that has expired and how many new officers are sworn in.

Training is conducted in the police academy and in-house by a Police Officer Standard Training (POST) certified Berkeley Police Chemical agent training officer. The cost of training is staff time.

**Chlorobenzylidene Malononitrile and Oleoresin Capsicum (“tear gas”)**

The cost for CS canisters ranges from \$20.00 to \$39.00 per unit. The cost for OC canisters ranges from \$36.00 to \$44.00 per unit. Training is conducted by a Police Officer Standard Training (POST) certified Berkeley Police chemical agent training officer. The cost of training is staff time.

Remington 700 Rifle

The initial cost to purchase this rifle with its associated components is approximately \$10,000 dollars each. Their average life span is 10-years at which time it will likely need to be replaced. Ongoing cost for all firearms should be based on the ammunition used in training and on duty and maintenance. This will fluctuate based on training.

The cost associated with training is the staff time, range fees, and cost of spent ammunition. Special Response Team (SRT) members train once a month and, on average, each member shoots approximately 50-rounds. Currently, there are only 4 members shooting at each training day. This equates to approximately 2,400 rounds of ammunition being fired per year. This does not include special training days or attendance to training schools/classes. A single box of 20-rounds costs approximately \$20 dollars or \$1 dollar per round. Authorized and trained Berkeley Police armorers service and provide regular maintenance of the rifles. The cost of maintenance is staff time.

ReconRobotics Recon Scout XT

The initial cost for the Recon Scout XT robot was about \$12,500 per unit in 2010. There are no ongoing costs associated with the use of the Recon Scout XT robot. Being that it is battery operated, there is a nominal cost associated with charging the Recon Scout XT robot’s batteries, and the batteries of the OCU (controller).

The Recon Scout XT robot is fairly simple to operate, thus there is no cost associated with training officers in its use. Generally, the Recon Scout XT robot is robust and does not need regular repair or service. The cost of training is staff time.

Andros Remotec HD-1 Hazardous Duty Robot

The Hazardous Duty Robot was purchased in 2008 for \$214,496. Being that it is battery operated, there is a nominal cost associated with charging the robot. Maintenance of the Hazardous Duty Robot is conducted by the Berkeley Police Bomb Technicians.



Berkeley Police Bomb Technicians are trained during regular bomb squad training sessions and maintain their skills through training scenarios. The cost of training and maintenance is limited to staff time.

Light/Sound Diversionary Device

Diversionary Devices cost approximately \$45 per unit. Purchases for these tools are made when inventory becomes low, based upon critical incident usage and Special Response Team trainings that incorporate live devices. \$1,416.62 was used in 2022 to acquire 24 diversionary devices that replaced ones that expired or were used during training.

Only trained and qualified personnel are permitted to deploy diversionary devices. These trained Berkeley Police officers are typically members of the Berkeley Police Department Special Response Team who receive monthly training which includes training in the deployment of diversionary devices. The cost of training is staff time. A projected military equipment acquisition in 2023 will likely include diversionary devices. The number of diversionary devices to be acquired in 2023 will depend on training and operational use. That number is unknown at this time.

Long Range Acoustic Device (LRADS)

The LRAD 450XL and the LRAD 100X were purchased in 2018. The total cost for both the LRADs, rechargeable battery packs and accessories was \$49,999. Training is conducted by Berkeley Police personnel who are trained in the use and procedures of the LRAD. The cost to train is staff time.

Mobile Command Vehicle (MCV)

The Mobile Command Vehicle was purchased in 2003 for \$230,800. The ongoing cost associated to the MCV is the cost of gasoline and maintenance of the vehicle. Both gasoline and maintenance are received at the City Corporation Yard.

Training is conducted in-house by the Berkeley Police personnel who are trained in the operation of the vehicle. The training cost is staff time.

The expected useful lifespan of the MCV was 15 years and was eligible for replacement in 2018. A replacement fund for the MCV currently amounts to \$383,183.66 with \$10 added into this fund a month. The vehicle is still in functioning, but will need to be replaced in the near future.

**Barrett Model 99 Rifle**

The retail cost of the Barrett Model 99 Rifle is approximately \$12,500. The Department of Justice provided the Barrett Modell 99 Rifle to the Berkeley Police Department in 2007. The ongoing cost related to this rifle is the cost of ammunition and training.

The ammunition has a retail cost of approximately \$6 dollars per bullet; \$60 for a box of 10 and \$600 for a case of 10 boxes, plus shipping and handling. The cost associated with training is the staff time, range fees, and cost of spent ammunition.



CONCLUSION

This Annual Military Equipment Report not only fulfills the obligations set forth in Assembly Bill 481 and Policy 709, it also reaffirms the commitment the Berkeley Police Department has to transparency with our community and elected officials. Continuing to build upon the trust we have with our community is the cornerstone of the Berkeley Police Department. The training and equipment outlined in this report allow for the Berkeley Police Department to achieve our mission in keeping our community safe.

The Berkeley Police Department will continue to foster strong relationships and safeguard our diverse community. We will continue to share information and be transparent with our community. Any questions, concerns or complaints regarding the equipment can be directed to the Professional Standards Bureau, Internal Affairs Bureau, or the Police Accountability Board.

Professional Standards Bureau:

(510) 981-5734

PLee@cityofberkeley.info

Internal Affairs:

(510) 981-5706

JJones@cityofberkeley.info

Police Accountability Board:

(510) 981-4950

DPA@cityofberkeley.info



Office of the Mayor

ACTION CALENDAR
July 25, 2023

To: Honorable Mayor and Members of the City Council
 From: Mayor Jesse Arreguín and Councilmember Kate Harrison
 Subject: Waivers for Woolsey Gardens Affordable Housing Project

RECOMMENDATION

Pursuant to Berkeley Municipal Code (BMC) Section 22.20.070 and/or 22.20.080, adopt a Resolution approving the following requests from Northern California Land Trust for the Woolsey Gardens affordable housing project at 3120-3130 Shattuck:

1. Waive the requirement in BMC Section 23C.12.070(C)(4) in force at the time of entitlement that subsequent purchasers of inclusionary units in limited equity housing cooperatives have a yearly gross income of no more than 44 percent of the cost of a unit at the time of sale.
2. Approve the provision of an additional inclusionary unit instead of paying the in-lieu fee equivalent of .44 units as required by BMC Section 23.C.12.040(E) in force at the time of entitlement.

FISCAL IMPACTS OF RECOMMENDATION

If Northern California Land Trust's (NCLT) request is granted, the organization would not pay the inclusionary fee otherwise required under the BMC for inclusionary unit fractions, which are deposited into the City's Housing Trust Fund. Instead, the project costs of producing approximately 65 units of affordable housing would be reduced, which will better leverage City funding for Woolsey Gardens.

CURRENT SITUATION AND ITS EFFECTS

NCLT requested a waiver pursuant to Berkeley Municipal Code (BMC) Sections 22.20.070 and 22.20.080 for Woolsey Gardens (3120-3130 Shattuck). NCLT proposes to develop a 100% affordable homeownership project with 41 residential condominiums and 24 units of shared cooperative housing for low- and moderate-income households.

NCLT submitted its SB 330 application on December 12, 2022, which makes the project subject to the inclusionary housing ordinance in place before City Council adopted updated affordable housing requirements in February 2023. While Woolsey Gardens meets the inclusionary requirements of the new ordinance, the former inclusionary housing ordinance includes two requirements that have since been eliminated. BMC Section 23C.12.070(C)(4) of the ordinance in force at the time of entitlement requires

that “subsequent purchasers of Inclusionary Units in Limited Equity Cooperatives shall be first time home buyers whose yearly Gross Income is no more than 44 percent of the cost of a unit at the time of sale, provided that such income shall be no more than 110 percent of the Oakland PMSA median.”

Due to State of California regulations restricting the initial sales prices for cooperative units, tying the affordability requirements of subsequent purchasers to forty-four percent of the initial sales price would restrict the majority of cooperative units to extremely low-incomes, which could negatively impact the project’s long-term financial feasibility and result in a loss of equity for owners. If this requirement were waived, all units at Woolsey Gardens would still be subject to affordability restrictions established by the inclusionary housing ordinance and the Housing Trust Fund Guidelines.

According to the inclusionary requirements established in the ordinance in force at the time of entitlement, Woolsey Gardens must set aside 12.24 cooperative units and 4.2 of the condominiums as inclusionary units. BMC Section 23C.12.040(E) also requires that in “projects where the calculation of the inclusionary requirement results in a fraction of a unit, such a fraction shall be paid in the form of an in-lieu fee to the City”. Since Woolsey Gardens is a 100% affordable project that will rely on public and philanthropic financing, NCLT proposes to restrict an additional inclusionary unit instead of paying the in-lieu fee equivalent to .44 units.

Supporting Woolsey Gardens is a Strategic Plan Priority Project, advancing our goal to create affordable housing and housing support service for our most vulnerable community members.

BACKGROUND

On June 13, 2023, the Berkeley City Council awarded NCLT with \$1,000,000 in predevelopment funding from the Housing Trust Fund to redevelop the site of its current headquarters at 3120-3130 Shattuck Avenue into a multifamily homeownership project. The Woolsey Gardens site is owned by NCLT, who will continue to own the land after development for permanent stewardship.

NCLT proposes to develop a mixed-use green building with 65 units of limited equity housing at a range of affordability levels for households earning between 30% and 120% AMI. Woolsey Gardens will consist of studio, 1-bedroom, and 2-bedroom apartments. The building will also have ground floor commercial space for nonprofits and emerging entrepreneurs.

As a project aiming to repair historic and current harms of displacement, Woolsey Gardens is partnering with community organizations to provide opportunities for displaced households to return to South Berkeley as well as housing stability for low-income households that still remain.

Enabling Provisions in the Berkeley Municipal Code

BMC Section 22.20.070 establishes the following exception/limit where an applicant establishes inapplicability or unconstitutionality of general requirements:

A. *Notwithstanding any other provision of this chapter, the requirements of this chapter shall not apply or shall be limited as follows:*

1. *No mitigation and/or fees shall be imposed on any applicant or development project where the applicant establishes to the City's satisfaction that the proposed development project will not generate any additional need for affordable housing, child care and/or public facilities, adequate employment training and placement services or amenities or any other impact for which a mitigation and/or fee is otherwise required;*
2. *The amount and/or level of any mitigation and/or fee under this chapter shall not exceed the reasonable cost of either satisfying the additional demand for affordable housing, child care and/or public facilities, adequate employment training and placement services or amenities or of eliminating and/or reducing to an acceptable level any other impact which reasonably may be anticipated to be generated by or attributed to any individual development project;*
3. *The City shall not condition any permit in any manner which results in a deprivation of the applicant's constitutional rights.*

B. *The burden of establishing by satisfactory factual proof the applicability and elements of subsections (A)(1), (A)(2) and (A)(3) of this section shall be on the applicant*

C. *No exemption or limit shall be granted pursuant to this section unless a finding is made, based on satisfactory factual proof provided by the applicant, that at least one of the requirements set forth in subsection (A)(1), (A)(2) or (A)(3) of this section has been satisfied. (Ord. 6179-NS § 7, 1993)*

Furthermore, BMC Section 22.20.080 establishes the following hardship exception:

A. *Notwithstanding any other provision of this chapter, the requirements of this chapter in the discretion of the City may be waived or limited for a particular development project where both of the following findings are made:*

1. *The imposition of the mitigation and/or fees otherwise required by the City make the development of the particular project infeasible; and*
2. *The benefits to the City from the particular development project outweigh its burdens in terms of increased demand for affordable housing, child care and/or public facilities, adequate employment training and placement services and/or amenities and/or other impacts which reasonably may be anticipated to be generated by and/or attributable to the development project.*

B. The burden of establishing by satisfactory factual proof the applicability and elements contained in subsections (A)(1) and (A)(2) of this section shall be on the applicant

On June 23, 2023 NCLT submitted a memorandum requesting a waiver pursuant to BMC Sections 22.20.070 and 22.20.080 (**Attachment 2**), which establishes satisfactory factual proof that the Project will not generate any affordable housing impacts and that paying the in-lieu fee equivalent of .44 units is not feasible for the project.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

Supporting this project will advance sustainability goals put forth in the Climate Action Plan. NCLT is aiming to make Woolsey Gardens a zero net energy building with LEED Platinum certification and extended grid outage resilience utilizing mass timber and cross laminated timber technology.

RATIONALE FOR RECOMMENDATION

As a 100% affordable Housing Trust Fund project, Woolsey Gardens addresses the City's need for affordable housing and approving NCLT's request will maximize the project's overall public benefit.

CONTACT PERSON

Mayor Jesse Arreguín (510) 981-7100

Attachments:

- 1: Resolution
- 2: Memo from Northern California Land Trust to Mayor Arreguín, June 23, 2023

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

WAIVERS FOR THE WOOLSEY GARDENS AFFORDABLE HOUSING PROJECT

WHEREAS, City Council established a Housing Trust Fund Program (HTF) to assist in the development and expansion of housing affordable to low- and moderate-income persons who either work or reside within the City of Berkeley, and authorized the City Manager to implement the Program; and

WHEREAS, on December 12, 2022, Northern California Loan Trust (NCLT) submitted an SB 330 application to construct a new 65-unit affordable housing development at 3120-3130 Shattuck Avenue (Woolsey Gardens); and

WHEREAS, Woolsey Gardens will be a 100 percent affordable housing project, with units affordable to households earning between 30 percent and 120 percent of the area median income; and

WHEREAS, at its June 13, 2023 meeting, City Council approved reserving \$1,000,000 from Housing Trust Fund program funds for a predevelopment loan for Woolsey Gardens; and

WHEREAS, Woolsey Gardens is subject to the inclusionary housing ordinance in effect at the time of its SB 330 application, and said ordinance includes provisions that would negatively impact the project's feasibility if applied; and

WHEREAS, on June 23, 2023, NCLT submitted a memorandum requesting a waiver pursuant to Berkeley Municipal Code (BMC) Sections 22.20.070 and 22.20.080.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that pursuant to Berkeley Municipal Code (BMC) Section 22.20.070 and/or 22.20.080, Council waives for the affordable housing project at 3120-3130 Shattuck the requirement in BMC Section 23C.12.070(C)(4) in force at the time of entitlement that subsequent purchasers of inclusionary units in limited equity housing cooperatives have a yearly gross income of no more than 44 percent of the cost of a unit at the time of sale.

BE IT FURTHER RESOLVED that pursuant to BMC Section 22.20.070 and/or 22.20.080, the affordable housing project at 3120-3130 Shattuck shall provide an additional inclusionary unit instead of paying an in-lieu fee equivalent to .44 units as required by BMC Section 23.C.12.040(E) in force at the time of entitlement.



WOOLSEYGARDENS

Reimagining Affordable Housing in a Carbon-Constrained Future

23 June 2023

Mayor Jesse Arreguín
2180 Milvia Street
Berkeley, CA 94704

RE: BMC WAIVER + MODIFICATION REQUESTS FOR WOOLSEY GARDENS

Dear Mayor Arreguín,

Thank you for your, the Berkeley City Council's, and the City of Berkeley Housing Advisory Commission's support for **Woolsey Gardens**, which aims to be the first-of-its-kind affordable housing project in the United States. Pursuant to Berkeley Municipal Code ("BMC") Sections 22.20.070 and 22.20.080, this letter is a formal request (1) to waive a certain provision, BMC Section 23.C.12.070 (C)(4), which restricts the resale price of limited equity cooperative units satisfying the inclusionary housing provision below their initial affordable price; and (2) to modify another provision, BMC Section 23.C.12.040 (E), so that the Northern California Land Trust ("NCLT") can provide an additional affordable inclusionary unit, versus paying an in-lieu fee, to address the resulting fractional inclusionary units calculated when applying the inclusionary unit formulas to Woolsey Gardens.

City of Berkeley and City Council's Support for Woolsey Gardens

On June 13, 2023, the Berkeley City Council voted to approve a \$1 million predevelopment loan request by NCLT to further predevelopment of Woolsey Gardens. This matches a ~\$1 million predevelopment grant previously awarded by the California Energy Commission ("CEC") to predevelop Woolsey Gardens. The City's loan will enable the project team to submit, by the September 2023 deadline, a competitive application to the CEC EPIC Build Phase Grant program. NCLT is one of three project developers invited to compete for the \$8 million CEC EPIC Build Phase Program's Northern California regional grant.

About Woolsey Gardens: First-of-Its-Kind Affordable Housing Model

The goal of Woolsey Gardens is to provide an opportunity for low- to moderate-income ("LMI") households to own energy efficient housing units and for existing nonprofit tenants to continue delivering critical services to the local community. Furthermore, the broader mission of Woolsey Gardens is to make the case for a viable, long-term alternative solution—one that is replicable, sustainable, and financeable—to the critical affordable housing shortage crisis facing Berkeley, the greater San Francisco Bay Area, and California.

Woolsey Gardens is a proposed mixed-use project to be sited at 3120-3130 Shattuck Avenue in South Berkeley, which is currently owned by NCLT. In addition to nonprofit office and micro-retail spaces, the project aims to offer 100% of the 65 affordable **ownership**, not rental, units to LMI households. Of the total 65 units offered at Woolsey Gardens, 24 will be limited equity cooperative housing units ("coop units" or "LEHCs") and 41 will be limited equity housing condominiums ("condos").

Key features of Woolsey Gardens include the following:

100%
Permanently
Affordable

100%
Ownership Units

Sustainable / Zero
Net Energy

Community
Services + Spaces

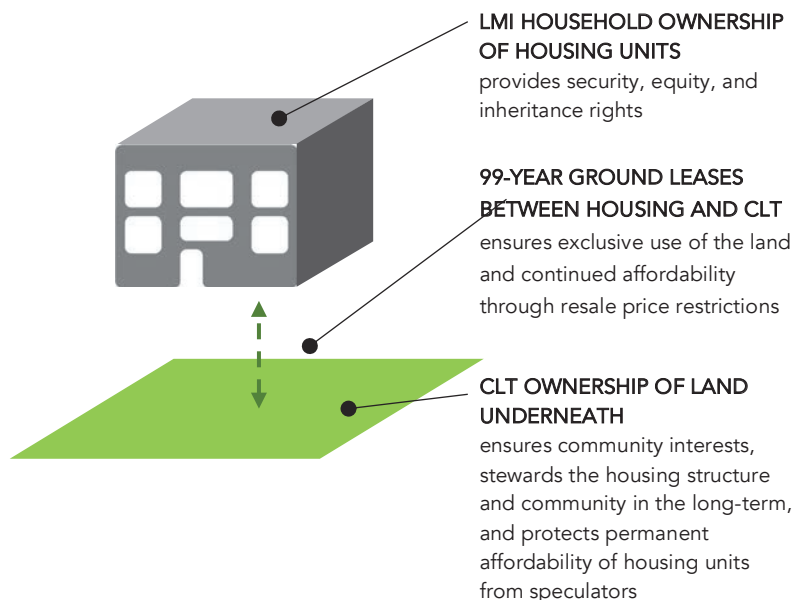
Replicability

- **100% Permanently Affordable Units**, targeting primarily extremely low- (30% AMI) to low-income (80% AMI) households;
- **100% Ownership not Rental, Units**, offering up to 24 limited equity cooperative housing units and up to 41 limited equity housing condominiums;
- **Sustainable / Zero Net Energy (ZNE)**, featuring zero net energy, 100% solar energy generation, mass timber construction, extended grid outage capability, community resilience, enhanced passive house mechanical system, and LEED Platinum certification;
- **Community Services + Spaces**, including ground floor, podium, and rooftop outdoor spaces and community spaces for current nonprofit tenants providing critical services to the surrounding community and retail spaces for local micro entrepreneurs; and
- **Replicability**, providing an alternative small parcel, infill development solution to urban renewal projects that have historically damaged neighborhoods and a viable and alternative strategy to meet California's significant affordable housing shortage.

Benefits of Ownership Housing and The Right to Return, The Right to Stay

As a fifty-year-old nonprofit, NCLT has incubated, provided, and supported permanently affordable housing in the San Francisco Bay Area. While NCLT provides a gamut of permanently affordable housing types, ranging from rental to ownership units, NCLT believes that **ownership housing** is a viable, long-term alternative solution to the current affordable housing shortage crisis because it provides the stability and foundation that support both individuals and the communities around them for the long-term. Based on its long-history with ownership housing in the Bay Area, NCLT has found that community-based ownership and co-stewardship of land and homes help transform housing into a cornerstone for local community empowerment.

NCLT is one of the oldest **Community Land Trusts ("CLT")** in the US. Under the CLT structure, NCLT owns the land under the project and ground leases that land to the individual owners. Ground leases serve as the vehicle by which NCLT restricts the resale prices of units and imposes other community purpose use restrictions on the site in perpetuity. This CLT model has been a long-accepted part of the broader nationwide affordable ownership ecosystem, with Fannie Mae and other major lenders providing loans for CLT homes for more than 20 years. The success of the model is borne out by studies that show the CLT model has the lowest rate of foreclosure of any type of homeownership.





Benefits of owning a CLT home include the following:

- **The Right to Return and The Right to Stay.** CLT homes provide opportunities for residents who have been displaced to return and remain.
- **Affordability.** A Berkeley 2-bedroom CLT condo recently sold for \$280,000, which is significantly lower than nearby similarly sized market-rate condos which sold at a price over \$800,000.
- **Generational Longevity.** CLT homes can be passed on to children.
- **Build Equity.** A recent CLT sale of \$280,000 allowed the seller, a homeowner of 10 years, to leave with \$80,000 in equity and the purchasing household an opportunity to live in South Berkeley affordably.
- **Mortgage Assistance.** CLTs can connect certain potential household owners with up to \$200,000 in down payment assistance and to beneficial lending programs.
- **Support for Residents.** CLTs offer ongoing training and support for residents to manage finances, make decisions together, and nurture community life.

Situated in the Adeline Corridor area of South Berkeley, Woolsey Gardens will provide first-time homebuyers an opportunity to return and stay in South Berkeley. For 120 years, the area has been one of Berkeley's most culturally and economically diverse neighborhoods and has played an important role in Berkeley's Black/African-American and Japanese-American communities; however, in recent decades—fueled by racism, redlining, and gentrification—the neighborhood's demography has shifted, with the Black/African-American population dramatically declining from 47% of the population in 1990 to just 17.6% in 2017¹. In all, Woolsey Gardens aims to leverage the area's offering of amenities, such as mass transit, and critical services, such as schools, and to partner with household owners to create and sustain an enduring and impactful community.

Applicable Statute

In December 2022, NCLT submitted an SB 330 application (aka "Preliminary SB 35 Application") for Woolsey Gardens to the City of Berkeley's Planning Department. This submission established the version of the municipal ordinance to which Woolsey Gardens is subject ("Pre-2023 Version"). Please note that we have attached this version of the relevant chapter, BMC Chapter 23.C.12: Inclusionary Housing Requirements of the Berkeley Municipal Code ("BMC"), in Appendix A of this letter.

Please also note that we attached a copy of BMC Sections 22.20.070 and 22.20.080, which are enabling provisions through which NCLT is pursuing the waiver and modification requests, in Appendix B of this letter.

¹ <https://berkeleyca.gov/sites/default/files/2022-03/Adeline-Corridor-Specific-Plan.pdf>


WOOLSEYGARDENS

Reimagining Affordable Housing in a Carbon-Constrained Future

4

REQUEST #1: Waiver to BMC Section 23.C.12.070 (C)(4) (“Pre-2023 Version”).

Pursuant to (1) BMC 22.20.070, which provides an exception or limit where applicant establish inapplicability or unconstitutionality of general requirements, and to (2) BMC 22.20.080, which provides a hardship exception, NCLT is requesting a waiver of the provision set forth in BMC Section 23.C.12.070 (C)(4) (“Pre-2023 Version”) that in certain circumstances **would require the initial owner of a permanently affordable limited equity coop unit at Woolsey Gardens to resell their unit to a subsequent purchaser at a price far below the initial sales price.** With regard to the former, Woolsey Gardens is a project offering 100% of units as permanently affordable ownership units to LMI households and, therefore, will not generate any additional need for affordable housing, child care and/or public facilities. With regard to the latter, Woolsey Gardens is a project relying on public funding and, therefore, the strict application of BMC Section 23.C.12.070 (C)(4) would impose a hardship that would render the project infeasible. Furthermore, the benefits of Woolsey Gardens to the City of Berkeley, among which is the provision of affordable housing, outweigh the burdens which reasonably may be anticipated to be generated by and/or attributable to the development project.

In the Pre-2023 version of the Inclusionary Housing chapter, there is a provision that impacts sales of limited equity cooperative units subsequent to initial sale, which states as follows:

*Purchasers of Inclusionary Units in Limited Equity Cooperatives at time of first occupancy shall be first time home buyers with Gross Incomes no greater than 120 percent of the Oakland PMSA median. Subsequent purchasers of Inclusionary Units in Limited Equity Cooperatives shall be first time home buyers whose yearly Gross Income is **no more than 44 percent of the cost of a unit at the time of sale, provided that such income shall be no more than 110 percent of the Oakland PMSA median.** [emphasis added]*

This provision is problematic because it could result in a significant loss of equity to the household owner and loss to the lender (who would probably not provide debt capital in the first place). This not only runs counter to the mission of CLT homeownership but could also jeopardize efforts to secure construction financing for Woolsey Gardens.

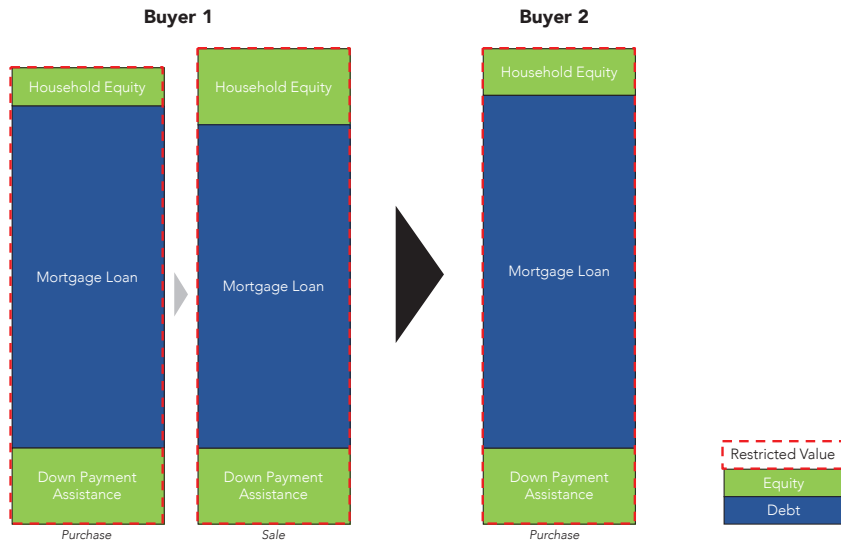
Please note that the initial LEHC share prices are typically limited under state law to 10% of the total development cost of the unit under CA Bus. & Prof. Code §11003.4 (b) (2) which states as follows:

No more than 20 percent of the total development cost of a limited-equity mobile home park, and no more than 10 percent of the total development cost of other limited-equity housing cooperatives, is provided by purchasers of membership shares.

While the BMC restricts the initial sale to a price affordable to a 110% of income household, the BMC provisions do not appear to consider the initial share price limitation of an LEHC share, where the share price represents only a portion of the total monthly housing cost. The Pre-2023 code requires the subsequent resale purchaser’s income to be limited to 44% of the resale share price, but does not account for the monthly carrying charge costs of the limited equity cooperative. For example, a unit set as affordable to an 80% of AMI household with a total development cost of \$500,000 would have its initial share price limited to \$50,000 (10% of the TDC) under state law. If not waived, the Pre-2023 BMC code would require, at the first resale, the income limit for unit purchasers to drop from 110% of AMI to 22% of AMI, without providing any additional subsidy. This could result in a financially devastating loss of equity for our initial purchasers.

As discussed previously, one of the pivotal objectives of providing CLT homeownership opportunities for low-income households is to offer these disadvantaged households an elusive opportunity to build wealth via increasing equity.

How does equity increase in a CLT home? As demonstrated in the illustration below, Buyer 1 provides equity, about 3% to 5% of the unit share’s value. When selling the unit to Buyer 2, despite an affordability ceiling on the value of the unit, because of (1) an increase in regional AMI and (2) mortgage principal paydown during the hold period, a household’s initial equity contribution increases. (Please note that for limited equity cooperative units, the “mortgage loan” represents the limited equity housing cooperative’s master mortgage, rather than the individual unit’s mortgages in the condominium units). Importantly, the unit remains affordable for Buyer 2.



We, therefore, respectfully request that the subsequent resale provision of the Pre-2023 code limiting the subsequent resale of limited equity units to households earning 44% of the resale share price or less be waived in order to avoid potentially devastating losses of equity for our initial LMI purchasers of limited equity cooperative units. Specifically, NCLT is requesting a waiver which would eliminate the problematic language identified below:

Purchasers of Inclusionary Units in Limited Equity Cooperatives at time of first occupancy shall be first time home buyers with Gross Incomes no greater than 120 percent of the Oakland PMSA median. Subsequent purchasers of Inclusionary Units in Limited Equity Cooperatives shall be first time home buyers whose yearly Gross Income is ~~no more than 44 percent of the cost of a unit at the time of sale, provided that such income shall be no more than 110 percent of the Oakland PMSA median.~~

This would not only enable low-income household owners at Woolsey Gardens the opportunity to build wealth via housing ownership but also allow for NCLT to tap critical construction financing for Woolsey Gardens.



REQUEST #2: Modification to BMC Section 23.C.12.040 (E), (“Pre-2023 Version”).

Pursuant to (1) BMC 22.20.070, which provides an exception or limit where applicant establish inapplicability or unconstitutionality of general requirements, and to (2) BMC 22.20.080, which provides a hardship exception, NCLT is requesting a modification of the provision set forth in BMC Section 23.C.12.040 (E) (“Pre-2023 Version”) requiring the projects **where the calculation of the inclusionary requirement results in a fraction of a unit, such a shall be paid in the form of an in-lieu fee to the City.** With regard to the former, Woolsey Gardens is a project offering 100% of units as permanently affordable ownership units to LMI households and, therefore, will not generate any additional need for affordable housing, child care and/or public facilities. With regard to the latter, Woolsey Gardens is a project relying on public funding and, therefore, the strict application of BMC Section 23.C.12.040 (E) would impose a hardship that would render the project infeasible. Furthermore, the benefits of Woolsey Gardens to the City of Berkeley, among which is the provision of affordable housing, outweigh the burdens which reasonably may be anticipated to be generated by and/or attributable to the development project.

The following table sets forth the resulting calculations after application of Inclusionary Housing Requirements on Woolsey Gardens:

	A	B	C	D
Inclusionary	Coop Units	Condo (Studio; 1 BR/1 BA)	Condo (2 BR/1 BA)	Total
All Units	24 units	21 units	20 units	65 units
Inclusionary Units Required Under Pre 2023 Code	51% of units	20% of units	20% of units	20.44 units
	12.24 * units	4.2 * units	4 units	
Max AMI for Inclusionary Units	120% AMI	80% AMI	80% AMI	
Total Proposed Inclusionary Units				21 Units

As distinguished by the asterisks above (*), applying the Inclusionary Housing percentages creates fractional units. According to BMC Section 23.C.12.040 (E),

In projects where the calculation of the inclusionary requirement results in a fraction of a unit, such a fraction shall be paid in the form of an in-lieu fee to the City.

Instead, NCLT would prefer to apply an alternate remedy, specifically providing an additional inclusionary unit versus paying an in-lieu fee. In other words, NCLT is requesting a modification to the provision, resulting in the provision of 21 inclusionary housing units Woolsey Gardens versus paying the City an in-lieu fee.



WOOLSEY GARDENS

Reimagining Affordable Housing in a Carbon-Constrained Future

Conclusion

NCLT believes that Woolsey Gardens offers a viable, long-term alternative solution—one that is replicable, sustainable, and financeable—addressing the critical affordable housing shortage crisis facing Berkeley and acknowledging the reparations called for by the Equity 4 Black Berkeley movement. NCLT appreciates the Berkeley City Council’s past and continued support for this important project and hopes that the Council will consider these waiver and modification requests. Thank you for your time consideration of this critical and urgent request.

Sincerely,

Anne-Marie Flynn
Interim Executive Director
Northern California Land Trust

Suzanne Kim
Director of Real Estate Development
Northern California Land Trust

Ian Winters
Director of Incubation/Special Projects
Northern California Land Trust

APPENDIX A. Pre-2023 Version of BMC Chapter 23C.12: Inclusionary Housing Requirements

Chapter 23C.12: Inclusionary Housing Requirements

Chapter 23C.12

INCLUSIONARY HOUSING REQUIREMENTS*

Sections:

23C.12.010	Purpose
23C.12.020	Applicability of Regulations
23C.12.030	General Inclusionary Requirement: 20% of Units
23C.12.035	Payment of In-Lieu Fees as an Alternative to Providing Inclusionary Units within a Project
23C.12.040	Requirements Applicable to all Inclusionary Units
23C.12.050	Repealed by Ord. 7644-NS
23C.12.060	Inclusionary Unit Requirements for Rental Housing Projects
23C.12.070	Inclusionary Unit Requirements for Ownership Projects*
23C.12.080	Special Requirements for Avenues Plan Area
23C.12.090	Administrative Regulations*
23C.12.100	Fees

*Specific text which previously amended Berkeley Municipal Code Sections 23C.12.070A, 23C.12.070D, and 23C.12.090 for the period January 27, 2004 through February 19, 2006 was repealed on February 19, 2006 as stated in the sunset provision of Ordinance 6,790-N.S. These specific text amendments were reinstated by Ordinance 6,920-N.S., adopted on May 23, 2006.

Section 23C.12.010 Purpose

The purpose of this chapter is to promote achievement of the City Housing Element goals for developing affordable housing for Households with incomes below the median, as defined in this chapter, or, in the case of Limited Equity Cooperatives, households with incomes below 120% of the median income by requiring the inclusion of affordable Dwelling Units in specified proposed developments, hereinafter referred to as projects. (Ord. 6478-NS § 4 (part), 1999)

Section 23C.12.020 Applicability of Regulations

- A. The following types of projects must comply with the inclusionary housing requirements of this chapter:
1. Residential housing projects for the construction of five or more Dwelling Units;
 2. Residential housing projects for the construction of one to four new Dwelling Units, when such Units are added to an existing one to four unit property, which has been developed after August 14, 1986, and the resulting number of units totals five or more. All Units in such a property are subject to the requirements of this chapter;
 3. Residential housing projects proposed on lots whose size and zoning designation is such to allow construction of five or more Dwelling Units.
- B. This chapter does not apply to Dormitories, Fraternity and Sorority Houses, Boarding Houses, Residential Hotels or Live/Work Units, which are not considered Dwelling Units. Live/Work Units are subject to low income inclusionary provisions set forth in Section 23E.20.080.
- C. This chapter sets forth specific inclusionary housing requirements for the Avenues Plan Area, which prevails over any inconsistent requirements set forth elsewhere in this chapter. (Ord. 6478-NS § 4 (part), 1999)



Chapter 23C.12: Inclusionary Housing Requirements

Section 23C.12.030 General Inclusionary Requirement: 20% of Units

- A. Any project subject to this chapter is required to include at least 20% of the total number of Dwelling Units within the project as Inclusionary Units, except that Limited Equity Cooperatives are required to include at least 51% of their units as Inclusionary Units.
- B. In applying the percentages above, any decimal fraction above a whole number of Dwelling Units shall be paid as an in-lieu fee.
- C. For the purpose of determining the median income levels for Households under this chapter, the City shall use the Oakland Primary Metropolitan Statistical Area (PMSA) statistical figures that are available to the City from the most recent U.S. Census. (Ord. 6478-NS § 4 (part), 1999)

Section 23C.12.035 Payment of In-Lieu Fees as an Alternative to Providing Inclusionary Units within a Project

- A. Applicability. As an alternative to providing inclusionary units required in an ownership project, the applicant may elect to enter in an agreement with the City to pay fees as set forth in this section, in-lieu of providing units that are not required to be provided at below market prices pursuant to Government Code Section 65915.
- B. Purpose. The fee shall be deposited in the City's Housing Trust Fund.
- C. Amount of Fee.
 1. The in-lieu fee shall be sixty two and a half percent (62.5%) of the difference between the permitted sale price for inclusionary units and the amounts for which those units are actually sold by the applicant.
 2. This fee shall be calculated and collected based on the sales prices of all of the units in a project to which the inclusionary requirement applies, such that the fee as charged shall be a percentage of the difference between the actual sales price for each unit, and the sales price that would have been permitted had that unit been an inclusionary unit. The percentage shall be determined using the following formula: the number of units for which an in-lieu fee is substituted for an inclusionary unit divided by the total number of units to which the inclusionary ordinance applies, multiplied by 62.5%.
 3. This fee shall only be applicable to units in a project that are counted in determining the required number of inclusionary units in a project and shall not be applicable to any units provided as a density bonus.
 4. In the event that the City Manager makes a determination that an actual sales price does not reflect the fair market value of a unit, the City Manager shall propose an alternate price based on the fair market value of the unit. In the event that the developer and the City Manager cannot agree on a fair market value the City Manager shall select an appraiser to carry out an appraisal of the unit and the appraised value shall be used as the market value.
- D. Calculation of Inclusionary Sales Price.
 1. The allowable inclusionary sales price for the purpose of calculating the in-lieu fee pursuant to this section shall be three (3) times eighty percent (80%) of the Area Median Income (AMI) last reported as of the closing date of the sale of the unit, with the exception that if the developer has already been authorized to charge an inclusionary sale price based on development costs pursuant to Ordinance 6,790-N.S. (adopted January 27, 2004, sunsetted February 19, 2006) the allowable inclusionary sale price for the purposes of this section shall be the price permitted under that ordinance.
 2. Area median income (AMI) shall be calculated in accordance with the affordability regulations established by the City Manager pursuant to Section 23C.12.090.



Chapter 23C.12: Inclusionary Housing Requirements

- E. Time of Payment of Fee. The developer shall be required to pay the applicable in-lieu fee no later than the closing date of the sale of a unit as a condition of said closing.
- F. Use Permit Obtained Prior to Adoption of This Section. This section shall apply to projects for which all required Permits have already been issued, as long as no units on those projects to which this section would apply have been sold. (Ord. 6946-NS § 1, 2006)

Section 23C.12.040 Requirements Applicable to all Inclusionary Units

- A. All Inclusionary Units other than those in Limited Equity Cooperatives shall be sold to the City or its designee or to Low Income, Lower Income or Very Low Income Households or shall be rented to Households of similar incomes. Units in Limited Equity Cooperatives shall be sold or rented to Households whose gross incomes do not exceed 120% of the Oakland PMSA median.
- B. The applicant shall execute a written agreement with the City indicating the number, type, location, approximate size and construction schedule of all Dwelling Units and other information as required for determining compliance with this chapter.
- C. All Inclusionary Units in a project and phases of a project shall be constructed concurrently with, or prior to, the construction of non-inclusionary units.
- D. All Inclusionary Units shall be reasonably dispersed throughout the project, be of the same size and contain, on average, the same number of bedrooms as the non-Inclusionary Units in the project; and be comparable with the design or use of non-inclusionary units in terms of appearance, materials and finish quality.
- E. In projects where the calculation of the inclusionary requirement results in a fraction of a unit, such a fraction shall be paid in the form of an in-lieu fee to the City.
 - 1. The in-lieu fee shall be the fractional value of the difference between development cost (excluding marketing costs and profit) and actual sales price for the average comparable unit in projects, where Government Code Section 65915 does not apply, and the difference between affordable cost for an appropriately-sized household and the fractional value of the average comparable actual sales price for the fraction of the unit in projects where Government Code Section 65915 does apply to require a Density Bonus or equivalent incentive.;
 - 2. The in-lieu fee shall be used by the City or its designee (such as a non-profit housing development corporation), to provide, construct or promote the creation or retention of low income housing in the City. The use of in-lieu fees for specific housing programs shall be brought before the Housing Advisory and Appeals Board for review and approval.
- F. Where the applicant demonstrates, and Staff concurs, that the direct construction and financing costs of the Inclusionary Units, excluding marketing cost and profit (and also excluding land costs if a Density Bonus or equivalent incentive is provided), exceed the selling prices allowed for Inclusionary Units by this chapter, the Board may approve one or more of the following measures to reduce costs or increase profitability:
 - 1. Reduction of the floor area or in the interior amenities of the Inclusionary Units, provided that such units conform to applicable building and housing codes;
 - 2. An increase in the number of bedrooms in the Inclusionary Units;
 - 3. In a home ownership project, construction of rental units in a number required to meet the inclusionary provisions of this chapter applicable to rental housing projects;
 - 4. Waiving of the in-lieu participation fees for fractions of units. (Ord. 6676-NS § 2, 2002: Ord. 6478-NS § 4 (part), 1999)

Chapter 23C.12: Inclusionary Housing Requirements

- E. Time of Payment of Fee. The developer shall be required to pay the applicable in-lieu fee no later than the closing date of the sale of a unit as a condition of said closing.
- F. Use Permit Obtained Prior to Adoption of This Section. This section shall apply to projects for which all required Permits have already been issued, as long as no units on those projects to which this section would apply have been sold. (Ord. 6946-NS § 1, 2006)

Section 23C.12.040 Requirements Applicable to all Inclusionary Units

- A. All Inclusionary Units other than those in Limited Equity Cooperatives shall be sold to the City or its designee or to Low Income, Lower Income or Very Low Income Households or shall be rented to Households of similar incomes. Units in Limited Equity Cooperatives shall be sold or rented to Households whose gross incomes do not exceed 120% of the Oakland PMSA median.
- B. The applicant shall execute a written agreement with the City indicating the number, type, location, approximate size and construction schedule of all Dwelling Units and other information as required for determining compliance with this chapter.
- C. All Inclusionary Units in a project and phases of a project shall be constructed concurrently with, or prior to, the construction of non-inclusionary units.
- D. All Inclusionary Units shall be reasonably dispersed throughout the project, be of the same size and contain, on average, the same number of bedrooms as the non-Inclusionary Units in the project; and be comparable with the design or use of non-inclusionary units in terms of appearance, materials and finish quality.
- E. In projects where the calculation of the inclusionary requirement results in a fraction of a unit, such a fraction shall be paid in the form of an in-lieu fee to the City.
 - 1. The in-lieu fee shall be the fractional value of the difference between development cost (excluding marketing costs and profit) and actual sales price for the average comparable unit in projects, where Government Code Section 65915 does not apply, and the difference between affordable cost for an appropriately-sized household and the fractional value of the average comparable actual sales price for the fraction of the unit in projects where Government Code Section 65915 does apply to require a Density Bonus or equivalent incentive.;
 - 2. The in-lieu fee shall be used by the City or its designee (such as a non-profit housing development corporation), to provide, construct or promote the creation or retention of low income housing in the City. The use of in-lieu fees for specific housing programs shall be brought before the Housing Advisory and Appeals Board for review and approval.
- F. Where the applicant demonstrates, and Staff concurs, that the direct construction and financing costs of the Inclusionary Units, excluding marketing cost and profit (and also excluding land costs if a Density Bonus or equivalent incentive is provided), exceed the selling prices allowed for Inclusionary Units by this chapter, the Board may approve one or more of the following measures to reduce costs or increase profitability:
 - 1. Reduction of the floor area or in the interior amenities of the Inclusionary Units, provided that such units conform to applicable building and housing codes;
 - 2. An increase in the number of bedrooms in the Inclusionary Units;
 - 3. In a home ownership project, construction of rental units in a number required to meet the inclusionary provisions of this chapter applicable to rental housing projects;
 - 4. Waiving of the in-lieu participation fees for fractions of units. (Ord. 6676-NS § 2, 2002: Ord. 6478-NS § 4 (part), 1999)

Chapter 23C.12: Inclusionary Housing Requirements

Section 23C.12.050 State of California Density Bonus Requirements

Repealed by Ord. 7644-NS. (Ord. 6848-NS § 3 (part), 2005; Ord. 6478-NS § 4 (part), 1999)

Section 23C.12.060 Inclusionary Unit Requirements for Rental Housing Projects

- A. All Inclusionary Units shall be occupied by Low, Lower or Very Low Income Households.
- B. The maximum rental price for Inclusionary Units shall be affordable, as set forth in Section E below, to an appropriate-sized Household whose income is 81% of the Oakland PMSA median.
- C. In projects requiring more than one Inclusionary Unit, at least 50% of those units shall be rented at a price that is affordable to Low or Lower Income Households, provided that the City can make available rental subsidies through the federal Section 8 Existing Housing Program or an equivalent program. When there is an uneven number of Inclusionary Units, the majority of units shall be priced to be affordable to a Household at 50% of median income if subsidies are available. If no rental subsidies are available, all Inclusionary Unit prices shall be affordable to Households at 81% income of the Oakland PMSA median.
- D. If an applicant agrees to provide 10% Lower Income Inclusionary Units, the rental price for such units shall be affordable to a Household with income that is 60% of the Oakland PMSA median.
- E. A unit shall be considered affordable if the rent (including utilities) does not exceed 30% of a Household's Gross Income.
 1. Gross Household Income and utility allowance shall be calculated according to the guidelines used by the Berkeley Housing Authority for the federal Section 8 Existing Housing Program;
 2. For purposes of calculating rent, appropriate Household size shall be determined by using the schedule contained in the administrative regulations developed for this chapter.
- F. Dwelling Units designated as Inclusionary Units shall remain in conformance with the regulations of this section for the life of the building.
- G. The City or its designee shall screen applicants for the Inclusionary Units and refer eligible Households of the appropriate Household size for the unit. For purposes of occupancy, the appropriate Household size standards used by the Housing Authority for the federal Section 8 Existing Housing Program or any future equivalent program shall be used. The applicant or owner shall retain final discretion in the selection of the eligible Households referred by the City.
- H. The owner shall provide the City with data on vacancies and other information required to insure the long-term affordability of the Inclusionary Units by eligible Households. (Ord. 6478-NS § 4 (part), 1999)

Section 23C.12.070 Inclusionary Unit Requirements for Ownership Projects*

- A. Inclusionary Units in ownership projects shall be sold as set forth below:
 1. Inclusionary Units in ownership projects shall be sold at a price that is affordable to an appropriate-sized Household whose income is no more than 80% of the area median income reported for the Oakland PMSA for households of that size, unless the cost of development of the unit is greater than the affordable sales price. Appropriate sizes of household and the ratio of income to sales price for affordable units shall be defined by City Manager regulation;
 2. Inclusionary ownership units shall be affirmatively marketed to tenants with Section 8 housing vouchers, and who are known to be interested in participating in the Section 8 homeownership program, or other



Chapter 23C.12: Inclusionary Housing Requirements

equivalent program(s) of the City of Berkeley, which are in effect at the time said units are offered for sale by the developer.

- B. The applicant for a project other than a Limited Equity housing Cooperative shall be required to give right-of-first-refusal to purchase any or all new Inclusionary Units to the City or a City-designated agency or organization for a period of not less than 60 days as evidenced by issuance of a Certificate of Occupancy.
- C. Should the City choose not to exercise its right-of-first-refusal, it shall provide the applicant or owner with a purchaser or with a list of eligible purchasers within a period of not less than 60 days. If the list is not provided, the applicant may select a Low Income purchaser of their choice as long as the City verifies income eligibility and the unit is sold at an affordable price as described in this chapter. The City shall maintain a list of eligible Low Income Households and review the assets and incomes of prospective purchasers of the Inclusionary Units on a project by project basis and refer potential purchasers to the applicant or owner.
1. All purchasers of Inclusionary Units shall be first-time home buyers from Low, Lower or Very Low Income Households. Purchasers shall also be required to occupy the unit except that such requirement may be waived with the approval of the City. In such cases, the unit shall be rented to a Low, Lower or Very Low Income Household at a rent affordable by such Households;
 2. Eligible City Residents will have first preference for Inclusionary Units; second preference will be given to eligible persons employed in the City. Other preferences and priorities may also be established administratively, with Planning Commission review, to help meet the City's Housing Element goals;
 3. The City shall advise all prospective purchasers on the City's eligibility list of the resale restrictions applicable to ownership of Inclusionary Units as specified in this chapter and shall provide purchasers with a Declaration of Restrictions applicable to ownership of Inclusionary Units as specified in this chapter;
 4. Purchasers of Inclusionary Units in Limited Equity Cooperatives at time of first occupancy shall be first time home buyers with Gross Incomes no greater than 120 percent of the Oakland PMSA median. Subsequent purchasers of Inclusionary Units in Limited Equity Cooperatives shall be first time home buyers whose yearly Gross Income is no more than 44 percent of the cost of a unit at the time of sale, provided that such income shall be no more than 110 percent of the Oakland PMSA median.
- D. All Inclusionary Units developed under this chapter except for those in Limited Equity Cooperatives shall be subject to the resale restrictions set forth below.
1. Home ownership Inclusionary Units offered for sale or sold under the requirements of this chapter shall be offered to the City or its designee for a period of at least 60 days by the first purchaser or subsequent purchasers from the date of the owner's notification to the City of intent to sell. The resale price of the unit shall not exceed the original price and customary closing costs, except to allow for the lower of any increase of either the Consumer Price Index (CPI) for all urban consumers (as produced by the U.S. Bureau of Labor Statistics or its successor agencies) applicable to the Oakland PMSA or of the increase as measured in household income guidelines published annually by the U.S. Department of Housing and Urban Development (or its successor agencies) for the Oakland PMSA;
 2. This resale formula shall supercede and replace the earlier resale formula in deed restrictions executed between February 19, 1987 (adoption date for Ordinance 5791-N.S.) and May 23, 2006. The City of Berkeley, or its designee, shall notify each such owner of this change to the resale formula contained in their deed restriction within 60 days of adoption of this section. All other terms and conditions of these deed restrictions shall remain in effect;
 3. If the City does not act on its right-of-first-refusal, the same procedure for new Inclusionary Units shall be used for selection of a purchaser.



Chapter 23C.12: Inclusionary Housing Requirements

- E. The seller shall not levy or charge any additional fees nor shall any finders fee or other monetary consideration be allowed, other than customary real estate commissions if the services of a licensed real estate agent are employed.
- F. The City or its designee may monitor resale of Inclusionary Units in Limited Equity Cooperatives. The City or its designee shall monitor the resale of ownership Inclusionary Units. The owners of any Inclusionary Units shall attach, lawfully reference in the Grant Deed conveying title of any such inclusionary ownership unit, and record with the County Recorder a Declaration of Restrictions provided by the City, stating the restrictions imposed pursuant to this chapter. Violators of any of the terms thereof may be prosecuted by the City. (Ord. 6920-NS § 1-2 (part), 2006; Ord. 6478-NS § 4 (part), 1999)

*Specific text which previously amended Berkeley Municipal Code Sections 23C.12.070A, 23C.12.070D, and 23C.12.090 for the period January 27, 2004 through February 19, 2006 was repealed on February 19, 2006 as stated in the sunset provision of Ordinance 6,790-N.S. These specific text amendments were reinstated by Ordinance 6,920-N.S., adopted on May 23, 2006.

Section 23C.12.080 Special Requirements for Avenues Plan Area

- A. The City Council finds and determines that:
 1. The Avenues Plan process identified a number of regional and Berkeley-specific barriers to housing development;
 2. Among the Berkeley-specific barriers were high land prices; lengthy, difficult and uncertain permit processes; and insufficient financing, especially for affordable housing projects;
 3. The Avenues Plan area represents a core area of the City where it is particularly appropriate to encourage housing development because of the area's generally good access to workplaces, transit service, senior services and retail stores;
 4. The policy to encourage housing in this area is reflected in a number of documents, including, but not limited to, the City's Housing Element of the Master Plan, the Concept Plan for the General Plan revision, the Downtown Plan, the South Berkeley Area Plan, the West Berkeley Plan and the University Avenue statement of planning of goals;
 5. Despite the City's support for housing in this area, new housing development here has been limited and this has hindered revitalization of the area;
 6. As part of a multi-pronged experimental strategy to create incentives to encourage housing development, relaxation of various inclusionary zoning requirements within the Avenues Plan area as set forth in this section is appropriate;
 7. These changes will also assist the buyer of below market rate Inclusionary Units, by allowing them to gain greater appreciation on their investments (market conditions permitting), making the investment more similar to conventional home ownership, while retaining the long term affordability of Inclusionary Units;
 8. The changes will also encourage the construction of larger, family-sized units rather than the smaller units which have generally been built in multi-family developments;
 9. These changes in inclusionary zoning will be followed by mechanisms to make more financing available and changes in zoning standards and permit processes;
 10. The success of these changes will be reviewed annually, until the five year time period of the Avenues Plan experiment expires July 1, 2000.



Chapter 23C.12: Inclusionary Housing Requirements

B. This section applies on the streets and the addresses listed in the Table below. The area of applicability consists of the entire C-2 District and portions of the C-1, C-SA, C-W, C-N, R-2A, R-3 and R-4 Districts as indicated in the Table. Within this area, the provisions of this section supersede any inconsistent provisions of this chapter.

Table 23C.12.080

Avenues Plan Area: Street and Address Range

<u>Street</u>	<u>Addresses</u>
Acton	1940-2100
Addison	841-1145 odd, 1846 up
Adeline	All
Alcatraz Avenue	1700-1937
Allston Way	1901-1999 odd, 2000 up
Ashby Avenue	1830-2117, 2118-2198 even
Bancroft Way	2000-2300
Berkeley Square	All
Berkeley Way	1200-1800 even only, 1800-1920, 1920-2000 even only, 2000 up
Blake	1800-2100
Bonar	2000-2099
Bonita	1900-1950 even, 1950-1999
Browning	portion of West Campus only
California	1950-2009
Carleton	2000-2117
Center	All
Channing Way	1800-1850 even, 2000-2200, 2200-2300 odd
Cowper	All
Chestnut	1910-1950 even, 1950 up
Curtis	1900-2100, portion BUSD
Delaware	1041-1112, 2000-2200 even
Derby	2000-2113
Dover	All
Durant Avenue	2000-2300
Dwight Way	1800-1850 even, 1850-2200
Ellis	3124-3320 odd
Emerson	2000-2111
Essex	1901-2106
Fairview	1750 up
Fulton	2200-2400, 2400-2606 even
Grant	1800-1900 odd, 1900-2050, 2501-2599 odd
Harold Way	All
Harmon	1750 up
Harper	2901-3123 odd
Haste	1900-1998 even, 2000-2200
Hearst	1032-1200, 1800-2000 even, 2000-2200
Henry	1900 up
Jefferson Avenue	2000-2050

Title 23
Page 110 - Reprinted 6/16/20

APPENDIX B. Enabling Provisions: BMC Sections 22.20.070 and 22.20.080

22.20.070 Exception/limit where applicant establishes inapplicability or unconstitutionality of general requirements.



A. Notwithstanding any other provision of this chapter, the requirements of this chapter shall not apply or shall be limited as follows:

1. No mitigation and/or fees shall be imposed on any applicant or development project where the applicant establishes to the City's satisfaction that the proposed development project will not generate any additional need for affordable housing, child care and/or public facilities, adequate employment training and placement services or amenities or any other impact for which a mitigation and/or fee is otherwise required;
2. The amount and/or level of any mitigation and/or fee under this chapter shall not exceed the reasonable cost of either satisfying the additional demand for affordable housing, child care and/or public facilities, adequate employment training and placement services or amenities or of eliminating and/or reducing to an acceptable level any other impact which reasonably may be anticipated to be generated by or attributed to any individual development project;
3. The City shall not condition any permit in any manner which results in a deprivation of the applicant's constitutional rights.

B. The burden of establishing by satisfactory factual proof the applicability and elements of subsections [\(A\)\(1\)](#), [\(A\)\(2\)](#) and [\(A\)\(3\)](#) of this section shall be on the applicant

C. No exemption or limit shall be granted pursuant to this section unless a finding is made, based on satisfactory factual proof provided by the applicant, that at least one of the requirements set forth in subsection [\(A\)\(1\)](#), [\(A\)\(2\)](#) or [\(A\)\(3\)](#) of this section has been satisfied. (Ord. 6179-NS § 7, 1993)

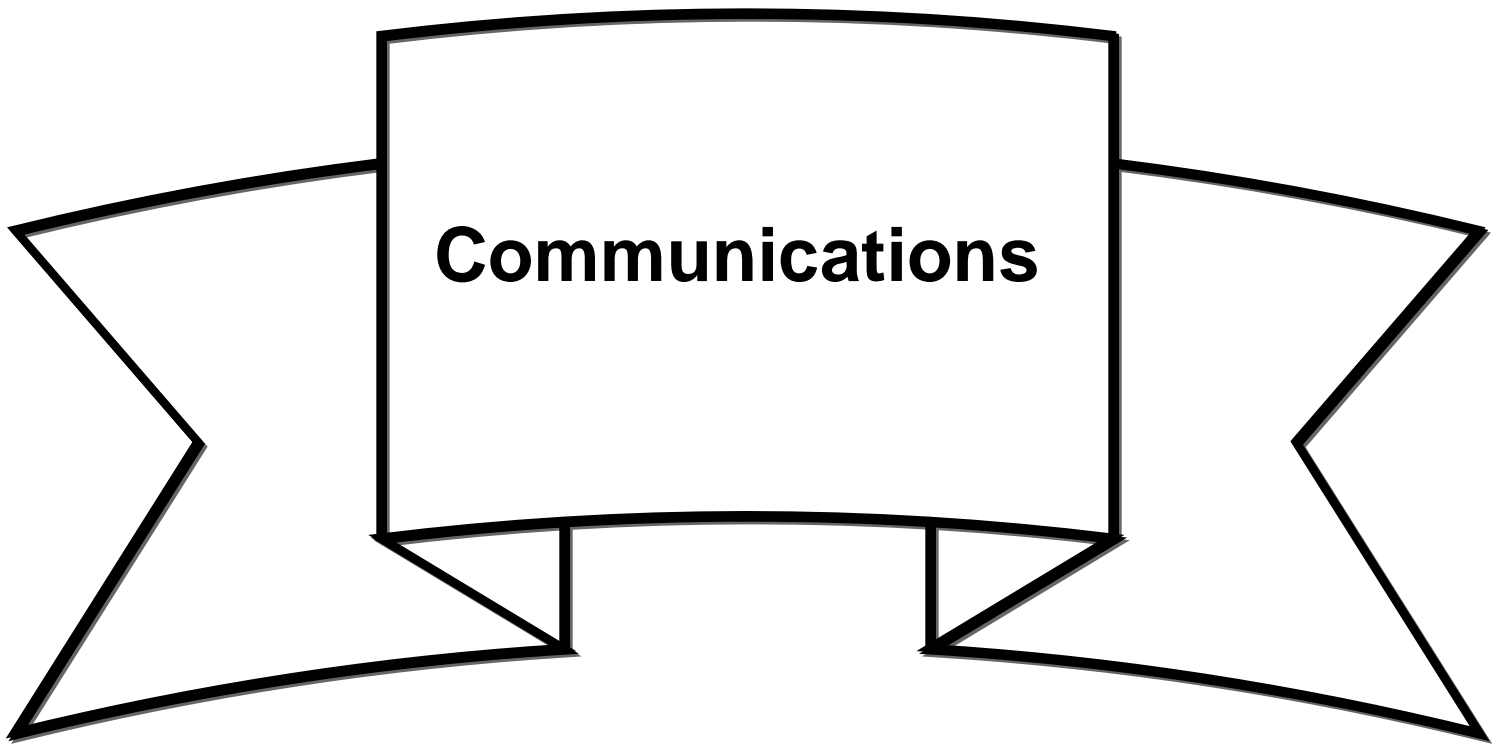
22.20.080 Exception--Hardship.



A. Notwithstanding any other provision of this chapter, the requirements of this chapter in the discretion of the City may be waived or limited for a particular development project where both of the following findings are made:

1. The imposition of the mitigation and/or fees otherwise required by the City make the development of the particular project infeasible; and
2. The benefits to the City from the particular development project outweigh its burdens in terms of increased demand for affordable housing, child care and/or public facilities, adequate employment training and placement services and/or amenities and/or other impacts which reasonably may be anticipated to be generated by and/or attributable to the development project.

B. The burden of establishing by satisfactory factual proof the applicability and elements contained in subsections [\(A\)\(1\)](#) and [\(A\)\(2\)](#) of this section shall be on the applicant. (Ord. 6179-NS § 8, 1993)



All communications submitted to the City Council are public record. Communications are not published directly to the City's website. Copies of individual communications are available for viewing at the City Clerk Department and through Records Online.

City Clerk Department

2180 Milvia Street
Berkeley, CA 94704
(510) 981-6900

Records Online

<https://records.cityofberkeley.info/>

To search for communications associated with a particular City Council meeting using Records Online:

1. Select Search Type = “Public – Communication Query (Keywords)”
2. From Date: Enter the date of the Council meeting
3. To Date: Enter the date of the Council meeting (this may match the From Date field)
4. Click the “Search” button
5. Communication packets matching the entered criteria will be returned
6. Click the desired file in the Results column to view the document as a PDF