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**FIRST AMENDMENT COALITION**

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**CALIFORNIANS AWARE**

**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF KERN**

FIRST AMENDMENT COALITION and  
CALIFORNIANS AWARE,

Petitioners/Plaintiffs,

v.

CITY OF BAKERSFIELD,

Respondent/Defendant.

) Case No.:  
)  
) **VERIFIED PETITION FOR WRIT OF**  
) **MANDATE, INJUNCTIVE AND**  
) **DECLARATORY RELIEF FOR**  
) **VIOLATIONS OF THE RALPH M.**  
) **BROWN ACT, CALIFORNIA PUBLIC**  
) **RECORDS ACT, AND CALIFORNIA**  
) **CONSTITUTION, ART. I SEC. 3(B),**  
) **WITH EXHIBITS A THROUGH L.**  
)  
)  
)

This action seeks relief from the failure of Respondent/Defendant CITY OF BAKERSFIELD to perform as required by the Ralph M. Brown Act, Government Code § 54950, *et seq.* (“Brown Act”), the California Public Records Act, Government Code § 6250, *et seq.* (“CPRA”), and the California Constitution, Article I, Section 3(b).

**FIRST AMENDMENT COALITION and CALIFORNIANS AWARE** (collectively, “Petitioners”) seek a writ of mandate, injunctive and declaratory relief under California Code of Civil Procedure sections 1085 and 1060 and Government Code §§ 6258, 6259, 54960, and 54960.2. In this verified Petition, Petitioners allege as follows:

## THE PARTIES

1. Respondent/Defendant CITY OF BAKERSFIELD (“City”) is a “local agency” as defined by Government Code §6252(a), and is thus subject to the CPRA. The City is governed by a publicly-elected, five-member council (“City Council”). The City Council is a “legislative body” as defined by Government Code § 54952 and is thus subject to the Brown Act. The City’s main office is located at 1600 Truxtun Avenue, in the City of Bakersfield and the County of Kern, California.

2. Petitioner/Plaintiff CALIFORNIANS AWARE (“CalAware”) is, and at all times mentioned in this petition has been, a 501(c)(3) non-profit public benefit corporation organized under the laws of California, governed by a board comprised of public officials, public-minded citizens, and journalists, whose mission includes the promotion and defense of the principles of open government.

3. Petitioner/Plaintiff FIRST AMENDMENT COALITION (“FAC”) is a nonprofit organization incorporated under California’s non-profit law and tax exempt under 501(c)(3) of the Internal Revenue Code dedicated to freedom of expression, to resisting censorship of all kinds, and to promoting the “people’s right to know” about their government so that they may hold it accountable.

4. Petitioners are entitled to enforce the right of access to the records sought herein by petitioning this Court for a writ of mandate to compel the City to publically disclose those records under Government Code § 6259. Petitioners are also entitled to seek relief for the City's violations of the Brown Act, under Government Code § 54960 and Article I, Section 3(b) of the California Constitution.

## **JURISDICTION AND VENUE**

5. This Court has jurisdiction over this matter pursuant to Code of Civil Procedure §§ 1085 and 1060 and Government Code §§ 6258, 6259, 54960, and 54960.2.

6. Venue is proper in this court as the City is located within the County of Kern, the acts and events giving rise to the claims occurred, in part, in the County of Kern, and, upon information and belief, the records at issue are located in the County of Kern.

## **GENERAL FACTUAL ALLEGATIONS**

7. Petitioners are informed and believe, and on that basis allege, that over the past year, the Bakersfield City Council had repeatedly violated the Brown Act by holding closed sessions during various City Council meetings, which are not accessible to members of the public, to discuss matters related to the City's finances, which the Brown Act requires to be discussed in open and public meetings. These unlawful closed sessions occurred in, but are not limited to, City Council meetings held on July 19, 2017, September 6, 2017, and September 20, 2017. A true and correct copy of the agenda and minutes for the July 19, September 6, and September 20 City Council meetings are attached hereto as **Exhibits A through C**, respectively.

1           8.     Petitioners are informed and believe, and on that basis allege, that during  
2 these unlawful closed sessions, the City Council has discussed the City's finances,  
3 including budget projections, revenue streams, and potential tax increases.

4  
5           9.     Petitioners are informed and believe, and on that basis allege, that the  
6 City has made numerous presentations to the City Council regarding the City's finances  
7 in these closed sessions.

8  
9           10.    On October 5, 2017, Assistant City Manager Chris Huot sent an email to  
10 the entire City Council, copying the City Attorney Virginia Gennaro, City Manager Alan  
11 Tandy, and Nelson Smith, Finance Director Nelson Smith, attaching "copies of the  
12 presentations regarding the fiscal outlook matters that were discussed during closed  
13 sessions on July 19, September 6 and September 20." A true copy of that email, along  
14 with the attachments are attached hereto as **Exhibit D**.

15  
16           11.    After learning of the improper closed session, Petitioners sent demands  
17 to the City Council to cease and desist from holding future, similar closed sessions,  
18 pursuant to Government Code § 54960 and 54960.2. A true and correct copy of the  
19 Demand sent to the City by Petitioner First Amendment Coalition on or about October  
20 17, 2017 is attached hereto as **Exhibit E**.<sup>1</sup> A true and correct copy of the Demand sent  
21 to the City by Petitioner Californians Aware on or about October 9 is attached hereto as  
22 **Exhibit F**.

23  
24           12.    On or about November 3, 2017, the City sent correspondence to both  
25 Petitioners, responding to the Demands and denying that any Brown Act violation had  
26 occurred. A true and correct copy of the City's correspondence to Petitioner First

27  
28 <sup>1</sup> FAC's letter was sent on October 17, but was inadvertently and mistakenly dated  
October 18.



1 Amendment Coalition is attached hereto as **Exhibit G**. A true and correct copy of the  
2 City's correspondence to Petitioner Californians Aware is attached hereto as **Exhibit**  
3 **H**.

4  
5 13. In both Demands, FAC and CalAware each made a request for records  
6 pursuant to the CPRA (the "Request") for documents related to the improper closed  
7 session discussions. (See Exs. E-F.)

8  
9 14. In FAC's Request (Ex. E), it sought copies of the following records:

- 10 (1) All communications or other documents that were created, sent  
11 or received by the City Council and/or its individual members  
12 and that relate to or reference the materials enclosed with this  
13 letter;<sup>2</sup>  
14 (2) All communications or other documents that were created, sent  
15 or received by the City Council and/or its individual members  
16 before or after the City Council meetings of July 9, September 6  
17 and September 20, 2017 and that concern actions to be taken as  
18 a result of any items discussed during closed session on those  
19 dates.

20 15. In CalAware's Request, it sought "copies of all communications or other  
21 documents created or received by the City or City Council members or staff before or  
22 after these meetings concerning actions to be taken as a result thereof." (Ex. F.)

23 16. On or about October 23, 2017, the City responded to both CPRA  
24 Requests. A true and correct copy of the City's October 23 correspondence to both  
25 FAC and CalAware are attached hereto as **Exhibit I**.

26  
27  
28 <sup>2</sup> The materials referenced are the records attached as Exhibit D.

1           17. The City produced the same 41 pages of records to both FAC and  
2 CalAware, which the City claimed were responsive to the Requests. A true and correct  
3 copy the records produced by the City are attached hereto as **Exhibit J**.  
4

5           18. However, the City's correspondence failed to identify or produce  
6 responsive records, including, at a minimum, the records which had been previously  
7 identified and attached to FAC's Request. Moreover, the few records the City did  
8 provide were not responsive to the Request, as they consisted of materials dated after  
9 the closed sessions identified by Petitioners.  
10

11           19. On November 6, 2017, Petitioner First Amendment Coalition sent  
12 correspondence to the City regarding its failure to properly respond to the Request. A  
13 true and correct copy of FAC's November 6 correspondence is attached hereto as  
14 **Exhibit K**. In its correspondence, FAC notified the City of the deficiencies in its  
15 Response, alleged that the City had not provided responsive records, and asked the  
16 City to properly respond and produce all responsive records no later than November 8,  
17 2017.  
18

19           20. On or about November 8, 2017, the City responded to FAC's November 6  
20 correspondence. A true and correct copy of the City's November 8 correspondence is  
21 attached hereto as **Exhibit L**. In the November 8 correspondence, the City claimed  
22 that it did not provide the records sought because FAC "already had the records in [its]  
23 possession and we did not see the need and providing them again." The City further  
24 asserted that the records are "confidential pursuant to Government Code Section  
25 54956.9."  
26  
27  
28

**FIRST CAUSE OF ACTION**  
**For Violations of the Ralph M. Brown Act**  
(RELIEF PURSUANT TO SECTIONS 54960, 54960.2; CCP SECTIONS 1060, 1085)

21. Petitioners hereby reallege and incorporate herein by reference Paragraphs 1 thorough 20 of this Petition as though set forth in full.

22. Government Code § 54953 mandates that “[a]ll meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body, except as otherwise provided in this chapter.”

23. Government Code § 54954.2(a) requires that for each regular meeting, the City Council, or its designee, “shall post an agenda containing a brief general description of each item of business to be transacted or discussed at the meeting, including items to be discussed in closed session” and precludes the City Council from any discussion or taking any action “on any item not appearing on the posted agenda...”

24. By discussing the City's finances and possible options for increasing revenue and/or taxes in closed sessions at various meetings in 2017, including (but not limited to) the July 19, September 6, and September 20 meetings, without providing notice to the public of the discussion of those items by placing them on the City's Agendas, the Board violated Government Code § 54954.2(b)(1).

25. Government Code § 54962 provides that “[e]xcept as expressly authorized by this chapter... no closed session may be held by any legislative body of any local agency.”

1           26.    Thus, the Brown Act prohibits the City Council from conducting closed  
2 sessions, unless the closed sessions are specifically permitted. Pursuant to both the  
3 Brown Act and Article I, § 3(b) of the California Constitution, the specific exceptions to  
4 the Brown Act's open-meetings requirements must be construed narrowly.

5  
6           27.    There is no provision in the Brown Act which provides for any closed  
7 session to discuss the City's finances or options for increasing revenue.

8  
9           28.    By discussing these general topics of wide public concern in closed  
10 sessions, the City Council has violated Government Code § 54962.

11  
12           29.    Petitioners allege that the City Council's numerous violations of the  
13 Brown Act evidence a pattern and practice of ignoring the state's open meeting laws,  
14 which has deprived Petitioners and members of the public of proper notice and of their  
15 right to address the Board on the business to be discussed.

16  
17           30.    If the City Council continues to violate the Brown Act, as it has repeatedly  
18 done in the past, Petitioners and other interested persons, citizens, and taxpayers will  
19 be irreparably harmed because they will be denied notice of and the opportunity to  
20 participate in the Board's meetings, a right which is guaranteed by law.

21  
22           31.    Government Code § 54960(a) provides that any interested person, such  
23 as the Petitioners:

24                   ... may commence an action by mandamus, injunction, or declaratory  
25 relief for the purpose of stopping or preventing violations or threatened  
26 violations of this chapter by members of the legislative body of a local  
27 agency or to determine the applicability of this chapter to actions or  
28 threatened future action of the legislative body, or to determine whether  
any rule or action by the legislative body to penalize or otherwise  
discourage the expression of one or more of its members is valid or invalid

1 under the laws of this state or of the United States, or to compel the  
2 legislative body to audio record its closed sessions as hereinafter provided.

3 32. Because the City Council has responded that its prior closed session  
4 discussions did not constitute violations of the Brown Act, it is likely the City Council  
5 will continue to violate the Brown Act in the future.  
6

7 33. Petitioners have complied with all notice and demand requirements set  
8 forth in Government Code § 54960.2.  
9

10 34. The City Council has refused to acknowledge the past violations or to  
11 cease and desist from having similar discussions in closed sessions in the future.  
12

13 35. The City Council has ignored the public's rights to be informed and  
14 involved and should therefore be ordered by this court to tape record future closed  
15 sessions.  
16

17 36. The People of California have elevated the right to open government to  
18 one protected by their state Constitution. The California Constitution, Article 1, Section  
19 3, Subdivisions (a) and (b) state:  
20

21 The people have the right to instruct their representatives, petition  
22 government for redress of grievances, and assemble freely to consult for  
the common good.

23 The people have the right of access to information concerning the conduct  
24 of the people's business, and, therefore, the meetings of public bodies and  
25 the writings of public officials and agencies shall be open to public  
scrutiny.

26 A statute, court rule, or other authority, including those in effect on the  
27 effective date of this subdivision, shall be broadly construed if it furthers  
28 the people's right of access, and narrowly construed if it limits the right of  
access.

1  
2 37. Code of Civil Procedure § 1060 provides:

3 Any person interested ... who desires a declaration of his or her rights or  
4 duties with respect to another ... may, in cases of actual controversy relating  
5 to the legal rights and duties of the respective parties, bring an original  
6 action or cross-complaint in the superior court for a declaration of his or her  
7 rights and duties in the premises, including a determination of any question  
8 of construction or validity arising under the instrument or contract. He or  
she may ask for a declaration of rights or duties, either alone or with other  
relief; and the court may make a binding declaration of these rights or  
duties, whether or not further relief is or could be claimed at the time....

9  
10 38. There presently exists, between the Petitioners and the City Council, an  
11 actual controversy relating to: (1) the legal rights of Petitioners and other members of  
12 the public under the Brown Act and (2) the ministerial duties imposed upon the City  
13 Council by the Brown Act.

14  
15 39. Petitioners request a judicial determination that the City Council has  
16 violated and is likely to continue to violate the Brown Act.

17  
18 40. This determination is necessary and proper because the City Council  
19 refuses to conform to the requirements of the Brown Act.

20  
21 41. The City Council has a ministerial duty to perform according to the laws of  
22 the State of California, including the Brown Act.

23  
24 42. City Council has failed and refused to perform its ministerial duties as  
25 required by the Brown Act.

26  
27 43. Petitioners have a clear, present, and legal right to the City Council's  
28 performance of its ministerial duties, as required by the Brown Act.

1  
2 44. The City Council has a present legal duty and present ability to perform its  
3 ministerial duties set forth in both the Brown Act.

4  
5 45. Petitioners have an interest in having the laws executed and public duties  
6 enforced and, therefore, has a beneficial interest in the outcome of the proceedings.

7  
8 46. Through this action, Petitioners seek no greater relief that would be  
9 afforded to any other member of the public.

10  
11 47. Petitioners have exhausted any available administrative remedies.  
12 Petitioners have sent Brown Act demands to the City Council, but the City Council  
13 refuses to acknowledge and/or cease and desist from similar conduct in the future. The  
14 only plain, speedy, and adequate remedy left to Petitioners is the relief provided by  
15 Government Code §§ 54960 and 54960.2.

16  
17 **SECOND CAUSE OF ACTION**  
18 **For Violations of the California Public Records Act**  
(RELIEF PURSUANT TO GOV. CODE § 6258; CODE CIV. PROC. §§ 1060, 1085)

19 48. Petitioners hereby reallege and incorporate herein by reference  
20 Paragraphs 1 thorough 20, and 22 through 47 of this Petition as though set forth in full.

21  
22 49. The CPRA defines terms relevant to this cause of action as follows:

23  
24 **"Public records"** includes any writing containing information relating to  
25 the conduct of the public's business prepared, owned, used, or retained by  
any state or local agency regardless of physical form or characteristics....

26 **"Local agency"** includes a county; city, whether general law or  
27 chartered; city and county; school district; municipal corporation; district;  
28 political subdivision; or any board, commission or agency thereof; other

1 local public agency; or entities that are legislative bodies of a local agency  
2 pursuant to subdivisions (c) and (d) of Section 54952.

3 **"Writing"** means any handwriting, typewriting, printing, photostating,  
4 photographing, photocopying, transmitting by electronic mail or facsimile,  
5 and every other means of recording upon any tangible thing any form of  
6 communication or representation, including letters, words, pictures,  
7 sounds, or symbols, or combinations thereof, and any record thereby  
8 created, regardless of the manner in which the record has been stored.

9 50. The requested records relate to the conduct of the public's business and  
10 were prepared, owned, used, or retained by the City. Therefore, the records are  
11 deemed to be public records pursuant to Government Code § 6252(e).

12 51. Government Code § 6253(c) requires that:

13 Each agency, upon a request for a copy of records, shall within 10 days  
14 from receipt of the request, determine whether the request, in whole or  
15 part, seeks copies of disclosable public records in the possession of the  
16 agency and shall promptly notify the person making the request of the  
17 determination and the reasons therefor.

18 52. The City has failed to notify Petitioners whether records exist that are  
19 responsive to Petitioners' CPRA Requests, thereby violating Government Code §  
20 6253(c).

21 53. Government Code § 6253(b), provides, in pertinent part, that:

22 Except with respect to public records exempt from disclosure by express  
23 provisions of law, each state or local agency, upon a request for a copy of  
24 records that reasonably describes an identifiable record or records, shall  
25 make the records promptly available to any person upon payment of fees  
26 covering direct costs of duplication, or a statutory fee if applicable. Upon  
27 request, an exact copy shall be provided unless impracticable to do so.

28 54. Thus, all records of public agencies must be disclosed unless one of the  
specifically enumerated exemptions to disclosure under the CPRA applies. The City



1 failed to invoke *any* exemption to disclosure under the CPRA, and has failed to produce  
2 records responsive to Petitioners' CPRA Requests, thereby violating Government Code  
3 § 6253(b).

4  
5 55. Government Code § 6253(d) prohibits the City from delaying or  
6 obstructing the "the inspection or copying of public records."

7  
8 56. By refusing to identify and disclose records responsive to Petitioners'  
9 CPRA Requests, the City has violated Government Code § 6253(d).

10  
11 57. Government Code § 6255(a) requires that a public agency justify its  
12 withholding of any record:

13 The agency shall justify withholding any record by demonstrating that  
14 the record in question is exempt under express provisions of this chapter  
15 or that on the facts of the particular case the public interest served by not  
16 disclosing the record clearly outweighs the public interest served by  
disclosure of the record.

17 58. In response to communications from Petitioner First Amendment  
18 Coalition challenging the City's failure to produce responsive records related to the  
19 illegal closed sessions (see Ex. J), the City claimed that the records were exempt from  
20 disclosure pursuant to the Brown Act, Government Code § 54956.9. (Ex. K.)

21  
22 59. Neither Government Code § 54956.9, or any other provision of the  
23 Brown Act, provides for an exemption from disclosure under the CPRA.

24  
25 60. The People of California have elevated the right to open government to  
26 one protected by their State Constitution. The California Constitution, Article 1, Section  
27 3, Paragraphs (a) - (b) states:

1 The people have the right to instruct their representatives, petition  
2 government for redress of grievances, and assemble freely to consult for  
the common good.

3 The people have the right of access to information concerning the conduct  
4 of the people's business, and, therefore, the meetings of public bodies and  
5 the writings of public officials and agencies shall be open to public  
scrutiny.

6 A statute, court rule, or other authority, including those in effect on the  
7 effective date of this subdivision, shall be broadly construed if it furthers  
8 the people's right of access, and narrowly construed if it limits the right of  
access.

9  
10 61. Petitioners have exhausted any administrative remedies. Petitioners have  
11 requested copies of disclosable public records from the City, but City has refused to  
12 provide access to those public records. The only plain, speedy, and adequate remedy  
13 left to Petitioners is the relief provided by Government Code § 6258.

14  
15 62. Government Code § 6258 provides:

16 Any person may institute proceedings for injunctive or declarative relief or  
17 writ of mandate in any court of competent jurisdiction to enforce his or  
18 her right to inspect or to receive a copy of any public record or class of  
public records under this chapter.

19  
20 63. Government Code § 6259 provides:

21 Whenever it is made to appear by verified petition to the superior court of  
22 the county where the records or some part thereof are situated that certain  
23 public records are being improperly withheld from a member of the public,  
24 the court shall order the officer or person charged with withholding the  
25 records to disclose the public record or show cause why he or she should  
26 not do so. The court shall decide the case after examining the record in  
camera, if permitted by subdivision (b) of Section 915 of the Evidence  
Code, papers filed by the parties and any oral argument and additional  
evidence as the court may allow.

27 64. Code of Civil Procedure § 1060 provides:  
28

1 Any person interested ... who desires a declaration of his or her rights or  
2 duties with respect to another ... may, in cases of actual controversy  
3 relating to the legal rights and duties of the respective parties, bring an  
4 original action or cross-complaint in the superior court for a declaration of  
5 his or her rights and duties in the premises, including a determination of  
6 any question of construction or validity arising under the instrument or  
7 contract. He or she may ask for a declaration of rights or duties, either  
8 alone or with other relief; and the court may make a binding declaration of  
9 these rights or duties, whether or not further relief is or could be claimed  
10 at the time....

11 65. Petitioners have demonstrated that an actual controversy exists between  
12 the parties regarding the City's responsibility to disclose records under the CPRA.

13 66. The City has a ministerial duty to perform according to the laws of State  
14 of California, including the CPRA.

15 67. Petitioners have an interest in having the laws executed and public duties  
16 enforced and, therefore, has a beneficial interest in the outcome of the proceedings.

17 68. Petitioners have a clear, present, and legal right to the City's performance  
18 of its ministerial duties, as required by the CPRA.

19 69. Petitioners have a present legal duty and present ability to perform its  
20 ministerial duties, as required by the CPRA.

21 70. The City has failed to perform its ministerial duties as required by the  
22 CPRA.

23 71. Through this action, Petitioners seek no greater relief than would be  
24 afforded to any other member of the public.  
25  
26  
27  
28

1           72. Therefore, this Court should find that the records requested by  
2 Petitioners are disclosable public records, that City has violated the CPRA by refusing  
3 to release these records, and should order the City to immediately release unredacted  
4 copies of all responsive public records.

5  
6                                   **THIRD CAUSE OF ACTION**  
7                   **Violations of California Constitution, Art. 1, Sect. 3(b)**  
8                   **(RELIEF PURSUANT TO CODE CIV. PROC. §§ 1060, 1085)**

9           73. Petitioners hereby reallege and incorporate herein by reference  
10 Paragraphs 1 thorough 20, 22 through 47, and 49 through 72 of this Petition as though  
11 set forth in full.

12           74. The California Constitution, Article 1, Section (b)(3) guarantees the  
13 public a “right of access to information concerning the conduct of the people’s  
14 business” and to that end, requires “meetings of public bodies and the writings of  
15 public officials and agencies shall be open to public scrutiny.”  
16

17           75. The California Constitution, Article 1, Section (3)(b)(2) requires that any  
18 “authority adopted after the effective date of this subdivision that limits the right of  
19 access shall be adopted with findings demonstrating the interest protected by the  
20 limitation and the need for protecting that interest.”  
21

22           76. Petitioners are informed and believe, and on that basis allege, that the  
23 City has adopted policies, procedures, and practices for regularly excluding the public  
24 from meetings it is lawfully entitled to attend and for preventing the disclosure of  
25 records the public is lawsfully entitled to obtain, thus subverting, impairing, and  
26 impeding the public’s right of access to the meetings of public bodies and the writings  
27  
28

1 of public officials, guaranteed under Article 1, Section 3(b) of the California  
2 Constitution.

3  
4 77. Petitioners are informed and believe, and on that basis allege, that the  
5 City has excluded, and continues to exclude, the public from public meetings the public  
6 was and is lawfully entitled to attend, and has failed to produce records the public is  
7 lawfully entitled to obtain, thus subverting, impairing, and impeding the public's right  
8 of access to the meetings of public bodies and the writings of public officials,  
9 guaranteed under Article 1, Section 3(b) of the California Constitution.

10  
11 **WHEREFORE, PETITIONERS PRAY AS FOLLOWS:**

12  
13 1. That after a trial of this action, to be held on notice, this Court issue a  
14 declaration that:

15  
16 (a) The City violated the Brown Act by repeatedly discussing the City's  
17 finances without providing notice of such discussion to the public, in  
18 violation Government Code § 54954.2(a); and, by discussing topics,  
19 including the City's finances, including budget projections, revenue  
20 stream, and options to increase taxes, not permitted to be discussed  
21 in closed session, in violation of Government Code §§ 54953 and  
22 54954.2; and,

23 (b) The records requested by Petitioners are public records; no  
24 exemption applies to their disclosure; and the City violated the  
25 California Public Records Act by failing to properly respond to  
26 Petitioners' requests for records and by withholding those disclosable  
27 records in response to Petitioners CPRA Requests.

1           2.     That this Court issue a writ of mandate ordering Respondent CITY OF  
2 BAKERSFIELD to:

3                   (a) perform as required by the California Public Records Act and to  
4                   release the requested records to Petitioner;

5                   (b) preventing the City of Bakersfield violating the Brown Act by  
6                   discussing the City's finances in closed session or without listing the  
7                   discmssing on the posted agenda.

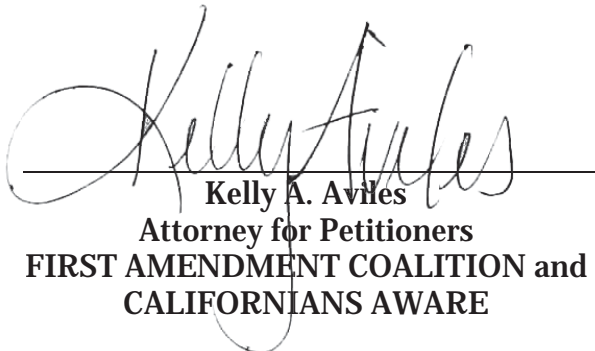
8  
9           3.     That Petitioners/Plaintiffs FIRST AMENDMENT COALITION and  
10 CALIFORNIANS AWARE recover attorneys' fees incurred in this action pursuant to  
11 Government Code §§ 54960.5, 6259, and/or Code of Civil Procedure section 1021.5;

12  
13           4.     For an award of costs incurred in this action; and,

14  
15           5.     For such other and further relief as the court deems just and proper.  
16

17 DATED: December 21, 2017

LAW OFFICES OF KELLY A. AVILES

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Kelly A. Aviles  
Attorney for Petitioners  
FIRST AMENDMENT COALITION and  
CALIFORNIANS AWARE

# Exhibit A



# **BAKERSFIELD CITY COUNCIL AGENDA MEETING OF JULY 19, 2017**

Council Chambers, City Hall, 1501 Truxtun Avenue  
Regular Meeting 3:30 PM

## **REGULAR MEETING - 3:30 PM**

- 1. ROLL CALL**
- 2. PUBLIC STATEMENTS**
- 3. WORKSHOPS**
- 4. CLOSED SESSION**
  - a. Conference with Legal Counsel — Existing Litigation; Closed Session pursuant to Government Code section 54956.9(d)(1) regarding *Donald Towner v. City of Bakersfield*, Kern County Superior Court Case No. BCV-16-102464, SPC
  - b. Conference with Legal Counsel — Existing Litigation; Closed Session pursuant to Government Code section 54956.9(d)(1) regarding *Citizens Against the 24<sup>th</sup> Street Widening Project v. City of Bakersfield; California Department of Transportation*, Kern County Superior Court Case No. S-1500-CV-281556, KCT, Consolidated with BCV-16-101556 NFT.
  - c. Conference with Legal Counsel — Potential Litigation; Closed Session pursuant to Government Code section 54956.9(d)(2),(e)(1) (two matters).
- 5. CLOSED SESSION ACTION**
- 6. ADJOURNMENT**





# ADMINISTRATIVE REPORT

**MEETING DATE:** 7/19/2017

Closed Session 4. a.

**TO:** Honorable Mayor and City Council

**FROM:** Virginia Gennaro, City Attorney

**DATE:** 6/26/2017

**WARD:**

**SUBJECT:** Conference with Legal Counsel — Existing Litigation; Closed Session pursuant to Government Code section 54956.9(d)(1) regarding *Donald Towner v. City of Bakersfield*, Kern County Superior Court Case No. BCV-16-102464, SPC

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**STAFF RECOMMENDATION:**

**BACKGROUND:**



# ADMINISTRATIVE REPORT

**MEETING DATE:** 7/19/2017

Closed Session 4. b.

**TO:** Honorable Mayor and City Council

**FROM:** Virginia Gennaro, City Attorney

**DATE:** 6/23/2017

**WARD:**

**SUBJECT:** Conference with Legal Counsel — Existing Litigation; Closed Session pursuant to Government Code section 54956.9(d)(1) regarding *Citizens Against the 24<sup>th</sup> Street Widening Project v. City of Bakersfield*; *California Department of Transportation*, Kern County Superior Court Case No. S-1500-CV-281556, KCT, Consolidated with BCV-16-101556 NFT.

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**STAFF RECOMMENDATION:**

**BACKGROUND:**



# ADMINISTRATIVE REPORT

**MEETING DATE:** 7/19/2017

Closed Session 4. c.

**TO:** Honorable Mayor and City Council

**FROM:** Virginia Gennaro, City Attorney

**DATE:** 6/23/2017

**WARD:**

**SUBJECT:** Conference with Legal Counsel — Potential Litigation; Closed Session pursuant to Government Code section 54956.9(d)(2),(e)(1) (two matters).

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**STAFF RECOMMENDATION:**

**BACKGROUND:**



**BAKERSFIELD CITY COUNCIL  
MINUTES  
MEETING OF JULY 19, 2017**

**Council Chambers, City Hall, 1501 Truxtun Avenue**  
Regular Meetings- 3:30 p.m. and 5:15 p.m.

**REGULAR MEETING – 3:30 p.m.**

**ACTION TAKEN**

**1. ROLL CALL**

Present: Mayor Goh, Councilmembers Gonzales,  
Weir, Freeman, Sullivan, Parlier

Absent: Vice-Mayor Smith, Councilmember  
Rivera

**2. PUBLIC STATEMENTS**

None.

**3. WORKSHOPS**

None.

**4. CLOSED SESSION**

- a. Conference with Legal Counsel — Existing Litigation; Closed Session pursuant to Government Code section 54956.9(d)(1) regarding *Donald Towner v. City of Bakersfield*, Kern County Superior Court Case No. BCV-16-102464, SPC
- b. Conference with Legal Counsel — Existing Litigation; Closed Session pursuant to Government Code section 54956.9(d)(1) regarding *Citizens Against the 24th Street Widening Project v. City of Bakersfield*; California Department of Transportation, Kern County Superior Court Case No. S-1500-CV-281556, KCT, Consolidated with BCV-16-101556 NFT.
- c. Conference with Legal Counsel — Potential Litigation; Closed Session pursuant to Government Code section 54956.9(d)(2), (e)(1) (two matters).

**4. CLOSED SESSION continued****ACTION TAKEN**

***Motion by Councilmember Weir to adjourn to Closed Session at 3:31p.m.***

**APPROVED  
AB RIVERA, SMITH**

***Motion by Councilmember Weir to adjourn from Closed Session at 5:10 p.m.***

**APPROVED  
AB RIVERA, SMITH**

**Meeting reconvened at 5:15 p.m.**

**5. CLOSED SESSION ACTION**

a. Conference with Legal Counsel — Existing Litigation; Closed Session pursuant to Government Code section 54956.9(d)(1) regarding *Donald Towner v. City of Bakersfield*, Kern County Superior Court Case No. BCV-16-102464, SPC

**STAFF WAS GIVEN  
DIRECTION**

b. Conference with Legal Counsel — Existing Litigation; Closed Session pursuant to Government Code section 54956.9(d)(1) regarding *Citizens Against the 24th Street Widening Project v. City of Bakersfield*; *California Department of Transportation*, Kern County Superior Court Case No. S-1500-CV-281556, KCT, Consolidated with BCV-16-101556 NFT.

**NO REPORTABLE  
ACTION**

c. Conference with Legal Counsel — Potential Litigation; Closed Session pursuant to Government Code section 54956.9(d)(2), (e)(1) (two matters).

**NO REPORTABLE  
ACTION ON FIRST  
MATTER; SECOND  
MATTER CONTINUED  
TO NEXT MEETING**

**7. ADJOURNMENT**

**Mayor Goh adjourned the Closed Session meeting at 5:16 p.m.**

**REGULAR MEETING –5:18 p.m.**

**ACTION TAKEN**

**1. ROLL CALL**

Present: Mayor Goh, Councilmembers Rivera, Gonzales, Weir, Freeman, Sullivan, Parlier

Absent: Vice-Mayor Smith

**2. INVOCATION** by Pastor Vernon Kemp, Greater Harvest Christian Center.

**3. PLEDGE OF ALLEGIANCE** by Marisa Edmonston, student at the University of Arizona.

**4. PRESENTATIONS**

- a. Presentation of a Proclamation by Mayor Goh to Sharon Woolfolk, President of the Executive Board of Directors for NAMI Kern County, declaring July, 2017, Minority Mental Health Awareness Month in Bakersfield.

Ms. Woolfolk accepted the Proclamation and made comments.

- b. Presentation of a Proclamation by Mayor Goh to Elijah Lidgett, JDRF Children's Congress Delegate, declaring July 24-26, 2017, JDRF Days in Bakersfield.

Elijah Lidgett accepted the Proclamation and made comments.

- c. Presentation of a plaque by Mayor Goh to Timothy M. Osborn, honoring the beautification efforts of his firm, the Law Office of Timothy M. Osborn.

Ms. Heather Penella, Mayoral Alternate for the Keep Bakersfield Beautiful Committee, made comments.

Mr. Osborn accepted the Proclamation and made comments.

**5. PUBLIC STATEMENTS****ACTION TAKEN**

- a. Curtis Bingham Sr., Street Evangelist, expressed appreciation and gave blessings to the City and law enforcement for the work they do for the City.
- b. Marvin Dean stated he invited HUD Secretary Ben Carson to visit Bakersfield as part of his Community Listening Tour (submitted written material); spoke regarding the proposed water rate increases; and spoke in support of the Property Assessed Clean Energy (PACE) programs in Bakersfield.
- c. Mona Sidhu spoke regarding the proposed Resolution supporting the continued federal funding of the Community Development Block Grant and Home Investment Partnerships programs.
- d. The following individuals spoke regarding allegations made by Tatyana Hargrove against the Police Department, the need for a citizen's community oversight committee, and requested the City Council approve a budget for body cameras for officers: Dean Welliver; Jeanette Limones; Paola Hinojosa; Patrick Jackson, NAACP President; Larcenia Taylor; and Krystal Wood.

Councilmember Rivera left the meeting at this time.

**6. WORKSHOPS**

- a. Workshop on Water Rate Study and proposed rate increases associated with 1,2,3-Trichloropropane (TCP) water well treatment.  
***(Staff recommends approval of Proposition 218 notice to be mailed to customers of the domestic water system.)***

Assistant City Clerk Drimakis announced a staff memorandum was received providing a recent history of domestic water rate increases applicable to the City of Bakersfield's domestic service area.

City Manager Tandy made staff comments.

Water Resources Manager Chianello made staff comments and provided a PowerPoint presentation.



**6. WORKSHOPS continued**  
ITEM 6.a. CONTINUED

**ACTION TAKEN**

Mark Hildebrand, Stantec Consulting, made comments.

Finance Director Smith made additional staff comments and provided a PowerPoint presentation.

***Motion by Councilmember Weir to approve the staff recommendation.***

**APPROVED  
AB RIVERA, SMITH**

Councilmember Rivera returned to the meeting at this time.

- b. Presentation by California Water Service Company (Cal Water) regarding Cal Water's project to comply with upcoming state mandates regarding 1,2,3-Trichloropropane (TCP). ***(Staff recommends Council receive and file the presentation.)***

Assistant City Manager Teglia made staff comments.

Mike Mares, Bakersfield District Manager for California Water Service Company, made comments and provided a PowerPoint presentation.

***Motion by Councilmember Weir to approve the staff recommendation.***

**APPROVED  
AB SMITH**

**7. APPOINTMENTS**

None.

**8. CONSENT CALENDAR**

**Minutes:**

- a. Approval of minutes of the June 28, 2017, Regular City Council Meetings.

**Payments:**

- b. Receive and file department payments from June 16, 2017, to July 6, 2017, in the amount of \$20,288,819.02, Self-Insurance payments from June 16, 2017, to July 6, 2017, in the amount of \$1,652,006.66, totaling \$21,940,825.68.



**8. CONSENT CALENDAR** continued**ACTION TAKEN****Ordinances:**

- c. Adoption of an Ordinance amending Chapter 2.60.030 of the Bakersfield Municipal Code relating to the appointment of members and alternates of the Bakersfield Youth Commission. **(FR 06/28/17)** **ORD 4914**
- d. Adoption of an Ordinance amending Chapter 14.02.010 of the Bakersfield Municipal Code relating to Water Use Regulations. **(FR 06/28/17)** **ORD 4915**

**Resolutions:**

- e. Resolution authorizing depositing of funds with MUFG Union Bank. **RES 086-17**
- f. Resolution to authorize Sale of Surplus Buick Century sedan and Ford 500 sedan to Bakersfield Homeless Center, a nonprofit organization for \$2,100. **RES 087-17**
- g. Resolution determining that Globe® turnout clothing is the Bakersfield Fire Department standard and it cannot be reasonably obtained through the usual bidding procedures and authorizing the Finance Director to dispense with bidding thereof, not to exceed \$111,650. **RES 088-17**
- h. Resolution determining that Sulfa Treat, an absorbent media for removing H<sub>2</sub>S (hydrogen sulfide) from digester gas, cannot be reasonably obtained through the usual bidding procedures and authorizing the Finance Director to dispense with bidding thereof for a period of one year, not to exceed the budgeted amount of \$200,000. **RES 089-17**
- i. Resolution supporting the continued federal funding of the Community Development Block Grant (CDBG) and Home Investment Partnerships (HOME) programs. **RES 090-17**

**8. CONSENT CALENDAR** continued**ACTION TAKEN**

## j. Sewer connection and construction fee assessments for 101 North McDonald Way:

1. Resolution confirming assessments for sewer connection and construction fees and authorizing the collection of assessments by the Kern County Tax Collector.

**RES 091-17**

2. Agreement with Guadalupe Alaniz to pay sewer connection and construction fees through the Kern County Tax Collector.

**AGR 17-091**

## k. Resolutions to add territories to the Consolidated Maintenance District and approving, confirming, and adopting the Public Works Director's Report for each:

1. Area 1-118 (2810 Mosasco Street)

**RES 092-17**

2. Area 4-167 (4201 Arrow Street)

**RES 093-17****Agreements:**

- l. Agreement with County of Kern and ESO Solutions, Inc., for the implementation of electronic patient care reporting system (ePCR).

**AGR 17-092**

- m. Agricultural lease agreement with Donald L. and Margaret Schulte DBA Schulte Farms for property located at northeast corner of Cottonwood and Hosking Roads.

**AGR 17-093**

- n. Assignment of Bakersfield Municipal Airport Long-Term Ground Lease Agreement No. 06-360 as amended by Agreement No. 08-061 with Knute Johnson and Penelope D. Maines assigning Hangar Space B3 to Dennis Cheever.

**AGR 17-094**

- o. Approval of a Settlement Agreement between the City of Bakersfield and Bakersfield City School District regarding traffic impacts on proposed new elementary school located at East Belle Terrace and Cottonwood Road.

**AGR 17-095**

8.	<b>CONSENT CALENDAR</b> continued	<b><u>ACTION TAKEN</u></b>
p.	Median Fee Reimbursement Agreement with Summit Capital Ventures, Inc., (not to exceed \$41,597) for median construction and landscaping on Old River Road between Berkshire Road and Panama Lane.	<b>AGR 17-096</b>
q.	Final Map, Improvement Agreement, and Landscape Improvement Agreement with MG3 Partners, LLC. For Tract/Parcel Map 6759, Phase 1 located South of Taft Highway and East of Ashe Road.	<b>AGR 17-097</b> <b>AGR 17-098</b>
r.	Final Map, Improvement Agreement, and Landscape Agreement with Gateway Housing, LLC. for Tract/Parcel Map 6865, Phase 2 located North of East Panama Lane and West of Sparks Street.	<b>AGR 17-099</b> <b>AGR 17-100</b>
s.	Final Map and Improvement Agreement with Summit Capital Ventures, LLC and John Balfanz Homes, Inc. for Tract/Parcel Map 7247, Phase 1 located South of White Lane and West of Buena Vista Road.	<b>AGR 17-101</b>
t.	Final Map and Improvement Agreement with Summit Capital Ventures, Inc. and John Balfanz Homes, Inc. for Tract/Parcel Map 7247, Phase 2, located south of White Lane and west of Buena Visto Road.	<b>AGR 17-102</b>
u.	Agreement with Clean Cut Landscape Management Inc. (\$60,000; one year term) for landscape maintenance services at Wastewater Treatment Plant No. 3.	<b>AGR 17-103</b>
v.	Agreement with California Water Service Company (\$54,702) to purchase real property located on Truxtun Avenue for the Truxtun/Oak Widening Project.	<b>AGR 17-104</b> <b>DEED 8697</b> <b>DEED 8698</b>
w.	Agreement with NSA Property Holdings, LLC (\$430,640) for possession, use, and acquisition of real property at 3301 Truxtun Avenue for the Truxtun/Oak Widening Project.	<b>AGR 17-105</b>

**8. CONSENT CALENDAR** continued**ACTION TAKEN**

- |     |  |                      |
|-----|--|----------------------|
| x.  | Consultant Agreement with Mendoza & Associates (\$163,070.88; funded with Federal Earmark Funds {88.53 percent} and Capital Outlay Utility/Roads Fund {11.47 percent}) for Construction Management Services for the SR-178 Widening Project. | <b>AGR 17-106</b>    |
| y.  | Utility Agreement with PG&E (\$421,197; 100 percent Local Funds) for the relocation of electric facilities in conflict with the Truxtun Avenue Operational Improvements Project.   | <b>AGR 17-107</b>    |
| z.  | Pipeline Crossing Agreement with the Union Pacific Railroad Company (not to exceed \$11,500) for a domestic waterline.   | <b>AGR 17-108</b>    |
| aa. | Amendment No. 1 to Agreement No. 16-181 with Alon Asphalt Company (\$160,000; revised not to exceed \$321,250 and extend term one year), to continue the supply of CSS-1H asphaltic emulsion.  | <b>AGR 16-181(1)</b> |
| ab. | Amendment No. 1 to Agreement No. 16-184 with General Tree Service Inc. (\$625,000; revised not to exceed \$1,248,000 and extend term one year), to continue the supply of tree trimming service.   | <b>AGR 16-184(1)</b> |
| ac. | Amendment No. 2 to Agreement No. 15-203 with International Coatings Company Inc., (\$140,000; revised not to exceed \$424,813.75 and extend the term one year), to continue the supply of traffic paint.                                     | <b>AGR 15-203(2)</b> |
| ad. | Amendment No. 3 to Agreement No. 14-140 with BASF Corporation (\$120,000; revised not to exceed \$480,000 and extend term one year) to provide polymer for dissolved air flotation thickeners at Wastewater Treatment Plant No. 3.           | <b>AGR 14-140(3)</b> |

**8. CONSENT CALENDAR** continued**ACTION TAKEN**

- ae. Amendments to various consultant agreements for on-call civil engineering services for the Public Works Department, Wastewater Division:
1. Amendment No. 2 to Agreement No. 15-173 with Provost and Pritchard Engineering Group, Inc. (\$50,000; revised not to exceed of \$160,000 and extend term one year). **AGR 15-173(2)**
  2. Amendment No. 2 to Agreement No. 15-174 with Carollo Engineers, Inc. (\$50,000; revised not to exceed of \$120,000 and extend term one year). **AGR 15-174(2)**
- af. Amendment No. 3 to Agreement 12-120 with TYLin International (\$125,123.01; 100 percent locally funded; revised not to exceed \$3,390,123.01) for survey and monumentation services after construction. (TRIP) **AGR 12-120(3)**
- ag. Contract Change Order Nos. 42, 45, 57, 58, 61, 62, 63, 65, 67, 71, 72, and 74 to Agreement No. 14-241 with Security Paving Company (net increase of \$53,401.00; revised not to exceed \$84,481,672.10; Change Orders funded with Federal Earmark Funds {80 percent} and Capital Outlay Utility/Roads Funds {20 percent}) for the Beltway Operational Improvements Project. (TRIP) **AGR 14-241  
CCO 42, CCO 45,  
CCO 57, CCO 58  
CCO 61, CCO 62  
CCO 63, CCO 65  
CCO 67, CCO 71  
CCO 72, CCO 74**

**Property Acquisition Agreements - TRIP:****Bids:**

- ah. Reject bids for the purchase of an articulated four-wheel drive loader for the Public Works Department, Solid Waste Division.
- ai. Accept bid and approve contract with Interior Demolition, Inc. (\$42,168; 88.53 percent federally funded, 11.47 percent local match funded with utility surcharge fees), for the demolition of improvements along 24th Street: 2400 Pine Street. (TRIP) **AGR 17-109**



**8. CONSENT CALENDAR** continued**ACTION TAKEN**

- aj. Accept bid and award contract to Sierra Construction & Excavation, Inc. (not to exceed \$1,000,000 annually; three year term) for the annual maintenance and repairs of the potable water system within the City's domestic water service area.

**AGR 17-110**

- ak. Accept bid and approve contract to Granite Construction Company (\$5,973,333.26) for the annual contract for the supply of street materials.

**AGR 17-111**

- al. Installation of traffic signal, lighting, and synchronization system at Union Avenue and Berkshire Road:

1. Accept bid and approve contract with Loop Electric Inc. (not to exceed \$211,126) for construction of project.
2. Appropriate \$50,000 in Capital Outlay Fund balance to the Public Works Department's Capital Improvement Budget.

**AGR 17-112****Miscellaneous:****Successor Agency Business:**

- am. Receive and file Successor Agency payments from June 16, 2017, to July 6, 2017, in the amount of \$2,143,822.00.

Councilmember Freeman left the meeting at this time.

***Motion by Councilmember Weir to adopt Consent Calendar items 8.a. through 8.am.***

**APPROVED  
AB SMITH, FREEMAN**

**9. CONSENT CALENDAR PUBLIC HEARINGS**

- a. Public Hearing to consider a resolution ordering the summary vacation of a portion of a Waiver of Direct Access on Stockdale Highway and Allen Road, and also a portion of Street Right of Way along the frontage of 12702 Stockdale Highway, Lot "A" of Lot Line Adjustment No. 15-0411.

**RES 094-17**

9.	<b>CONSENT CALENDAR PUBLIC HEARINGS</b> continued	<b><u>ACTION TAKEN</u></b>
b.	Public Hearing to consider a Resolution ordering the vacation of Presidio Way between Buccaneer Bay Street and Coffee Road.	<b>RES 095-17</b>
c.	Public hearing on Resolution of Necessity to determine the public interest and necessity for acquisition of certain real property by eminent domain for the Centennial Corridor Project (Code of Civil Procedure § 1245.230) located at 505 Malibu Court, Bakersfield, CA 93309 (APN 020-522-05) (CPN 87510).	<b>RES 096-17</b>
d.	Public hearing on Resolution of Necessity to determine the public interest and necessity for acquisition of certain real property by eminent domain for the Centennial Corridor Project (Code of Civil Procedure § 1245.230) located at 3209 Mona Way, Bakersfield, CA 93309 (APN 149-250-15) (CPN 87713).	<b>RES 097-17</b>
e.	Public hearing on Resolution of Necessity to determine the public interest and necessity for acquisition of certain real property by eminent domain for the Centennial Corridor Project (Code of Civil Procedure § 1245.230) located at 806 Wible Road, Bakersfield, CA 93304 (APN 148-240-39) (CPN 87717).	<b>RES 098-17</b>
f.	Public hearing on Resolution of Necessity to determine the public interest and necessity for acquisition of certain real property by eminent domain for the Centennial Corridor Project (Code of Civil Procedure § 1245.230) located at 800 Wible Road, Bakersfield, CA 93304 (APN 148-240-01) (CPN 87718).	<b>RES 099-17</b>
g.	Public hearing on Resolution of Necessity to determine the public interest and necessity for acquisition of certain real property by eminent domain for the Centennial Corridor Project (Code of Civil Procedure § 1245.230) located at 4301 Marella Way, Bakersfield, CA 93309 (APN 020-482-29) (CPN 87538).	<b>RES 100-17</b>

**9. CONSENT CALENDAR PUBLIC HEARINGS****ACTION TAKEN**

- h. Public hearing on Resolution of Necessity to determine the public interest and necessity for acquisition of certain real property by eminent domain for the 24th Street Improvement Project (Code of Civil Procedure § 1245.230) located at 1815 24th Street, Bakersfield, CA 93301 (APN 003-121-05).
- i. Public hearing on Resolution of Necessity to determine the public interest and necessity for acquisition of certain real property by eminent domain for the 24th Street Improvement Project (Code of Civil Procedure § 1245.230) located at 2322 Beech Street, Bakersfield, CA 93301 (APN 003-040-10).

**RES 101-17****RES 102-17**

Assistant City Clerk Drimakis announced a staff memorandum was received regarding items 9.c. through 9.i., stating the Resolutions were revised in order to replace the signature block of the former Mayor with the current Mayor, and to add the Councilmember names to the voting blocks.

Councilmember Freeman returned to the meeting at this time.

Consent Calendar Public Hearings opened at 6:32 p.m.

No one spoke.

Consent Calendar Public Hearings closed at 6:33 p.m.

***Motion by Councilmember Weir to adopt Consent Calendar Public Hearing items 9.a. through 9.i.***

**APPROVED  
AB SMITH****10. HEARINGS**

- a. Hearing to consider resolutions terminating the CaliforniaFIRST, E3, Figtree, HERO, and Ygrene Property Assessed Clean Energy (PACE) programs in Bakersfield. ***(Staff recommends adoption of the resolutions.)***

**RES 103-17  
RES 104-17  
RES 105-17  
RES 106-17  
RES 107-17**



**10. HEARINGS** continued  
ITEM 10.a. CONTINUED

**ACTION TAKEN**

Assistant City Clerk Drimakis announced email correspondence, in support of the PACE program, was received from: Dustin Reilich; Carlos Lopez; Sandra Randolph; Teresa Rizo; Rod Dole; Evlondo Cooper; and Richard Sharp; correspondence in opposition to the PACE program was received from: Robin Ablin; Bob Hayworth; and B.W. Shipman; one email was received from Kevin Hauber regarding PACE education; and two phone calls were received, one in support of the program and one in opposition.

City Manager Tandy made staff comments and provided a PowerPoint presentation.

Hearing item 10.a. opened at 6:47 p.m.

The following individuals spoke in opposition to the staff recommendation: James Hamill, Managing Director with California Statewide Communities Development Authority; Laura Booker; Diana Crisp; Diane Swan; Denise Padilla; Eddie Casillas; Amalia Perez; Marcus Beale, owner of Inter Faith Electric and Solar; Don Lanier, Northwest Exteriors; Brian McCarty, Kern County Account Manager for the HERO Program; and Marvin Dean.

Mayor Goh recessed the meeting at 7:04 p.m. and reconvened the meeting at 7:09 p.m.

The following individuals spoke in support of the staff recommendation: Sherry Anthis, Bakersfield Association of Realtors (provided a PowerPoint presentation); Valerie Slater; Jeanne Radsick; Robin Rossi, Loan Officer with Summit Financial Services; Melissa Dominguez; Jon Busby; Nick Ortiz, Greater Bakersfield Chamber of Commerce; and Mike Turnipseed.

Dustin Reilich, Renovate America HERO Program (submitted written material and provided a PowerPoint presentation) and James Hamill spoke in rebuttal opposition to the staff recommendation.

**10. HEARINGS continued**  
ITEM 10.a. CONTINUED

**ACTION TAKEN**

The following individuals spoke in rebuttal support of the staff recommendation: Robin Rossi; Sheri Anthes; and Judy Camp.

Hearing item 10.a. closed at 7:37 p.m.

**Motion by Councilmember Sullivan to suspend future PACE loans in the City for 60 days, to provide staff the opportunity to draft a participatory agreement incorporating additional oversight and restrictions consistent with improvements anticipated by state and federal law; and return for Council consideration.**

**Motion by Councilmember Weir to approve staff's recommendation and adopt the Resolutions.**

**APPROVED  
AB SMITH**

**Motion by Councilmember Sullivan to direct staff to explore the possibility of participatory agreements and return for Council consideration.**

**FAILED  
NS GONZALES, WEIR,  
FREEMAN, PARLIER  
AB SMITH**

Mayor Goh recessed the meeting at 8:24 p.m. and reconvened the meeting at 8:35 p.m.

- b. Public Hearing to consider resolution adopting fees pursuant to the cost recovery system. *(Deferred from the 06/07/17 meeting.) (Staff recommends adoption of the resolution.)*

**RES 108-17**

Assistant City Clerk Drimakis announced a staff memorandum was received, transmitting additional information on this item.

Community Development Director Kitchen made staff comments.

Hearing item 10.b. opened at 8:36 p.m.

No one spoke in opposition to the staff recommendation.

10. **HEARINGS** continued  
ITEM 10.b. CONTINUED

**ACTION TAKEN**

The following individuals spoke in support of the staff recommendation: Dave Dmohowski, representing the Home Builders Association of Kern County; Scott Thayer, Castle and Cooke; and Roger McIntosh, McIntosh and Associates.

Hearing Item 10.b. closed at 8:46 p.m.

***Motion by Councilmember Weir to adopt the Resolution.***

**APPROVED  
AB SMITH**

- c. Public Hearing to consider Zone Change No. 17-0047; McIntosh & Associates, representing City Lights, LLC and MarkChris Investments, LLC (property owners), is proposing a zone change from a PCD (Planned Commercial Development) to a C-2 (Regional Commercial) zone on 36.41 acres located between State Route 178 and Mall View Road, approximately one-third mile west of Oswell Street. Protect CEQA has appealed the Planning Commission's decision regarding the proposed Mitigated Negative Declaration. ***(Staff recommends approval of the resolution and first reading of the ordinance.)***

1. Resolution denying the appeal and adopting a Negative Declaration with Mitigation Measures.
2. First reading of ordinance amending the Official Zoning Map in Title 17 the Bakersfield Municipal Code by changing the zone district from a PCD (Planned Commercial Development) to a C-2/PCD (Regional Commercial/Planned Commercial Development Combining) zone on 36.41 acres, subject to conditions of approval.

**RES 109-17**

**FR**

Assistant City Clerk Drimakis announced email correspondence was received from Betty Phillips, in support of the East Hills Mall project.

**10. HEARINGS continued**  
ITEM 10.c. CONTINUED

**ACTION TAKEN**

Community Development Director Kitchen made staff comments and provided a PowerPoint presentation.

Hearing item 10.c. opened at 8:53 p.m.

Andrew Grundman, Executive Director for Protect CEQA, spoke in opposition to the staff recommendation and submitted written material.

The following individuals spoke in support of the staff recommendation: Steven Atlee, from Park & Velayos LLP, on behalf of the owners of the property City Lights LLC and Mark Chris Investments LLC; Roger McIntosh, from McIntosh and Associates, representing City Lights LLC and Mark Chris Investments LLC (submitted written material); and Dennis Fox.

Hearing item 10.c. closed at 9:09 p.m.

***Motion by Councilmember Weir to adopt the Resolution and give first reading of the Ordinance.***

**APPROVED  
AB SMITH**

**11. REPORTS**

None.

**12. DEFERRED BUSINESS**

None.

**13. NEW BUSINESS**

None.

**14. COUNCIL AND MAYOR STATEMENTS**

Councilmember Gonzales made comments regarding the Downtown Street Ambassador program and expressed appreciation for the contributions to this program made by former Mayor Harvey L. Hall.

Mayor Goh also expressed gratitude for Cynthia Lake, for funding the initial pilot program for the Downtown Street Ambassadors.

**14. COUNCIL AND MAYOR STATEMENTS** continued**ACTION TAKEN**

***Councilmember Parlier requested staff contact Caltrans regarding clean-up of the following freeway interchanges: Taft Highway; Panama Lane; and White Lane.***

Councilmember Sullivan announced next Thursday is the 61<sup>st</sup> Anniversary of the adoption of our national motto "In God We Trust"; stated there are over 670 cities and counties across the country displaying this motto, with 133 being in California; the celebration will be held at the Marriott Hotel and advised anyone interested in attending the event to contact her for more information.

**15. ADJOURNMENT**

**Mayor Goh adjourned the meeting at 9:17 p.m.**

  
\_\_\_\_\_  
MAYOR of the City of Bakersfield, CA

ATTEST:

  
\_\_\_\_\_  
CITY CLERK and Ex Officio Clerk of  
the Council of the City of Bakersfield

# Exhibit B



# **BAKERSFIELD CITY COUNCIL AGENDA MEETING OF SEPTEMBER 6, 2017**

Council Chambers, City Hall, 1501 Truxtun Avenue  
Regular Meeting 3:30 PM

## **REGULAR MEETING - 3:30 PM**

- 1. ROLL CALL**
- 2. PUBLIC STATEMENTS**
- 3. WORKSHOPS**
- 4. CLOSED SESSION**
  - a. Conference with Legal Counsel — Existing Litigation; Closed Session pursuant to Government Code section 54956.9(d)(1) *Emilio Tarango v. City of Bakersfield* U.S.D.C. Eastern District Case No. 1:16-CV-00099-LJO-JLT
  - b. Conference with Legal Counsel — Potential Litigation; Closed Session pursuant to Government Code section 54956.9(d)(2),(e)(1) (two matters).
- 5. CLOSED SESSION ACTION**
- 6. ADJOURNMENT**



# ADMINISTRATIVE REPORT

**MEETING DATE:** 9/6/2017

Closed Session 4. a.

**TO:** Honorable Mayor and City Council

**FROM:** Virginia Gennaro, City Attorney

**DATE:** 8/15/2017

**WARD:**

**SUBJECT:** Conference with Legal Counsel — Existing Litigation; Closed Session pursuant to Government Code section 54956.9(d)(1) *Emilio Tarango v. City of Bakersfield* U.S.D.C. Eastern District Case No. 1:16-CV-00099-LJO-JLT

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**STAFF RECOMMENDATION:**

**BACKGROUND:**





# ADMINISTRATIVE REPORT

**MEETING DATE:** 9/6/2017

Closed Session 4. b.

**TO:** Honorable Mayor and City Council

**FROM:** Virginia Gennaro, City Attorney

**DATE:** 8/9/2017

**WARD:**

**SUBJECT:** Conference with Legal Counsel — Potential Litigation; Closed Session pursuant to Government Code section 54956.9(d)(2),(e)(1) (two matters).

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**STAFF RECOMMENDATION:**

**BACKGROUND:**



**BAKERSFIELD CITY COUNCIL  
MINUTES  
MEETING OF SEPTEMBER 6, 2017**

**Council Chambers, City Hall, 1501 Truxtun Avenue  
Regular Meetings- 3:30 p.m. and 5:15 p.m.**

**REGULAR MEETING – 3:33 p.m.**

**ACTION TAKEN**

**1. ROLL CALL**

Present: Mayor Goh, Vice-Mayor Smith,  
Councilmembers Rivera, Gonzales, Weir,  
Sullivan, Parlier

Absent: None

**2. PUBLIC STATEMENTS**

None.

**3. WORKSHOPS**

None.

**4. CLOSED SESSION**

- a. Conference with Legal Counsel — Existing Litigation; Closed Session pursuant to Government Code section 54956.9(d)(1) *Emilio Tarango v. City of Bakersfield* U.S.D.C. Eastern District Case No. 1:16-CV-00099-LJO-JLT.
- b. Conference with Legal Counsel — Potential Litigation; Closed Session pursuant to Government Code section 54956.9(d)(2).(e)(1) (two matters).

***Motion by Vice-Mayor Smith to adjourn to Closed Session at 3:34 p.m.***

**APPROVED**

***Motion by Councilmember Weir to adjourn from Closed Session at 5:16 p.m.***

**APPROVED**

**Meeting reconvened at 5:19 p.m.**

**5. CLOSED SESSION ACTION****ACTION TAKEN**

- a. Conference with Legal Counsel — Existing Litigation; Closed Session pursuant to Government Code section 54956.9(d)(1) *Emilio Tarango v. City of Bakersfield* U.S.D.C. Eastern District Case No. 1:16-CV-00099-LJO-JLT
- b. Conference with Legal Counsel — Potential Litigation; Closed Session pursuant to Government Code section 54956.9(d)(2),(e)(1) (two matters).

**STAFF WAS GIVEN DIRECTION****NO REPORTABLE ACTION ON FIRST MATTER; STAFF WAS GIVEN DIRECTION ON SECOND MATTER****6. ADJOURNMENT**

**Mayor Goh adjourned the 3:30 p.m. meeting at 5:20 p.m.**

**REGULAR MEETING –5:21 p.m.****1. ROLL CALL**

Present: Mayor Goh, Vice-Mayor Smith, Councilmembers Rivera, Gonzales, Weir, Freeman, Sullivan, Parlier

Absent: None

Mayor Goh acknowledged students from the Bakersfield College Political Science class, California State University Bakersfield Government class, Boy Scouts Troops 484, and Boy Scouts Troop 415 in attendance at the meeting to learn about City government.

**2. INVOCATION** by Pastor Leonard Mancini, Bakersfield Living Word Foursquare Church.

**3. PLEDGE OF ALLEGIANCE** by Flint Sheffield, Liberty High School Senior.

**4. PRESENTATIONS**

- a. Presentation of a proclamation by Mayor Goh to Keith Brice, the 2017 John Brock Community Service Award Recipient, declaring September 7, 2017, "Keith Brice Day."

Mr. Brice accepted the Proclamation and made comments.

**4. PRESENTATIONS continued****ACTION TAKEN**

- b. Presentation of a proclamation by Mayor Goh to Kern County Fair Chief Executive Officer, Mike Olcott, declaring September 20, 2017, through October 1, 2017, Kern County Fair Days.

Mr. Olcott accepted the Proclamation and made comments.

**5. PUBLIC STATEMENTS**

- a. Mike Mares, District Manager for California Water Service Company, explained that the proposed water rate increase on the agenda will only affect residents that are served by the City's water system; residents that are served by Cal Water system will not be affected by this particular rate increase; and submitted written material.
- b. Mayf Nutter invited the City Council to the world premiere of the film *Victory by Submission* at Christ Cathedral Church, on Thursday, September 7<sup>th</sup>; and submitted written material.
- c. John Wilson, business owner at 2012 "E" Street, expressed his concern regarding the problem his business has experienced with homeless people littering and threatening to harm the employees; and submitted written material.
- d. Robert Miller expressed concern with the amount of booths around town offering free cellular phones.
- e. Mark Rogers, representing Argo Chemical, spoke in opposition to the staff recommendation on item 8.w., to reject all bids for an annual contract to supply Sodium Hypochlorite; and submitted written material.

**6. WORKSHOPS**

- a. Road Repair and Accountability Act of 2017 (Senate Bill 1) Implementation Plan Overview.  
  
Public Works Director Fidler and Recreation and Parks Director Hoover made staff comments and provided a PowerPoint presentation.

**7. APPOINTMENTS****ACTION TAKEN**

None.

**8. CONSENT CALENDAR****Minutes:**

- a. Approval of minutes of the August 16, 2017, Regular City Council Meeting.

**Payments:**

- b. Receive and file department payments from August 4, 2017, to August 24, 2017, in the amount of \$19,402,856.72, Self Insurance payments from August 4, 2017, to August 24, 2017, in the amount of \$646,154.00, totaling \$20,049,010.72.

**Ordinances:**

- c. First reading of an ordinance amending Bakersfield Municipal Code Section 1.12.030 by adding Annexation No. 671 consisting of 30,001 square feet located along the south side of Norris Road, generally east of Calloway Drive and Annexation No. 674 consisting of 1.15 acres located along the south side of Rosedale Highway, approximately 500 feet west of Patton Way to Ward 3.

**FR****Resolutions:**

- d. Resolution confirming approval by the City Manager designee of the Chief Code Enforcement Officer's Report regarding assessments of certain properties in the City for which structures have been secured against entry or for the abatement of certain weeds, debris, and waste matter, and authorizing collection of the assessments by the Kern County Tax Collector.
- e. Resolution approving the submission of an application to the California Department of Transportation for matching State funding for an improvement project at the Bakersfield Municipal Airport under Airport Improvement Program Project No. 3-06-0323-020-2017, accepting the allocation of matching State funding, and authorizing the City Manager or designee to execute all necessary documents.

**RES 120-17****RES 121-17**

**8. CONSENT CALENDAR** continued**ACTION TAKEN**

- f. Resolution authorizing payment (not to exceed \$1,500,000) to the San Joaquin Valley Unified Air Pollution Control District for the implementation of the voluntary emissions reduction agreement for the Centennial Corridor Project.
- REMOVED FOR SEPARATE CONSIDERATION**
- g. Resolution determining that a Caterpillar excavator can most efficiently be obtained through cooperative procurement bidding procedures from Quinn CAT, Bakersfield, and authorizing the Finance Director to dispense with bidding thereof, not to exceed \$295,000.
- RES 123-17**
- h. Resolution determining that Go-4 is the only three-wheel parking control vehicle to meet the needs of the Bakersfield Police Department, Traffic Division, and it cannot be reasonably obtained through the usual bidding procedures and authorizing the Finance Director to dispense with bidding thereof, not to exceed \$38,000.
- RES 124-17**
- i. Sewer connection fee assessment for 1808 Faxon Avenue:
1. Resolution confirming assessment for sewer connection fee and authorizing the collection of assessment by the Kern County Tax Collector.
- RES 125-17**
2. Agreement with Allison B. Gobbell to pay the sewer connection fee through the Kern County Tax Collector.
- AGR 17-129**
- j. Inspection, maintenance, and repair of the liquefied natural gas (LCNG) fueling facilities located at the Corporation Yard and South Mt. Vernon Avenue:
1. Resolution determining that inspection, maintenance, and repair services for the LCNG fueling facilities cannot be reasonably obtained through the usual bidding procedures and authorizing the Finance Director to dispense with bidding therefore and procure inspection, maintenance, and repair services for the LCNG fueling facilities through Clean Energy.
- RES 126-17**

8.	<b>CONSENT CALENDAR</b> continued ITEM 8.j. CONTINUED	<u><b>ACTION TAKEN</b></u>
	2. Agreement with Clean Energy (not to exceed \$200,000 over a three-year term) to perform inspections, maintenance, and repairs of the LCNG fueling facilities.	<b>AGR 17-130</b>
	<b>Agreements:</b>	
	k. Transportation impact fee credit agreement with Summit Capital Ventures, Inc. (not to exceed \$129,732.61) for construction of improvements on Old River Road along the frontage of Tentative Tract Map 6825.	<b>AGR 17-131</b>
	l. Final map and improvement agreement with Summit Capital Ventures, Inc. for Tract 6853, Phase 4 located east of Calloway Drive and north of Langley Road.	<b>AGR 17-132</b>
	m. Planned sewer area reimbursement agreement with MG3 Partners, LLC for construction of sewer line improvements on Ashe Road north of Taft Hwy/SR119.	<b>AGR 17-133</b>
	n. Pipeline crossing agreement with Sunset Railway Company for a domestic waterline.	<b>AGR 17-134</b>
	o. Encroachment permit agreement with Rosedale-Rio Bravo Water Storage District (no fee permit) to allow access onto property, earthwork, and use of borrow material within the Allen Road Basin area for the Brighton Park wall along the Westside Parkway.	<b>AGR 17-135</b>
	p. Consent to common use agreement with Pacific Gas and Electric (no compensation) for the Sewer Lift Station Project at 24th Street and Oak Street.	<b>AGR 17-136</b>
	q. Cooperative agreement with Caltrans for the Belle Terrace Project, a part of the Centennial Corridor Project. (TRIP)	<b>AGR 17-137</b>
	r. 1,2,3-Trichloropropane (TCP) Mitigation Project:	
	1. Agreement with Bakersfield Well & Pump to convert 12 pumps to water lubricated pumps.	<b>AGR 17-138</b>

**8. CONSENT CALENDAR** continued

ITEM 8.r. CONTINUED

**ACTION TAKEN**

- 2. Appropriate \$1,100,000 in Fund Balance to the Water Resources Capital Improvement Program budget within the Domestic Enterprise Fund.
- s. Amendment No. 1 to Agreement No. 17-002 with Trans-West Security Services Inc. (\$20,000; revised not to exceed \$88,223), for continued park security services. **AGR 17-002(1)**
- t. Bakersfield Amtrak Railway:
  - 1. Amendment No. 1 to Agreement No. 13-150 with Niemeyer & Associates, P.C. (\$50,000; revised not to exceed \$200,000; and to extend the term of agreement to June 30, 2018) to provide railroad track inspection services. **AGR 13-150(1)**
  - 2. Amendment No. 1 to Agreement No. 13-200 with RailWorks Track Services, Inc. (\$65,000; revised not to exceed \$165,000) to provide for maintenance and repair services for the Amtrak Railway. **AGR 13-200(1)**
- u. Contract Change Order No.1 to Agreement No. 16-267 with Cen-Cal Construction Inc. (\$23,166.25; revised not to exceed \$271,893.75) for the Frank West Elementary Sidewalk Improvements Project. **AGR 16-267 CCO 1**
- v. Contract Change Order No. 3 to Agreement No. 17-042 with Klassen Corporation (\$12,490.57; revised not to exceed \$2,182,237.47) for construction of the Mesa Marin Sports Complex Phase II Project. **AGR 17-042 CCO 3**

**Property Acquisition Agreements - TRIP:****Bids:**

- w. Reject bids for an annual contract to supply Sodium Hypochlorite for Wastewater Treatment Plant 3. **REMOVED FOR SEPARATE CONSIDERATION**
- x. Extend bid from Mullahey CDJR, Paso Robles, California, and authorize the replacement (\$146,561.45) of seven full size half-ton pickup trucks for the Water Resources, Recreation and Parks, and Public Works Departments.



**8. CONSENT CALENDAR** continued**ACTION TAKEN**y. Bakersfield Municipal Airport - North Taxilane  
Pavement Reconstruction Project:

1. Accept and approve Base Bid and Additive Alternate No. 1 with Granite Construction Co. (\$548,805) for said project.
2. Appropriate \$21,380 in General Aviation Fund balance to the Public Works Department's Capital Improvement Program budget for said project.

**AGR 17-142****Miscellaneous:**

- z. Appropriate \$4,400 contributions from the Bakersfield Foundation to the Police Department Operating Budget within the General Fund to offset the costs of the K-9 trials event held June 23-24, 2017.
- aa. Appropriate \$99,804 in Grant Assistance Program funds from the California Department of Alcoholic Beverage Control to the General Fund Police Operating Budget.
- ab. Appropriate \$35,000 from First Five Kern grant revenues to the Recreation and Parks Operating Budget within the General Fund to provide a water safety education program (Make-A Splash).
- ac. Appropriate \$150,000 in Transportation Development Fund balance to the Public Works Department's Capital Improvement Program budget to fund preliminary engineering services necessary to reserve right-of-way for three future project sites (El Toro Viejo at the Burlington Northern Santa Fe Railroad, West Beltway at White Lane, and West Beltway at Ming Avenue).

**8. CONSENT CALENDAR** continued**ACTION TAKEN**

ad. Appropriate additional federal funds:

1. Appropriate \$37,405 in federal Congestion Mitigation and Air Quality Program (CMAQ) funds to the Public Works Department's Capital Improvement Program budget within the SAFETEA-LU Fund for a traffic signal, lighting, and synchronization system project on Union Avenue and Berkshire Road.
2. Appropriate \$249,620 in federal Regional Surface Transportation Program (RSTP) funds to the Public Works Department's Capital Improvement Program budget within the SAFETEA-LU Fund for a pavement rehabilitation project on P Street from Brundage Lane to California Avenue.

**Successor Agency Business:**

Assistant City Clerk Drimakis announced a staff memorandum was received regarding item 8.w., transmitting copies of two bid protests and staff comments.

**Councilmember Rivera requested that item 8.f. be removed for separate consideration.**

**Councilmember Weir requested that item 8.w. be removed for separate consideration.**

***Motion by Vice-Mayor Smith to adopt Consent Calendar items 8.a. through 8.ad., with the removal of items 8.f. and 8.w. for separate consideration.***

**APPROVED**

- f. Resolution authorizing payment (not to exceed \$1,500,000) to the San Joaquin Valley Unified Air Pollution Control District for the implementation of the voluntary emissions reduction agreement for the Centennial Corridor Project.

**RES 122-17**

***Motion by Councilmember Rivera to adopt Consent Calendar item 8.f.***

**APPROVED**

**8. CONSENT CALENDAR** continued**ACTION TAKEN**

- w. Reject bids for an annual contract to supply Sodium Hypochlorite for Wastewater Treatment Plant 3.

***Motion by Councilmember Weir to adopt  
Consent Calendar item 8.w.***

**APPROVED**

**9. CONSENT CALENDAR PUBLIC HEARINGS**

- a. Public hearing on resolution adopting increases in water rates to the City of Bakersfield's Domestic Water Service Area.

**REMOVED FOR  
SEPARATE  
CONSIDERATION SEE  
PAGE 11**

- b. Public hearing on resolution of necessity to determine the public interest and necessity for acquisition of certain real property by eminent domain for the Centennial Corridor Project (Code of Civil Procedure §1245.230) located at 229 Chester Avenue and 136 Haybert Court, Bakersfield, CA 93304 (APN 011-111-09 & 011-111-37) (CPN 87690).

**RES 128-17**

- c. Public hearing on resolution of necessity to determine the public interest and necessity for acquisition of certain real property by eminent domain for the Centennial Corridor Project (Code of Civil Procedure §1245.230) located at 300 South Garnsey, Bakersfield, CA 93309 (APN 149-232-01) (CPN 87664).

**RES 129-17**

- d. Public hearing on resolution of necessity to determine the public interest and necessity for acquisition of certain real property by eminent domain for the Centennial Corridor Project (Code of Civil Procedure §1245.230) located at 215 Williamson Way, Bakersfield, CA 93309 (APN 149-232-02) (CPN 87666).

**RES 130-17**

- e. Public hearing on resolution of necessity to determine the public interest and necessity for acquisition of certain real property by eminent domain for the Centennial Corridor Project (Code of Civil Procedure §1245.230) located at 720 Wible Road, Bakersfield, CA 93304 (APN 147-112-07) (CPN 87720).

**RES 131-17**

**9. CONSENT CALENDAR PUBLIC HEARINGS****ACTION TAKEN**

- f. Public hearing on resolution of necessity to determine the public interest and necessity for acquisition of certain real property by eminent domain for the 24th Street Improvement Project (Code of Civil Procedure § 1245.230) located at 1401 23rd Street, Bakersfield, CA (APN 005-411-09).
- g. Public hearing on resolution of necessity to determine the public interest and necessity for acquisition of certain real property by eminent domain for the 24th Street Improvement Project (Code of Civil Procedure § 1245.230) located at 2323 Elm Street, Bakersfield, CA (APN 003-021-01).

**RES 132-17****RES 133-17**

Consent Calendar Public Hearing items 9.a. through 9.g. opened at 6:15 p.m.

Consent Calendar Public Hearing item 9.a. was removed for separate consideration.

Consent Calendar Public Hearing items 9.b. through 9.g. closed at 6:16 p.m.

***Motion by Vice-Mayor Smith to adopt Consent Calendar Public Hearing items 9.b. through 9.g.***

**APPROVED****10. HEARINGS**

- a. Public hearing on resolution adopting increases in water rates to the City of Bakersfield's Domestic Water Service Area. ***(Staff recommends adoption of the resolution.)***

**RES 127-17**

Assistant City Clerk Drimakis announced notices were mailed to affected 42,045 customers; a total of 144 letters and three phone calls were received in opposition to the water rate increase.

Water Resources Manager Chianello made staff comments and provided a PowerPoint presentation.

The following individuals spoke in opposition to the staff recommendation: Richard Hograph, Bakersfield Tea Party; Richard Felix; James Lungil; Johnny Aloguez; Viola Gallegos; Jean Claude Bonillo; and Jaime Jarro.

**10. HEARINGS continued**  
ITEM 10.a. CONTINUED

**ACTION TAKEN**

No one spoke in support of the staff recommendation.

Hearing closed at 6:58 p.m.

***Motion by Vice-Mayor Smith to adopt the Resolution.***

**APPROVED**

**11. REPORTS**

None.

**12. DEFERRED BUSINESS**

None.

**13. NEW BUSINESS**

- a. Resolution authorizing the issuance and sale of Domestic Water Revenue Bonds Series 2017A, not to exceed \$25,000,000 in aggregate principal amount for the City of Bakersfield, California, approving a Master Trust Indenture, a First Supplemental Trust Indenture, Preliminary and Final Official Statements, a Bond Purchase Contract and a Continuing Disclosure Certificate, and authorizing and directing additional actions in connection with respect thereto.

**RES 134-17  
AGR 17-139  
AGR 17-140  
AGR 17-141**

Finance Director Smith made staff comments.

***Motion by Vice-Mayor Smith to adopt the Resolution.***

**APPROVED**

**14. COUNCIL AND MAYOR STATEMENTS**

***Councilmember Rivera requested staff work with the Kern County Historic Preservation Society on installing Historic Route 99 signage.***

***Councilmember Parlier requested staff clean around the freeway exit at Ming Avenue before the beginning of the Kern County Fair.***

Councilmember Sullivan made comments regarding the film *Victory by Submission* and reminded everyone that the premier is tomorrow night at 7:00 p.m., at the Christ Cathedral Church.

15. ADJOURNMENT

ACTION TAKEN

Mayor Goh adjourned the meeting at 7:06 p.m.



MAYOR of the City of Bakersfield, CA

ATTEST:



CITY CLERK and Ex Officio Clerk of  
the Council of the City of Bakersfield



# Exhibit C





# **BAKERSFIELD CITY COUNCIL AGENDA MEETING OF SEPTEMBER 6, 26, 01**

Council Chambers, City Hall, 1501 Truxtun Avenue  
Regular Meeting 3:30 PM

**REGULAR MEETING - 3:30 PM**

**07 ROLL CALL**

**67 PUBLIC STATEMENTS**

**. 7 3 ORKSWOPS**

**H7 CLOSED SESSION**

- a. Conference with Legal Counsel — Initiation of Litigation; Closed Session pursuant to Government Code section 54956.9(d)(4) (one potential issue).
- b. Conference with Legal Counsel — Potential Litigation; Closed Session pursuant to Government Code section 54956.9(d)(2),(e)(1) (three matters).

**47 CLOSED SESSION ACTION**

**57 ADJOURNMENT**



# ADMINISTRATIVE REPORT

**MEETING DATE:** 9/20/2017

Closed Session 4. a.

**TO:** Honorable Mayor and City Council

**FROM:** Virginia Gennaro, City Attorney

**DATE:** 9/7/2017

**WARD:**

**SUBJECT:** Conference with Legal Counsel — Initiation of Litigation; Closed Session pursuant to Government Code section 54956.9(d)(4) (one potential issue).

---

**STAFF RECOMMENDATION:**

**BACKGROUND:**



# ADMINISTRATIVE REPORT

**MEETING DATE:** 9/20/2017

Closed Session 4. b.

**TO:** Honorable Mayor and City Council

**FROM:** Virginia Gennaro, City Attorney

**DATE:** 9/7/2017

**WARD:**

**SUBJECT:** Conference with Legal Counsel — Potential Litigation; Closed Session pursuant to Government Code section 54956.9(d)(2),(e)(1) (three matters).

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**STAFF RECOMMENDATION:**

**BACKGROUND:**



**BAKERSFIELD CITY COUNCIL  
MINUTES  
MEETING OF SEPTEMBER 20, 2017**

Council Chambers, City Hall, 1501 Truxtun Avenue  
Regular Meetings- 3:30 p.m. and 5:15 p.m.

**REGULAR MEETING – 3:30 p.m.**

**ACTION TAKEN**

**1. ROLL CALL**

Present: Mayor Goh, Vice-Mayor Smith,  
Councilmembers Rivera, Gonzales, Weir,  
Sullivan (seated at 3:32 p.m.), Parlier

Absent: None

**2. PUBLIC STATEMENTS**

None.

**3. WORKSHOPS**

None.

**4. CLOSED SESSION**

- a. Conference with Legal Counsel — Initiation of Litigation; Closed Session pursuant to Government Code section 54956.9(d)(4) (one potential issue).
- b. Conference with Legal Counsel — Potential Litigation; Closed Session pursuant to Government Code section 54956.9(d)(2), (e)(1) (three matters).

***Motion by Vice-Mayor Smith to adjourn to Closed Session at 3:31 p.m.***

**APPROVED  
AB SULLIVAN**

***The Closed Session meeting was adjourned at 5:17 p.m.***

**Meeting reconvened at 5:20 p.m.**

**5. CLOSED SESSION ACTION****ACTION TAKEN**

- a. Conference with Legal Counsel — Initiation of Litigation; Closed Session pursuant to Government Code section 54956.9(d)(4) (one potential issue).
- b. Conference with Legal Counsel — Potential Litigation; Closed Session pursuant to Government Code section 54956.9(d)(2),(e)(1) (three matters).

**UNANIMOUS  
MOTION BY  
COUNCIL TO  
PROCEED AS  
RECOMMENDED**

**NO REPORTABLE  
ACTION ON ALL  
THREE MATTERS**

**6. ADJOURNMENT**

**Mayor Goh adjourned the 3:30 p.m. meeting at 5:21 p.m.**

**REGULAR MEETING – 5:22 p.m.****1. ROLL CALL**

Present: Mayor Goh, Vice-Mayor Smith,  
Councilmembers Rivera, Gonzales, Weir,  
Freeman, Sullivan, Parlier

Absent: None

**2. INVOCATION** by Pastor Tom Touchstone, Executive Pastor of the Valley Bible Fellowship.**3. PLEDGE OF ALLEGIANCE** by Brendan Guerra, Senior from Bakersfield High School, and Chief Master Sergeant in ROTC Air Force.**4. PRESENTATIONS**

- a. Presentation of a Proclamation by Mayor Goh to Jennifer Henry, Executive Director of Links for Life, declaring October, 2017, Paint the Town Pink Month in Bakersfield.

Ms. Henry accepted the Proclamation, made comments, and provided a handout to the Council and staff.

**4. PRESENTATIONS** continued**ACTION TAKEN**

- b. Recognition by Human Resources Analyst Collins and Recreation and Parks Specialist Beck to the recipients of the 2017 Excellence in Action Award, Extra Mile Award, and the Shining Team Achievement Recognition Award for their outstanding services.

Excellence in Action Awards recipients: Sandra Duncan, Human Resources Clerk; Sarah Hunley, Accounting Supervisor; Scott Standridge, Fire Battalion Chief; Kelsey Taylor, Community Relations Specialist; Connie Huddleston, Accounting Clerk II; Robert Manuel, Solid Waste Supervisor II; Ines Tolentino, Construction Inspector I; Sergio Zambrano, Traffic Painter II; Laura Rosales, Service Maintenance Supervisor; Kimberly Aleman, Accounting Clerk II; Joe Navarro, Business Manager; Buffie Kaiser, Administrative Analyst (not present); Matthew Smith, Fire Engineer (not present); and Georgina Lorenzi, Assistant to the Public Works Director (not present).

The recipient of the Shining Team Achievement Recognition (S.T.A.R.) Award was the Public Works Department Wastewater Division: Andrew O'brien; Yvette Roldan; David Weatherly; Tony Bernard Jr. (not present); and Jaime Mendoza (not present).

The Extra Mile Award for 2017 was presented to the Bakersfield Fire Department Swift Water Rescue Team: Chief William Ballard; David Selbt; Chris Eucce; Randall Woodard (not present); Paul Hitchcock (not present); and Codi Adams.

**5. PUBLIC STATEMENTS**

- a. The following individuals expressed concern regarding New Business item 13.a., relating to commercial cannabis activity: Gabriel Godinez; T.J. Esposito; Michael Turnipseed, Kern County Tax Payers Association; Heather Epps, Kern Citizens for Patient Rights; Allison Bohannon (submitted written material); and Martin Smith, Industrial Partners.

**6. WORKSHOPS****ACTION TAKEN**

- a. Open Budget Demonstration.

Assistant City Manager Huot provided a demonstration of the Open Budget Portal.

**7. APPOINTMENTS**

None.

**8. CONSENT CALENDAR****Minutes:**

- a. Approval of minutes of the September 6, 2017, Regular Council Meetings.

**Payments:**

- b. Receive and file department payments from August 25, 2017, to September 7, 2017, in the amount of \$29,798,974.14, Self Insurance payments from August 25, 2017, to September 7, 2017, in the amount of \$345,798.51, totaling \$30,144,772.65.

**Ordinances:**

- c. Adoption of an ordinance amending Bakersfield Municipal Code Section 1.12.030 by adding Annexation No. 671 consisting of 30,001 square feet located along the south side of Norris Road, generally east of Calloway Drive and Annexation No. 674 consisting of 1.15 acres located along the south side of Rosedale Highway, approximately 500 feet west of Patton Way to Ward 3. **(FR 09/06/17)**

**ORD 4917****Resolutions:**

- d. Resolution identifying vendors, healthcare plans and rates for Citywide health insurance plans for eligible active and retired employees for the 2018 plan year.
- e. Resolution authorizing the City to apply for the Edward Byrne Memorial Justice Assistance Grant (\$136,611) from the U.S. Department of Justice.

**RES 135-17****RES 136-17**



**8. CONSENT CALENDAR continued****ACTION TAKEN**

- f. Resolution determining that Autoscope Rack Vision Terra Video Detection Systems cannot be obtained through the usual bidding procedures because of the need to integrate said systems into existing traffic signal infrastructure and authorizing the Finance Director to dispense with bidding therefore, not to exceed \$205,000 for Fiscal Year 2017-18. **RES 137-17**
- g. Resolution determining that certain Pierce Manufacturing fire truck parts cannot be reasonably obtained through the usual bidding procedures and authorizing the Finance Director to dispense with bidding therefore and purchase Pierce Manufacturing fire truck parts through South Coast Fire Equipment, not to exceed \$240,000 over a three-year term. **RES 138-17**
- h. Resolution determining that MUSCO Sports Lights can most efficiently be obtained through cooperative procurement bidding procedures from MUSCO and authorizing the Finance Director to dispense with bidding thereof, not to exceed \$550,000. **RES 139-17**
- i. 2017 transportation funding package: **REMOVED FOR SEPARATE CONSIDERATION**
1. Resolution amending the Fiscal Year 2017-18 Capital Improvement Program budget and appropriating additional Capital Improvement Program projects to be funded with Senate Bill 1, The Road Repair and Accountability Act, and authorizing the Public Works Director to submit said list to the California Transportation Commission.
  2. Appropriate \$2,100,000 of Senate Bill 1 estimated revenue to the Public Works Department's Capital Improvement Program budget within the RMRA Fund and transfer \$643,978 of funding currently appropriated for the Street Resurfacing Capital Improvement Program budget within the Gas Tax Fund to fund the road maintenance and rehabilitation projects identified in Exhibit A to the resolution.

**8. CONSENT CALENDAR** continued  
ITEM 8.i. CONTINUED

**ACTION TAKEN**

3. Appropriate \$433,774 loan repayment from the State to the Public Works Department's Capital Improvement Program budget within the Gas Tax Fund and transfer \$166,226 of funding currently appropriated for the Street Resurfacing Capital Improvement Program budget within the Gas Tax to fund the reconstruction of Monitor Street from Fairview Road to White Lane.
  4. Transfer \$738,978 of Capital Outlay funds currently budgeted as the local match requirement for Federal Resurfacing Projects to fund the following projects: Citywide Tree Replacement (\$560,000); Rabobank Arena Radio Upgrade (\$75,000); Soundwall Landscaping Improvements - Hosking Avenue Area (\$60,000); Hosking Interchange Bridge Improvements (\$43,978).
- j. Resolutions of intention (ROIs) to add the following areas to the Consolidated Maintenance District and preliminarily approving, confirming, and adopting the Public Works Director's Reports:
1. ROI No. 1932 adding Area 3-103 (Tract 7304/NE of Berkshire Road and Old River Road) – Ward 5 **ROI 1932**
  2. ROI No. 1934 adding Area 4-170 (5900 Comanche Drive) – Ward 3 **ROI 1934**
  3. ROI No. 1935 adding Area 4-171 (301-313 Dr. Martin Luther King Jr. Boulevard) – Ward 1 **ROI 1935**
  4. ROI No. 1936 adding Area 5-86 (4500 Hughes Lane) – Ward 7 **ROI 1936**

**Agreements:**

- k. Agreement with COMMLINE Inc. (\$75,000) for the installation of a two-way radio system at Rabobank Arena, Theater, and Convention Center. **AGR 17-143**

**8. CONSENT CALENDAR continued****ACTION TAKEN**

- l. City physician services agreements:
  - 1. Agreement with Central Valley Occupational Medical Group, Inc. (not to exceed \$100,000 annually; three year term). **AGR 17-144**
  - 2. Agreement with Vernon C. Sorenson, M.D. DBA Memorial Occupational Medicine (not to exceed \$100,000 annually; three year term). **AGR 17-145**
- m. Professional engineering services agreement for the 1,2,3-Trichloropropane (TCP) Mitigation Project:
  - 1. Agreement with Meyer Civil Engineering, Inc., for professional engineering services for the TCP Mitigation Project (not to exceed \$275,000). **AGR 17-146**
  - 2. Appropriate \$275,000 in fund balance to the Water Resources Capital Improvement Program budget within the Domestic Enterprise Fund.
- n. Amendment No. 2 to Agreement No. 13-165 with Bakersfield Society for the Prevention of Cruelty to Animals for the management of the City's Animal Care Center. **AGR 13-165(2)**
- o. Amendment No. 4 to Agreement No. 14-272 with Equarius Waterworks, Meter & Automation Group (\$100,000; revised not to exceed \$816,229.29 and extend term one year) for the continued supply of water meters. **AGR 14-272(4)**
- p. Amendment No. 1 to Agreement No. 15-219 with BC Laboratories (\$50,000; revised not to exceed \$200,000 and to extend term one year) to provide laboratory services for the Public Works Department, Wastewater Division. **AGR 15-219(1)**
- q. Amendment No. 1 to Agreement No. 16-220 with Tate's Janitorial Service (\$51,135; revised not to exceed \$98,935 and extend term one year) for the continued supply of janitorial service at the Amtrak Station. **AGR 16-220(1)**

8. <b>CONSENT CALENDAR</b> continued	<u><b>ACTION TAKEN</b></u>
r. Design/build agreement for the 1,2,3 - Trichloropropane (TCP) Mitigation Project:	
1. Amendment No. 2 to Agreement No. 17-084 (\$1,000,000; revised not to exceed \$2,839,662) for design and construction costs associated with the TCP Mitigation Project.	<b>AGR 17-084(2)</b>
2. Appropriate \$1,000,000 in fund balance to the Water Resources Capital Improvement Program budget within the Domestic Water Fund.	
s. Contract Change Order Nos. 3, 4, 5, 6, and 7 to Agreement No. 17-044 with Security Paving Company (\$134,049.80; revised not to exceed \$41,293,271.90; change orders funded 80 percent with Federal Earmark funds and 20 percent with Capital Outlay Utility/Roads funds) for the Kern River Bridge Improvement Project. (TRIP)	<b>AGR 17-044 CCO 3, CCO 4 CCO 5, CCO 6 CCO 7</b>
<b>Property Acquisition Agreements - TRIP:</b>	
t. Contract Change Order No. 1 to Agreement No. 17-067 with Interior Demolition (\$19,260; not to exceed \$177,622) for demolition of improvements for Phase 20 of the Centennial Corridor Project.	<b>AGR 17-067 CCO 1</b>
<b>Bids:</b>	
u. Extend bid from Golden State Peterbilt, Bakersfield, (\$1,363,835.56) for four replacement three-axle side-loading refuse trucks for the Public Works Department, Solid Waste Division.	
v. Extend bid from Golden State Peterbilt, Bakersfield, (\$331,329.71) for a replacement four-axle front-loading refuse trucks for the Public Works Department, Solid Waste Division.	
w. Extend bid from Golden State Peterbilt, Bakersfield, (\$356,585.12) for an additional four-axle side-loading refuse truck for the Public Works Department, Solid Waste Division.	

**8. CONSENT CALENDAR** continued**ACTION TAKEN**

- x. Accept bid from Johnson Equipment Company, Perris, California, (\$94,378.66) for Code 3@ light bars and accessories.
- y. Accept and approve contract with Cal-Stripe Inc. (\$79,549.20) for the construction of Remove II Program: Bicycle Lane Improvements Project (various locations).
- z. Accept bid and approve contract with California Professional Engineering, Inc. (\$462,027.50), for the Traffic Signal Interconnect Part 14 Project on Stockdale Highway from Allen Road to Coffee Road.

**AGR 17-147****AGR 17-148****Miscellaneous:****Successor Agency Business:**

Assistant City Clerk Drimakis announced staff memorandums were received regarding items 8.a. and 8.e., transmitting corrected documents.

**Councilmember Rivera requested that item 8.i. be removed for separate consideration.**

***Motion by Vice-Mayor Smith to adopt Consent Calendar items 8.a. through 8.z., with the removal of item 8.i. for separate consideration.***

**APPROVED**

- i. 2017 transportation funding package:

- 1. Resolution amending the Fiscal Year 2017-18 Capital Improvement Program budget and appropriating additional Capital Improvement Program projects to be funded with Senate Bill 1, The Road Repair and Accountability Act, and authorizing the Public Works Director to submit said list to the California Transportation Commission.

**RES 140-17**



**8. CONSENT CALENDAR** continued  
ITEM 8.i. CONTINUED**ACTION TAKEN**

2. Appropriate \$2,100,000 of Senate Bill 1 estimated revenue to the Public Works Department's Capital Improvement Program budget within the RMRA Fund and transfer \$643,978 of funding currently appropriated for the Street Resurfacing Capital Improvement Program budget within the Gas Tax Fund to fund the road maintenance and rehabilitation projects identified in Exhibit A to the resolution.
3. Appropriate \$433,774 loan repayment from the State to the Public Works Department's Capital Improvement Program budget within the Gas Tax Fund and transfer \$166,226 of funding currently appropriated for the Street Resurfacing Capital Improvement Program budget within the Gas Tax to fund the reconstruction of Monitor Street from Fairview Road to White Lane.
4. Transfer \$738,978 of Capital Outlay funds currently budgeted as the local match requirement for Federal Resurfacing Projects to fund the following projects: Citywide Tree Replacement (\$560,000); Rabobank Arena Radio Upgrade (\$75,000); Soundwall Landscaping Improvements - Hosking Avenue Area (\$60,000); Hosking Interchange Bridge Improvements (\$43,978).

***Motion by Councilmember Rivera to adopt Consent Calendar Item 8.i.1., 8.i.2., and 8.i.3.***

**APPROVED**

***Motion by Councilmember Sullivan to continue Consent Calendar Item 8.i.4.***

***Motion by Councilmember Weir to adopt Consent Calendar Item 8.i.4.***

**APPROVED  
NOES RIVERA**

**9. CONSENT CALENDAR PUBLIC HEARINGS**

None.

**10. HEARINGS**

**ACTION TAKEN**

None.

**11. REPORTS**

None.

**12. DEFERRED BUSINESS**

None.

**13. NEW BUSINESS**

- a. First reading of an ordinance adding Sections 17.04.129 and 17.04.154 and amending Section 17.08.050 of the Bakersfield Municipal Code relating to Commercial Cannabis Activity.

**FR**

City Attorney Gennaro made staff comments and provided a PowerPoint presentation.

***Motion by Vice-Mayor Smith to approve the staff recommendation and give first reading of the Ordinance.***

**APPROVED  
NOES RIVERA**

**14. COUNCIL AND MAYOR STATEMENTS**

None.

**15. ADJOURNMENT**

**Mayor Goh adjourned the meeting at 6:56 p.m.**

  
\_\_\_\_\_  
MAYOR of the City of Bakersfield, CA

ATTEST:

  
\_\_\_\_\_  
CITY CLERK and Ex Officio Clerk of  
the Council of the City of Bakersfield



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Bakersfield, California, September 20, 2017- Page 12  
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# Exhibit D

**From:** Chris Huot <[CHuot@bakersfieldcity.us](mailto:CHuot@bakersfieldcity.us)>

**Date:** October 5, 2017 at 10:05:36 AM PDT

**To:** Karen Goh <[kgoh@bakersfieldcity.us](mailto:kgoh@bakersfieldcity.us)>, Willie Rivera <[priveraw@gmail.com](mailto:priveraw@gmail.com)>, Andrae Gonzales <[andraeg3000@gmail.com](mailto:andraeg3000@gmail.com)>, Ken Weir <[ken@weircpa.com](mailto:ken@weircpa.com)>, "Bob Smith" <[Bobsmith727@me.com](mailto:Bobsmith727@me.com)>, "[brucefreeman1949@gmail.com](mailto:brucefreeman1949@gmail.com)" <[brucefreeman1949@gmail.com](mailto:brucefreeman1949@gmail.com)>, Jacquie Sullivan <[jacquie@libertystar.net](mailto:jacquie@libertystar.net)>, Chris Parlier <[chrisparlier@sbcglobal.net](mailto:chrisparlier@sbcglobal.net)>

**Cc:** Alan Tandy <[atandy@bakersfieldcity.us](mailto:atandy@bakersfieldcity.us)>, "Virginia \"Ginny\" Gennaro" <[vgennaro@bakersfieldcity.us](mailto:vgennaro@bakersfieldcity.us)>, Nelson K Smith <[nsmith@bakersfieldcity.us](mailto:nsmith@bakersfieldcity.us)>

**Subject: Closed Session Presentations**

Good Morning Mayor and Councilmembers,

A request has been made to staff to provide copies of the presentations regarding the fiscal outlook matters that were discussed during closed sessions on July 19, September 6 and September 20. Attached are the slides that were presented at each of the closed sessions. Please let me know if you have any technical difficulties with the attachments.

Please feel free to reach out to me directly if you have any questions.

Thanks,

**Chris Huot | Assistant City Manager**

City of Bakersfield, CA

[\(661\) 326-3751](tel:(661)326-3751)

[CHuot@BakersfieldCity.us](mailto:CHuot@BakersfieldCity.us)

# City of Bakersfield

Five Year Budget Projections of Revenues and Expenses

# Overview

- Councilmember Smith requested revenue and cost budget projections for the next five years
- Cal PERS retirement costs continue to escalate year after year
- Medical costs continue to rise as well
- Staff have gone without Cost of Living adjustments (COLA) for 2-3 years
- Major revenue streams ( property & sales taxes ) struggle to keep pace with these issues and normal City growth needs.
- Several assumptions need to be made in order to make multi-year projections of both revenues and expenses

# Scenario #1 - Assumptions

- Revenues
  - Sales tax – increase by 3% each year
  - Property tax – increase by 5% each year
  - All other revenues – increase by 2% each year
  - Future years assume General Fund will have \$15 million of savings each year
    - Revenues exceeding budget estimates / cost savings due to vacant positions, etc.
- Expenses
  - Additional Positions – No new positions for the next 5 years
  - Salary Increases – No Cost of Living increases for the next 5 years
  - PERS Costs – increases based on CalPERS actuarial estimates
  - Medical Costs – increase by 5% per year
  - Workers Compensation Costs – increase by 4% per year
  - All other expenses – increase by 2% per year

# Scenario #1 – Results

Revenue / Expense Overview							
	<u>2017-18</u>	<u>2018-19</u>	<u>2019-20</u>	<u>2020-21</u>	<u>2021-22</u>	<u>2022-23</u>	
Total Sources	\$ 201,445,000	\$ 203,853,000	\$ 210,685,000	\$ 217,795,000	\$ 225,196,000	\$ 232,900,000	
Total Uses	\$ 201,445,000	\$ 208,885,000	\$ 216,078,000	\$ 223,185,000	\$ 229,679,000	\$ 235,700,000	
Net Surplus/(Deficit)	\$ 0	\$ (5,032,000)	\$ (5,393,000)	\$ (5,390,000)	\$ (4,483,000)	\$ (2,800,000)	

- Conclusions
  - Next Year’s budget gap is estimated at \$5 million.
  - Permanent cuts (staffing reduction) in FY 18-19 would reduce gap in year 2 down to about \$400,000
  - PERS costs begin to flatten out in years 4 & 5; providing some budget relief.
  - Staff does not believe that “no growth” in staffing and no COLA adjustments over the past 3 years PLUS the next 5 years looking forward is an acceptable set of circumstances.

## Scenario #2 - Assumptions

- Revenues – (same as before)
  - Sales tax – increase by 3% each year
  - Property tax – increase by 5% each year
  - All other revenues – increase by 2% each year
  - Future years assume General Fund will have \$15 million of savings each year
    - Revenues exceeding budget estimates / cost savings due to vacant positions, etc.
- Expenses
  - Additional Positions – Add 1% staff per year = 13 positions per year
    - A mix of Safety and Miscellaneous staffing
  - Cost of Living Increase (COLA) – 1.5% per year for the next 5 years
  - Other cost assumptions same as prior scenario



## Scenario #2 – Results

Revenue / Expense Overview							
	<u>2017-18</u>	<u>2018-19</u>	<u>2019-20</u>	<u>2020-21</u>	<u>2021-22</u>	<u>2022-23</u>	
Total Sources	\$ 201,445,000	\$ 203,853,000	\$ 210,685,000	\$ 217,795,000	\$ 225,196,000	\$ 232,900,000	
Total Uses	\$ 201,445,000	\$ 211,853,000	\$ 221,685,000	\$ 231,495,000	\$ 240,696,000	\$ 249,400,000	
Net Surplus/(Deficit)	\$ 0	\$ (8,000,000)	\$ (11,000,000)	\$ (13,700,000)	\$ (15,500,000)	\$ (16,500,000)	

- **Conclusions**
  - Next Year's budget gap grows to \$8 million.
  - FY 19-20 (year 2) budget gap is an additional \$3 million
  - Year 3 gap is an additional \$2.7 million
  - Year 4 gap is an additional \$1.8 million
  - Year 5 gap is an additional \$1.0 million
- Each Year it will be harder and harder to achieve the \$15 million fund balance assumption

How do we solve the Gap?

- **Either**
  - **Cut Staffing Levels or**
  - **Increase General Revenues**

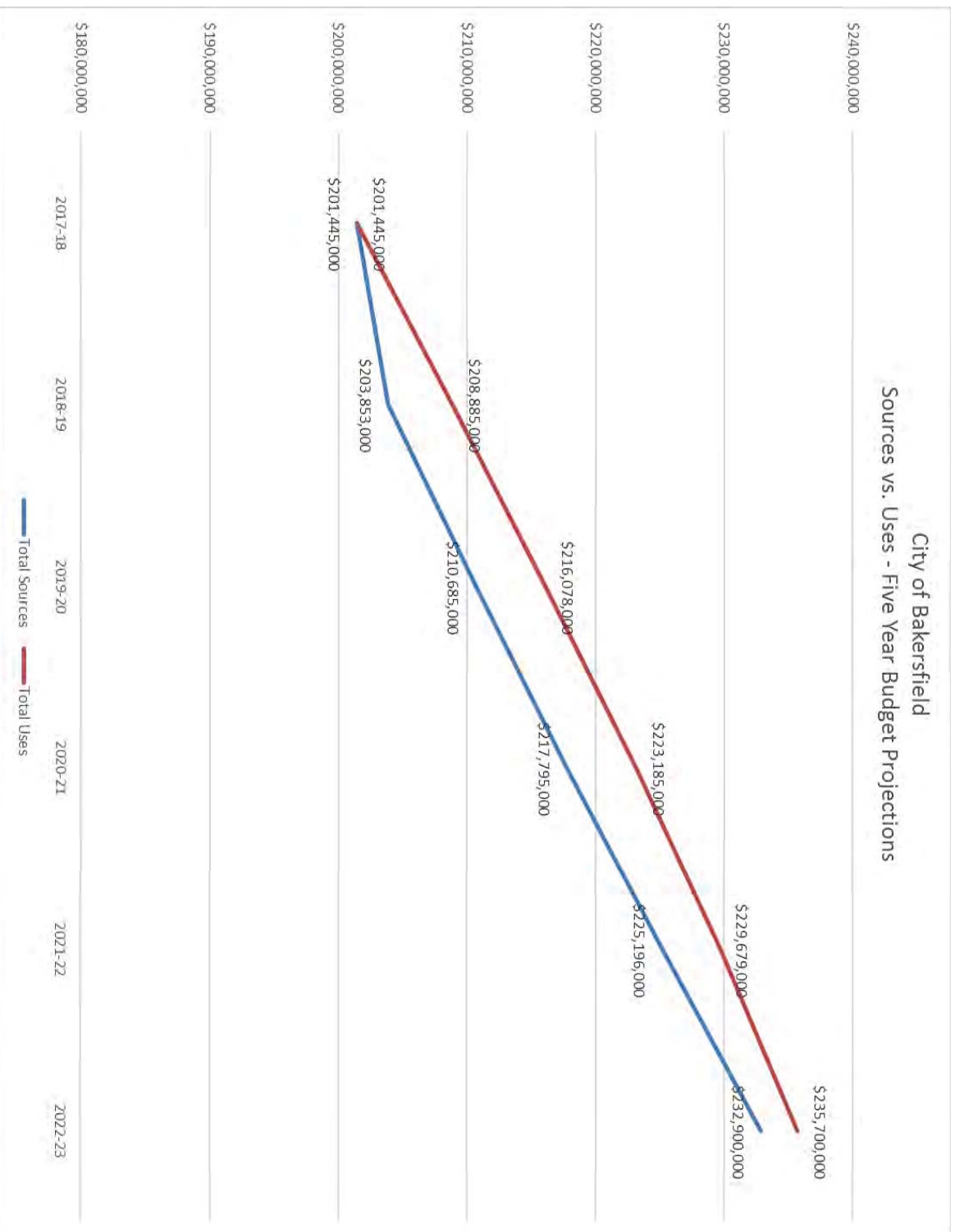
# Appendix

- Assumptions & Tables

# Assumptions – Scenario #1

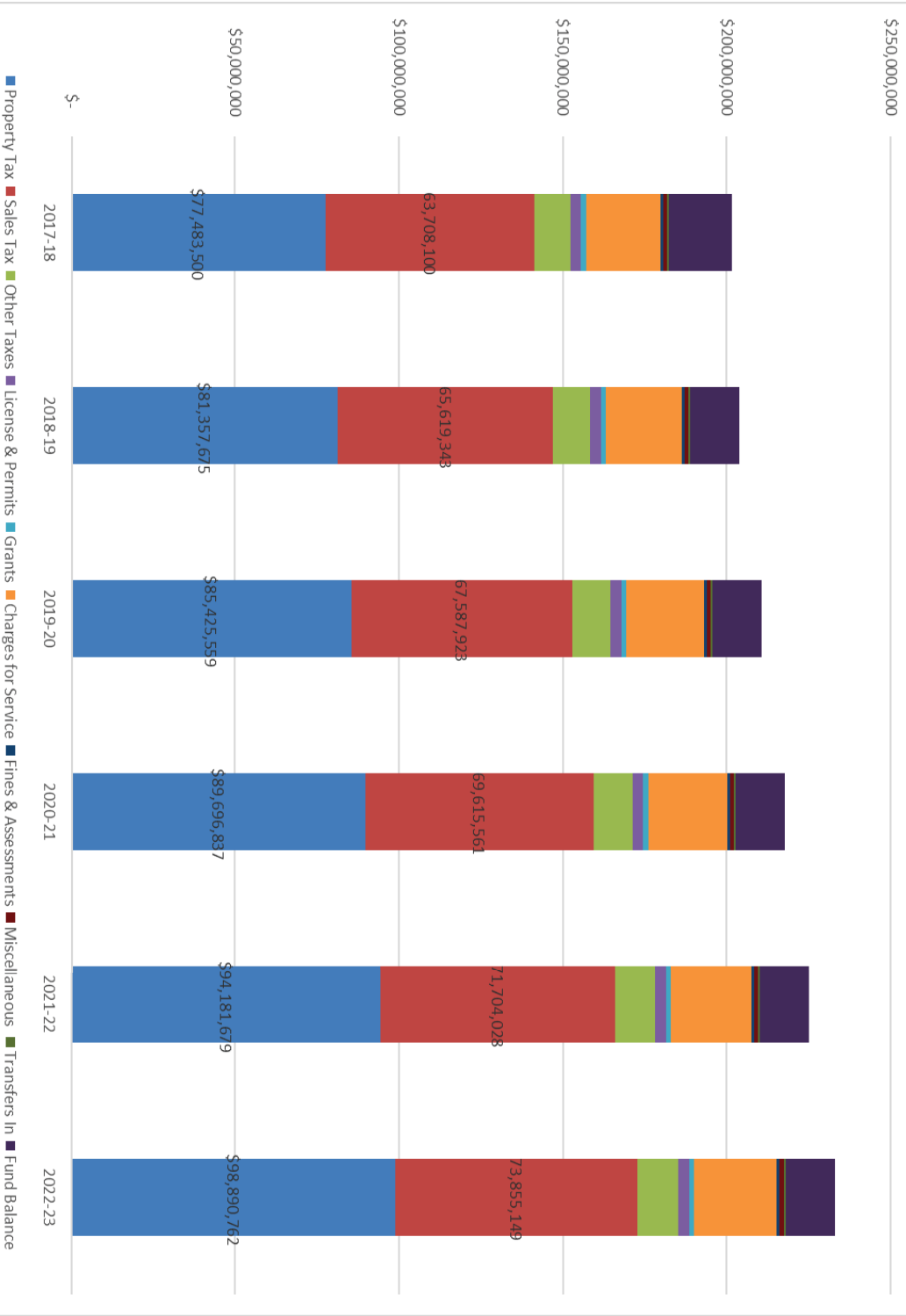
- Revenues
  - Sales tax – increase by 3% each year
  - Property tax – increase by 5% each year
  - All other revenues – increase by 2% each year
  - Future years assume General Fund will have \$15 million of savings each year
    - Revenues exceeding budget estimates / cost savings due to vacant positions, etc.
- Expenses
  - Additional Positions – No new positions for the next 5 years
  - Salary Increases – No Cost of Living increases for the next 5 years
  - PERS Costs – increases based on CalPERS actuarial estimates
  - Medical Costs – increase by 5% per year
  - Workers Compensation Costs – increase by 4% per year
  - All other expenses – increase by 2% per year

City of Bakersfield  
Sources vs. Uses - Five Year Budget Projections

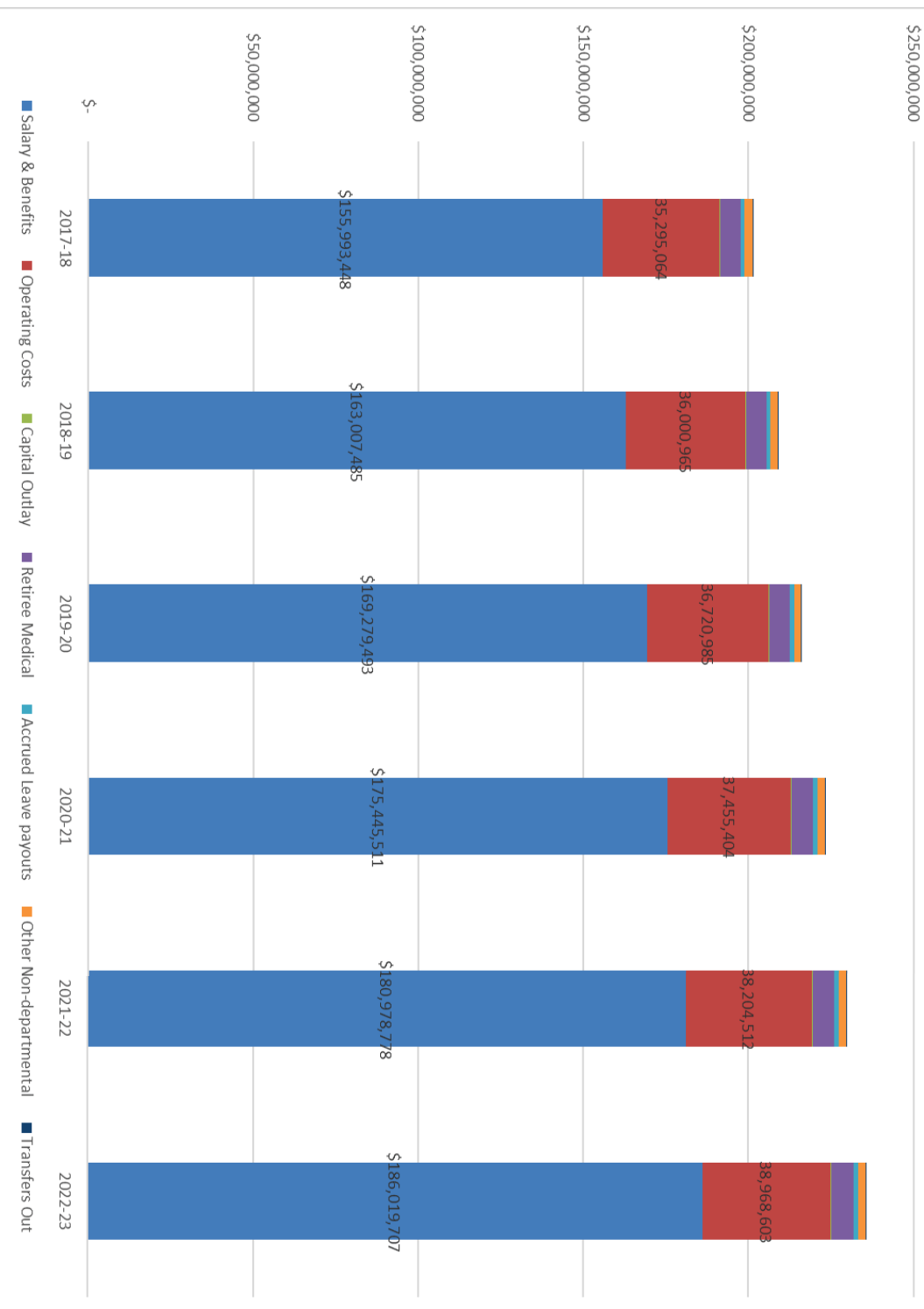


**City of Bakersfield**  
**General Fund Revenue Detail - Five Year Budget Projections**

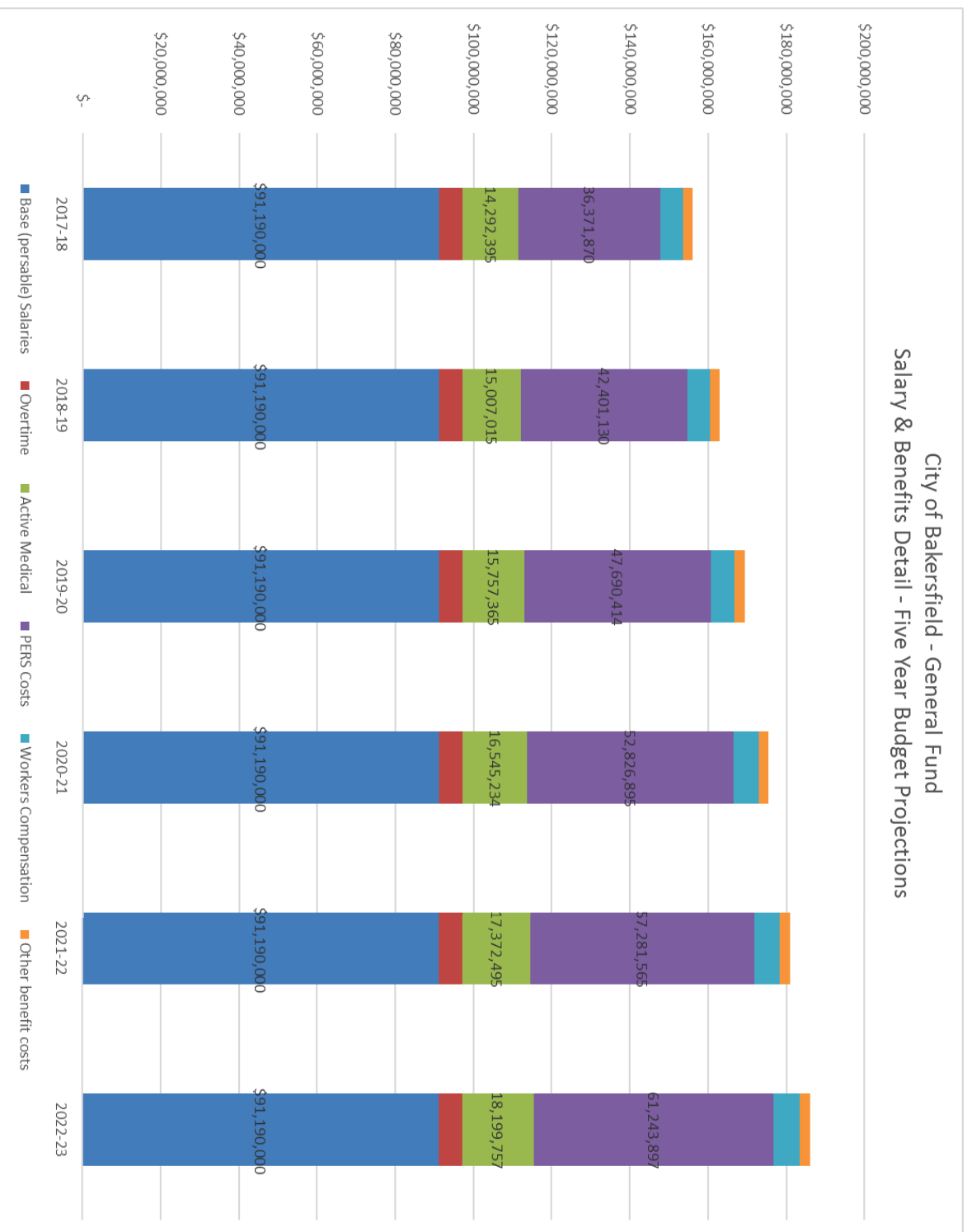
Fiscal Year	Property Tax	Sales Tax	Other Taxes	License & Permits	Grants	Charges for Service	Fines & Assessments	Miscellaneous	Transfers In	Fund Balance
2017-18	\$77,483,500	63,708,100	-	-	-	-	-	-	-	-
2018-19	\$81,357,675	65,619,348	-	-	-	-	-	-	-	-
2019-20	\$85,425,559	67,587,923	-	-	-	-	-	-	-	-
2020-21	\$89,696,837	69,615,561	-	-	-	-	-	-	-	-
2021-22	\$94,181,679	71,704,028	-	-	-	-	-	-	-	-
2022-23	\$98,890,762	73,855,149	-	-	-	-	-	-	-	-



# City of Bakersfield General Fund Expense Detail - Five Year Budget Projections



# City of Bakersfield - General Fund Salary & Benefits Detail - Five Year Budget Projections





# Assumptions – Scenario #2

- Revenues (same as before)
  - Sales tax – increase by 3% each year
  - Property tax – increase by 5% each year
  - All other revenues – increase by 2% each year
  - Future years assume General Fund will have \$15 million of savings each year
    - Revenues exceeding budget estimates / cost savings due to vacant positions, etc.
- Expenses
  - Additional Positions – Add 1% staff per year = 13 positions
  - 4 police; 2 fire; 7 misc.
  - Cost of Living Increase (COLA) – 1.5% per year for the next 5 years
- Other cost assumptions same as prior scenario

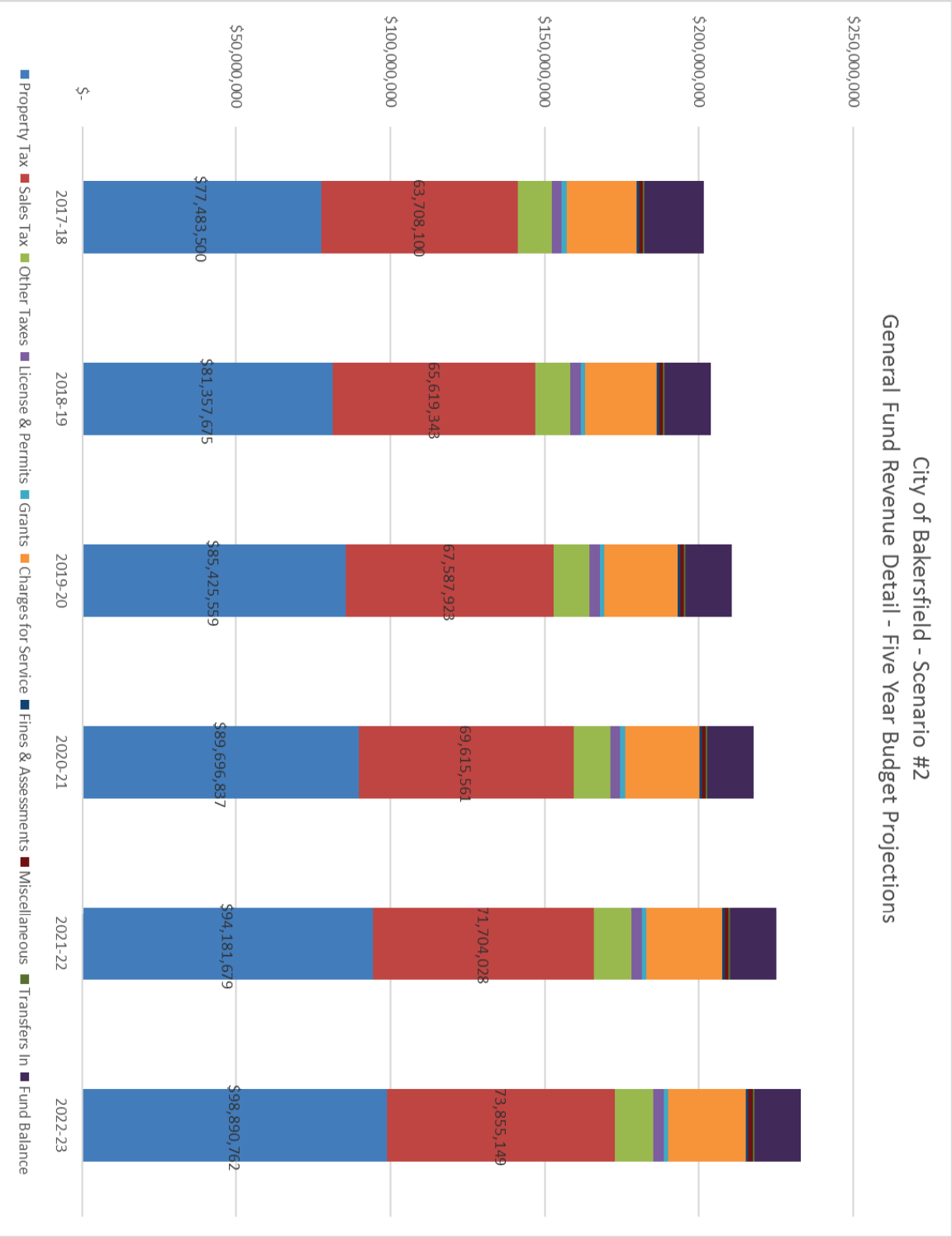
# City of Bakersfield - Scenario #2 Sources vs. Uses - Five Year Budget Projections



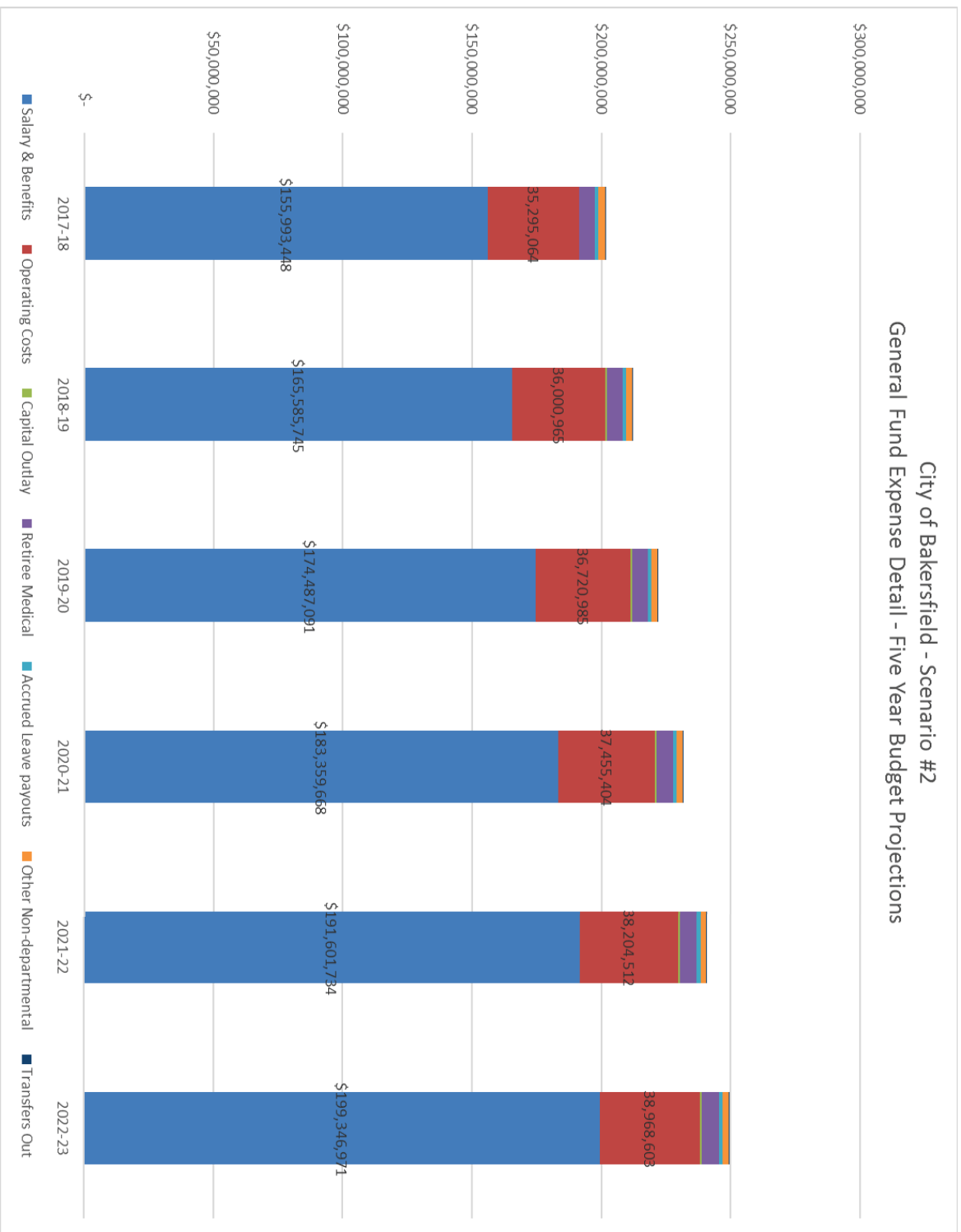
**City of Bakersfield - Scenario #2**

**General Fund Revenue Detail - Five Year Budget Projections**

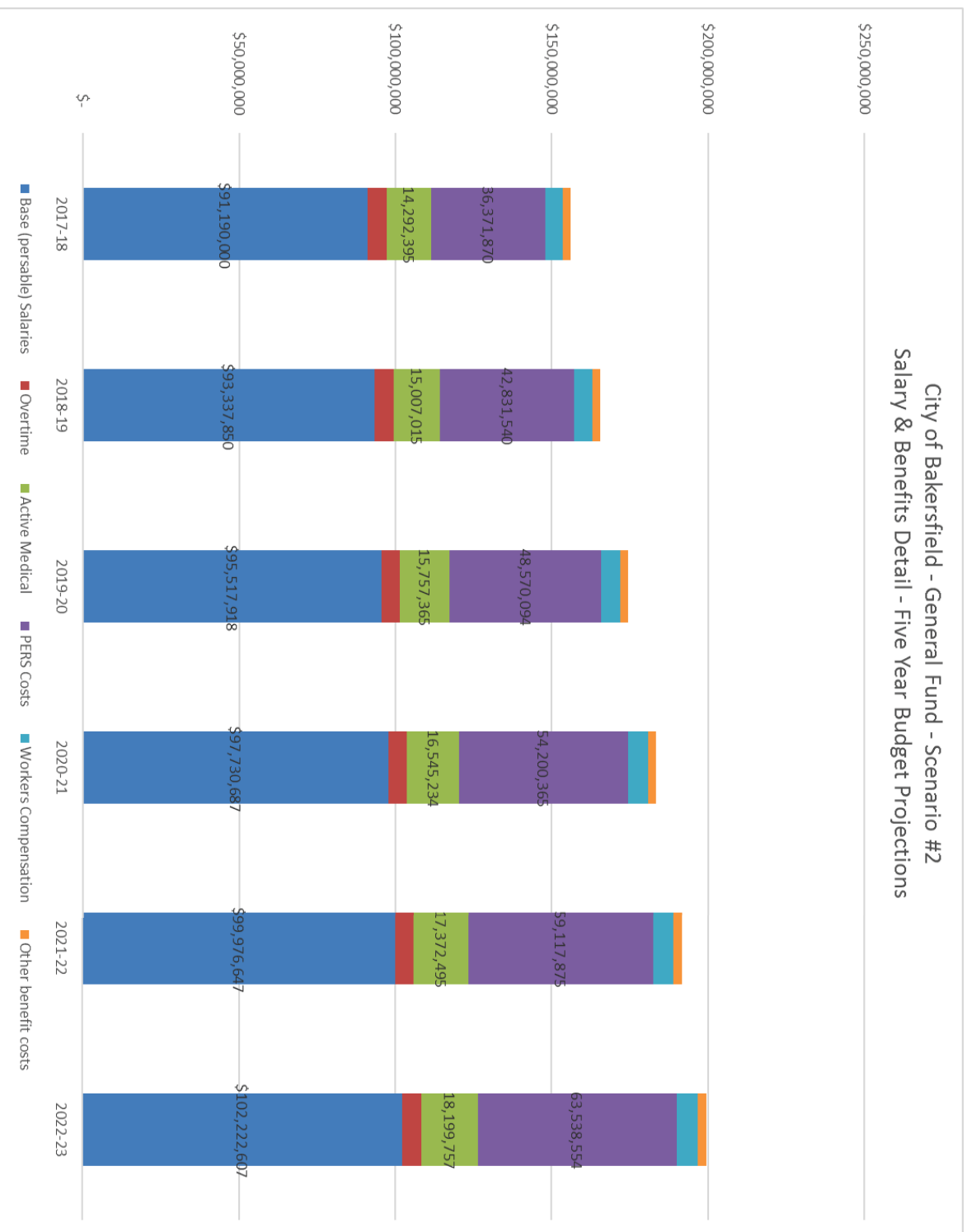
Fiscal Year	Total Revenue (\$)
2017-18	\$77,483,500
2018-19	\$81,357,675
2019-20	\$85,425,559
2020-21	\$89,696,837
2021-22	\$94,181,679
2022-23	\$98,890,762



# City of Bakersfield - Scenario #2 General Fund Expense Detail - Five Year Budget Projections



# City of Bakersfield - General Fund - Scenario #2 Salary & Benefits Detail - Five Year Budget Projections



# Revenue Generation Discussion

7/19/2017

# Overview

- Previous closed session discussion on topic led to Council's request for additional information on the types of potential tax measures and revenue estimates
- Desire to wait until the Ward 5 election concluded
- Discussion in response to reoccurring economic conditions which have not allowed for any incremental expansion of services or staffing in response to community growth
- CalPERS increases

# Overview

- Outside of the property tax, cities have authority to impose a broad range of taxes, however...
- Proposition 218 (1996) requires voter approval for all local tax increases
- Kern County and City of Bakersfield voters/legislators historically have rejected the concept of new or additional taxes; however....
- November 2016 Local Election Results:
  - Delano voters approved extension of 1% add-on sales tax
  - Ridgecrest voters approved 1% add-on sales tax
  - Wasco voters approved 1% add-on sales tax
  - 7 of 8 Kern school bond measures passed, including countywide college district bond (\$502 million)

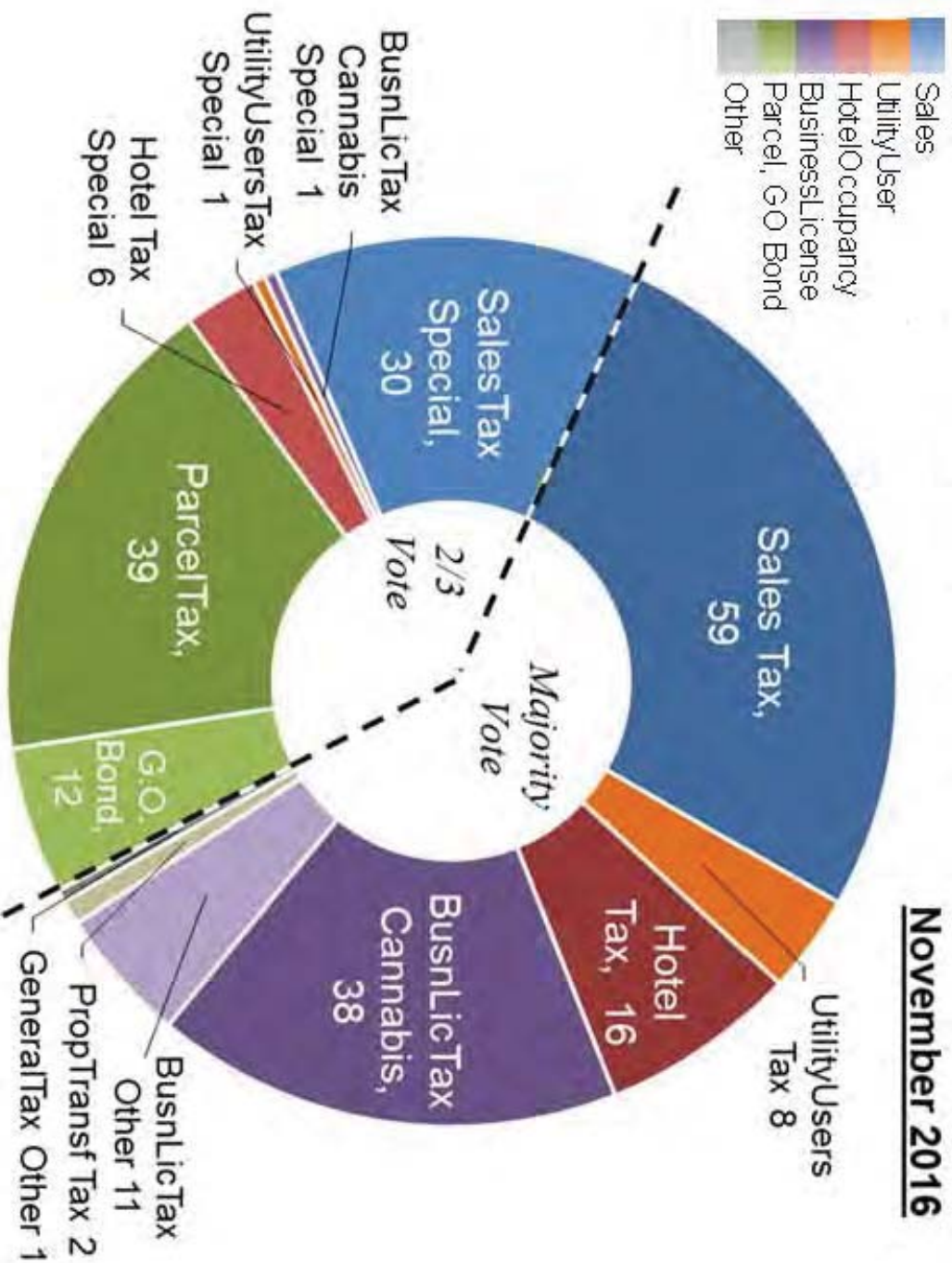


# Common Local Revenue Measures

- **Add-On Sales Tax**
- **Parcel Tax**
- **Hotel Tax**
- **Business License Tax**
- **Utility User Tax**

# Types of Non-School Local Tax Measures

November 2016



# General vs. Special Tax Measures

- General tax measure: approved by a simple majority - 50 percent plus one vote - if the tax revenue is designed to go into the general fund for unspecified use
- Special tax measure: If tax is earmarked for a specific use or special fund, a two-thirds supermajority vote is required for approval
- Hybrid: general tax measure + advisory measure
  - Advisory measure is a separate majority + one ballot measure that specifies the use of the general tax measure funds should that tax measure pass
- Historical data shows general tax measures, regardless of type, have a 66 percent success rate since 2001
- Special tax measures, regardless of type, have a 47 percent success rate since 2001

# Local Add-On Sales (Transactions and Use) Taxes

- The transactions and use tax may be imposed at a rate of  $\frac{1}{8}$ <sup>th</sup> cent (.125 percent) or a multiple thereof
- The ordinance proposing the tax must be approved by a two-thirds vote of all members of the City Council
- Ballot measure costs are determined by several factors; Expect \$100,000+ in election costs
- If for general purposes, the tax must be approved by a majority vote of the voters in the city
- If for specific purposes, the tax must be approved by a two-thirds vote of the voters in the city
- The maximum combined rate of transactions and use taxes in any location may not exceed 2 percent (not applicable in Bakersfield)

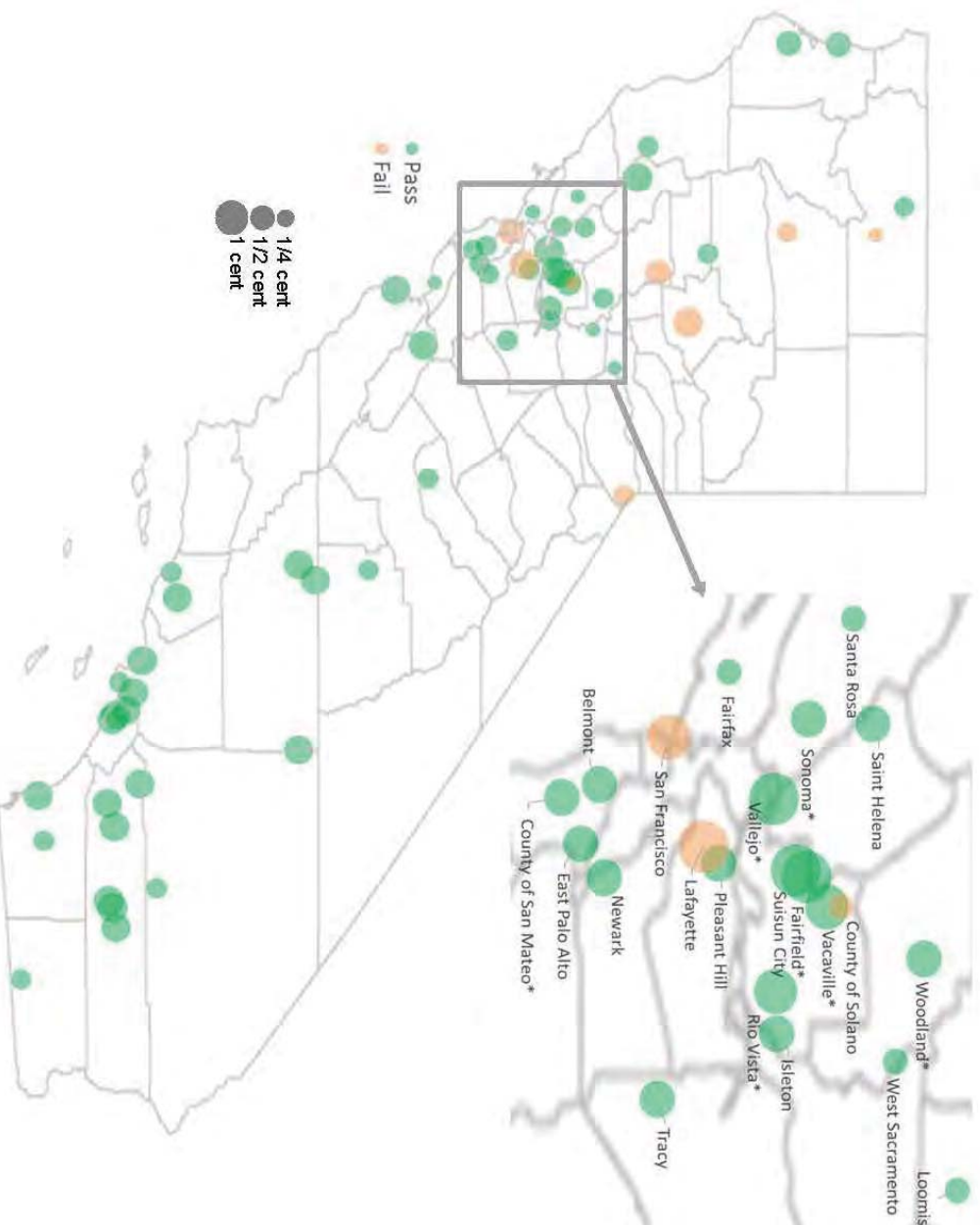
# Local Add-On Sales (Transactions and Use) Taxes

- If approved by voters, the new tax becomes effective the first day of the first calendar quarter more than 110 days after the adoption of the ordinance by the voters
  - Example: November approval = collections begin in April
- Board of Equalization charges a one-time processing fee not to exceed \$175,000 to implement the new tax district
- BOE also charges ongoing administrative fees to remit the new sales tax revenues to the City, dependent on a variety of factors (City is charged a similar fee now for the base 1 percent)

# Local Add-On Sales (Transactions and Use) Taxes

- 68 City add-on sales tax measures active throughout CA as of April 2017
- Local tax measure results from the November 2016 election:
  - The most common type of local revenue (non-school) tax measure was a general add-on sales tax measure
  - 51 of the 59 general measures passed (86 percent)
  - 15 of the 30 special measures passed (50 percent)
- Historical Data, 2001 to 2012
  - 174 general sales tax measures on ballot; 116 passed (66 percent)
  - 61 special sales tax measures on ballot; 27 passed (44 percent)

# **Transactions and Use Taxes** **Majority Vote, General Purpose** **November 2016**

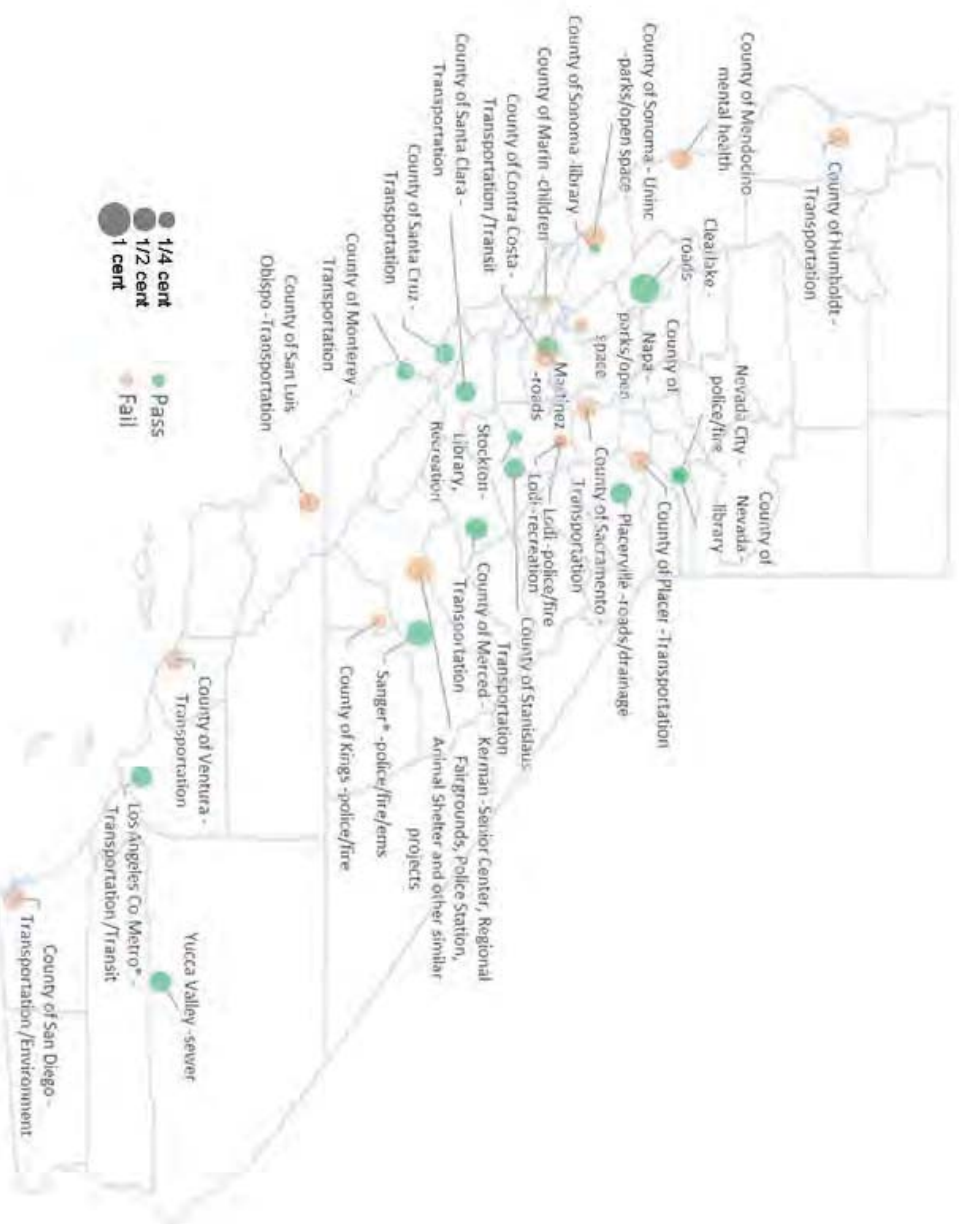




## Transactions and Use Taxes

### Two-thirds Vote, Special Purpose

November 2016



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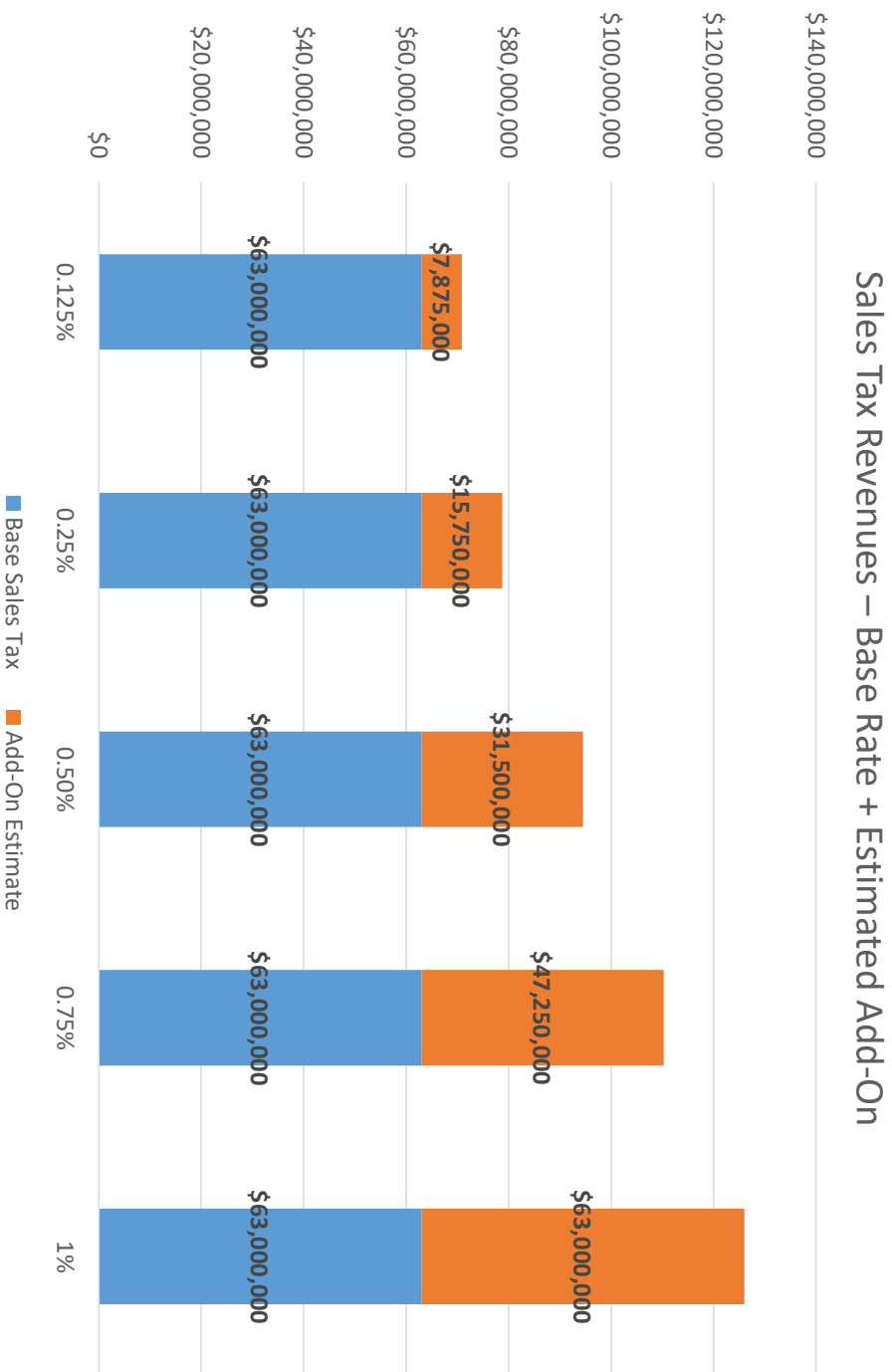
# Local Add-On Sales (Transactions and Use) Taxes

Rank	City	County	State Base Sales Tax Rate	County Add-On Rate	City Add-on Rate	Total Sales Tax Rate
1	Los Angeles	Los Angeles	7.25%	1.50%	0%	8.75%
2	San Diego	San Diego	7.25%	0.5%	0%	7.75%
3	San Jose	Santa Clara	7.25%	1.50%	0.25%	9.00%
4	San Francisco	San Francisco	7.25%	1.25%	N/A*	8.50%
5	Fresno	Fresno	7.25%	0.73%	0%	7.98%
6	Sacramento	Sacramento	7.25%	0.50%	0.50%	8.25%
7	Long Beach	Los Angeles	7.25%	1.50%	1%	9.75%
8	Oakland	Alameda	7.25%	2%	0%	9.25%
9	Bakersfield	Kern	7.25%	0%	0%	7.25%
10	Anaheim	Orange	7.25%	0.50%	0%	7.75%
11	Santa Ana	Orange	7.25%	0.50%	0%	7.75%
12	Riverside	Riverside	7.25%	0.50%	0%	7.75%
13	Stockton	San Joaquin	7.25%	0.50%	1.00%	8.75%
14	Chula Vista	San Diego	7.25%	0.50%	0%	7.75%
15	Irvine	Orange	7.25%	0.50%	0%	7.75%
16	Fremont	Alameda	7.25%	2.00%	0%	9.25%
17	Santa Clarita	Los Angeles	7.25%	1.50%	0%	8.75%
18	San Bernardino	San Bernardino	7.25%	0.50%	0.25%	8.00%
19	Modesto	Stanislaus	7.25%	0.125%	0%	7.38%
20	Fontana	San Bernardino	7.25%	0.50%	0%	7.75%

# Local Add-On Sales (Transactions and Use) Taxes

- The City currently receives 1 percent of the 7.25 percent sales and use tax; \$63 million projected in FY 2017-18
- No additional sales tax currently assessed beyond the 1 percent
- Additional add-on sales tax allocated within General Fund is unrestricted in use
  - New positions, programs and services
- Potential revenue from an add-on sales tax measure varies based on percentage of the additional sales tax

# Local Add-On Sales (Transactions and Use) Taxes



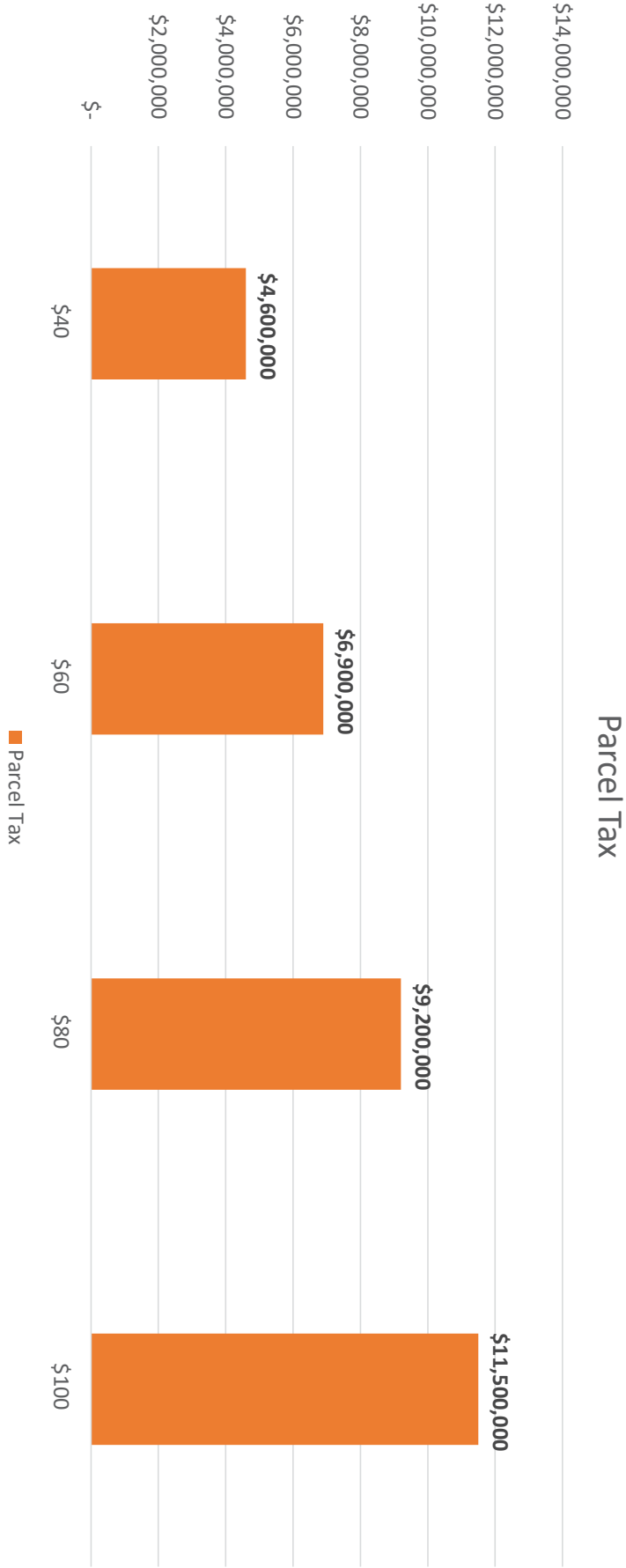
# Parcel Tax

- Local governments that may impose parcel taxes include cities, counties and special districts, such as schools, hospitals and public safety districts
- Parcel taxes are imposed on parcels of property – sections of land identified by number by the assessor of each county
- A parcel tax is different from a traditional ad valorem property tax, in that it is imposed on a per parcel basis, and is not based on the value of the property
  - Not tax deductible
- Based on either a flat per-parcel rate or a rate that varies depending upon use, size, and/or number of units on each parcel
- Two-thirds vote of the public is required to approve parcel taxes (no exceptions)
- Exemptions can be written into the measure – senior citizens, undeveloped property, government property, low-income, etc.

# Parcel Tax

- Among cities that enacted flat-rate parcel taxes between 2002 and 2012, the median was \$60 per parcel
- Local tax measure results from the November 2016 election:
  - The second most common type of local revenue (non-school) tax measure was a parcel tax:
  - 23 of the 39 parcel tax measures passed (58 percent)
- Historical Data, 2002 to 2013
  - 396 parcel taxes measures on ballot; 180 passed (45 percent)
- Generally, measures for fire and emergency medical services were more successful than others
- The most successful measures were more broad-based public safety measures which permitted use of the funds for fire, medical and police services
- 115,000± individual parcels within the City boundaries

# Parcel Tax



# City Involvement in Tax Measures

- City can:
  - Place a measure on the ballot
  - Prepare an objective and fact-based analysis on the effect of a ballot measure on the City and those the City serves
  - Distribute the analysis through regular City communications channels (web site, Gen Info, etc.)
  - Study a ballot measure and distribute report about the impacts
  - Make public presentations on staff recommendations in the event that the measure passes or fails
  - Adopt a position on the measure, as long as that position is taken at an open meeting where public comment is received



# City Involvement in Tax Measures

- Staff and elected officials cannot:
  - Engage in campaign activities on while on City time or using City resources
  - Use City resources (including office equipment, supplies, staff time, vehicles or public funds) to engage in advocacy-related activities, including producing campaign-type materials, Door-to-door canvassing or performing campaign tasks
  - Use public funds to pay for campaign-related expenses (for example, television or radio advertising, bumper stickers, and signs) or make campaign contributions
  - Use City computers or email addresses for campaign communication activities
  - Use City communication channels to distribute campaign materials (for example, internal mail systems, City bulletin boards, or the City's email or intranet systems)
  - Post links to campaign websites on the City's website
  - Give preference to campaign-related requests to use City facilities

# Timelines

- General tax elections must be consolidated with a regular election of the governing body (November 2018)
- Special taxes may be on the ballot for a regular or special election
- Consultant? Voter surveys?
- City council must call election on measure 88 days before election

Questions?

# Revenue Discussion

SEPTEMBER 6, 2017



# Recap

- ▶ Growth of major General Fund revenue sources lagging expenses
- ▶ Unlikely oil sector will rebound to 2014 levels in foreseeable future
- ▶ Online retail sales impacting sales tax
- ▶ Significant known cost increases on horizon
  - ▶ PERS
  - ▶ Healthcare
  - ▶ Utilities (electricity, water)



# Recap

- ▶ City continues to grow – service levels need to coincide
- ▶ Council Goals and priorities focus on maintaining and enhancing basic public services
  - ▶ Police, Fire, Streets, Code Enforcement
- ▶ Emphasis placed on enhancing quality of life programs/services
  - ▶ Parks, Recreational Activities, Lighting, Beautification
- ▶ Employees have not received any wage adjustment since 2014 or 2015, depending on employee group

# Downsizing and Adjustments

- ▶ City has taken difficult, comprehensive and wide-ranging steps to align General Fund expenses with revenues:
  - ▶ **FY 2014-15:** City received \$2 million unanticipated state reimbursement, otherwise cuts were imminent
  - ▶ **FY 2015-16:** \$10.4 million (deferred COLA adjustments, new equipment)
  - ▶ **FY 2016-17:** \$4.5 million (including elimination of 13 full time positions)
  - ▶ **FY 2017-18:** No significant discretionary increases allowed
- ▶ Services, programs and full-time positions have been reduced or eliminated
- ▶ Non essential travel ban, temporary employees, overtime, tuition reimbursement program, council contingency



# Downsizing and Adjustments

- ▶ Have shifted some Gas Tax from capital improvement budget back to the Streets Division operating budget
  - ▶ Supplants General Fund revenues
- ▶ Taken one time actions in an effort to bide time for economy to recover
  - ▶ Eliminating/deferred capital projects – shifted funds to operating budget
  - ▶ Reduced City's compensated absences reserve
  - ▶ Deferred a retiree healthcare trust payment



# What More Can Be Done?

- ▶ All Position Hiring Freeze/Staffing Reduction
  - ▶ Must include Public Safety (62% of General Fund)
  - ▶ Further reduce levels of service, response times to non-urgent matters
  - ▶ Frequency of basic services impacted further
  - ▶ Response times impacted
  - ▶ Retention and employee morale issues
- ▶ Close City Facilities
  - ▶ Fire Stations
  - ▶ Community Centers
  - ▶ Pools, Spray Parks
- ▶ Stop expansion or planning efforts associated with new capital projects that are anticipated to have an operational impact on the General Fund

# New Revenue Opportunities

- ▶ Sales tax measure
  - ▶ Use can be unrestricted or defined – voter approval thresholds apply
  - ▶ \$7 million to \$50 million estimated to be generated annually
  - ▶ November 2018
- ▶ Parcel tax
  - ▶ Use is defined
  - ▶ Normally a flat assessment, not based on property value
  - ▶ Requires 2/3rds vote (no exceptions)
  - ▶ \$5 million to \$11 million estimated to be generated annually
  - ▶ November 2018

# General Fund and CIP Budgets

## Top 10 Cities

Population Rank	City	Adopted General Fund Budget (16-17)	General Fund \$ Per Capita	Capital Improvement Budget (16-17)
1	Los Angeles	\$ 5,580,000,000	1,381	\$ 417,750,859
2	San Diego	1,337,981,387	951	420,996,485
3	San Jose	1,271,288,298	1,215	878,413,605
4	San Francisco *	4,859,781,042	5,559	522,138,927
5	Fresno	294,265,000	560	318,331,000
6	Sacramento	438,834,000	890	71,400,000
7	Long Beach	478,431,377	996	594,577,825
8	Oakland	530,689,270	1,246	32,150,843
9	<b>Bakersfield</b>	<b>195,975,000</b>	<b>511</b>	<b>54,077,840</b>
10	Anaheim	303,800,000	847	295,558,169



# Next Steps

- ▶ Additional staff research and/or Council discussion
- ▶ If Council is interested in pursuing, early 2018 is recommended target to begin formal process
- ▶ Engage a consultant for survey research
  - ▶ Help provide the Council and staff with a clear understanding of the opinions, perceptions, priorities, and behaviors of voters

# REVENUE DISCUSSION

9/20/17

## FOLLOW UP

- Overview of consultant services
- Additional budgetary information
- Detailed “Cut” Scenarios
- Gas Tax Information
- Timeline

## CONSULTANTS

- Consultants are typically utilized to perform two distinct activities:
  - Viability assessment/Polling services
  - Non-advocacy outreach services
- Can be done by the same firm, different firms or a partnership of two firms
- Normally done in stages
- Very common among cities considering placing a measure on the ballot

## CONSULTANTS

- **Viability Assessment/Polling Services**
  - Review of type of measure and amount of potential measure
  - Polling services can include both telephone and web-based questionnaires
  - Generally takes 6 weeks to plan and conduct voter surveys through e-mail and telephone questionnaires
  - Sample size, type and length of questionnaire determine costs: \$50,000 to \$70,000



# CONSULTANTS

- **Viability Assessment/Polling Services**
  - Satisfaction with current City government services
  - Perceptions of the City's management of tax dollars and provision of services
  - Support for a general purpose and/or special tax measure
  - Support for various amounts of a tax
  - A ranking of the importance of various services that the City could potentially enhance with additional funding
  - Reactions to major arguments for and against a measure followed by questions to detect shifts in vote preferences
  - Sources of information voters use most often to inform themselves about major issues in the community
  - Comprehensive demographic characteristics

## CONSULTANTS

- **Non-advocacy Outreach Services**

- A non-advocacy public education program is designed to build additional community awareness prior to the election being called
- Provides information only, does not advocate for a ballot measure
- Normally implemented after polling is complete and prior to placement of a measure on the ballot
- Outreach activities subside once measure is placed on the ballot
- Avoids potential conflicts in regards to using public funds to advocate for tax measure
- Cost depends on scope of work: \$50,000 to \$100,000

# CONSULTANTS

- **Non-advocacy Outreach Services**
  - Recommends and updates preparation and project action plan(s) and timeline(s)
  - Develop text copy for informational materials
  - Recommend strategies to disseminate information, consistent with the City's practices and advise on additional communications avenues to disseminate its information, such as use of City website, social media and traditional approaches
  - Work with the City to provide clarifying or correct information to the public as needed
  - Provide ongoing advice as needed, including added value to the development of staff reports, city resolutions, and ballot materials

# BUDGET PROJECTIONS

- Can staff provided more precise budget projections for a three year period looking forward?
- General Fund projections shared previously are based on historical revenue trends and practical scenarios for expenditures moving forward
  - Predicting more detailed budgetary projections is challenging due to ongoing, annual fluctuations for a variety of primary revenues/expenditure items
- Revenues
  - Oil sector and retail (sales tax)
  - Housing sector (development permits/fees)
  - State action (positive or negative)
- Expenditures
  - CalPERS: employer rates have fluctuated greatly year to year
  - Healthcare: usage and state/federal policy impacts
  - Utility rates: timing and rate adjustments from PG&E/Cal Water
  - Labor agreements: no cost of living adjustments since 2014 or 2015, depending on the group

## SERVICE IMPACTS/ALTERNATIVES

- What are specific types of service-related cuts that will be necessary if a tax measure is not successful?
- Staffing is the largest General Fund cost (81% in FY 2017-18)
- The most impactful means to reduce ongoing General Fund spending is to reduce personnel costs
  - City remains 6% below pre-recession staffing levels
  - Population has increased 15% since 2008; City area has grown 11% over same time
  - Review vacant, full time positions for elimination – for example:
    - Currently 70 General Fund positions vacant citywide (51 are within the police department)
    - All General Fund departments would likely be subject to further reductions
  - Result: service levels, programs and response times would suffer

## SERVICE IMPACTS/ALTERNATIVES

- Other potential savings:
  - Closure of fire station(s)
    - Reducing firefighter positions does not result in budget savings without closure of a station
  - Reduction of recreation programs and facility hours
  - Increase time between certain non-essential activities – lawn mowing, streetscape maintenance, striping, preventative street maintenance, facility maintenance and upkeep
- Recommended service level reductions will be brought to the Council based on consultation with each department as it relates to the level of cuts necessary

## GAS TAX

- \$7.28 million budgeted in FY 2017-18 (not including SB 1 funds)
  - \$4 million for street resurfacing
  - \$3.1 million for Centennial Corridor
  - \$185,000 for White Lane Rehab Project (local match)

## TIMELINE

- **September/October 2017:** Issue request for proposals for consultant
- **November 15, 2017:** Staff presentation at City Council Meeting – open session
- **December 13, 2017:** Award consulting firm agreement for viability assessment/polling services; *non-advocacy outreach type activities (optional)*
- **December 2017 – February 2018:** Voter Surveys/Focus Groups
- **March 2018:** Review survey results and determine next steps
- **April 2018 – June 2018:** Transition to non-advocacy outreach
- **June 2018:** Adopt and submit necessary resolution and items to the County Elections Office:
  - Ballot Measure Text
  - Ballot Question
  - An impartial analysis to be submitted by the City Attorney
- **November 6, 2018:** Election Day



QUESTIONS?

# Exhibit E



October 18, 2017

Bakersfield City Council  
1600 Truxtun Ave.  
Bakersfield CA 93301  
City\_Council@bakersfieldcity.us

***Via U.S. Mail and Email***

**NOTICE OF VIOLATIONS OF THE BROWN ACT (GOV. CODE § 54950 *et seq.*)  
DEMAND TO CEASE AND DESIST BROWN ACT VIOLATIONS  
REQUEST FOR PUBLIC RECORDS (GOV. CODE § 6250 *et seq.*)**

Dear City Council:

I write on behalf of the First Amendment Coalition (“FAC”) regarding multiple failures by the Bakersfield City Council (“City Council”) to comply with the requirements of California’s open meetings law, the Ralph M. Brown Act, Government Code section 54950 *et seq.* (“Brown Act”). This letter serves as a demand to cease and desist the practices constituting such violations. This letter also constitutes a request for records pursuant to the California Public Records Act (“CPRA”), Government Code section 6250 *et seq.*

Please direct all correspondence to me at the following email address:  
dsnyder@firstamendmentcoalition.org

The City Council met in closed session on July 9, September 6 and September 20, 2017<sup>1</sup> to consider and discuss wide-ranging issues relating to potential tax increases in the City of Bakersfield (the “City”), as well as potential significant staffing cuts. As set forth in the documents enclosed with this letter, city staff presented detailed and thorough information regarding the City’s finances, its financial outlook, the effect of

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<sup>1</sup> While FAC is presently aware of these three closed sessions, it appears that similar closed sessions may have taken place numerous times, dating back to the beginning of the 2017. Any other similar closed sessions held by the City Council would be unlawful for the same reasons set out herein.

various forms of tax increases on the city's financial outlook, and the effect of layoffs on the city's financial outlook.

The agendas for the July 9, September 6 and September 20 City Council meetings contain no reference to any of these topics. Instead, the City Council apparently attempted to justify its wide-ranging discussion, in closed session, of the city's finances and tax issues by agendizing such discussion under the "anticipated litigation" exception to the Brown Act's open meetings requirement.

These closed-session meetings violated the Brown Act in a number of ways.

**First**, the City Council violated the Brown Act by failing to properly provide notice of the items it discussed in closed sessions. The City's agendas for the July 9, September 6, and September 20 meetings are devoid of any reference to any discussion regarding the City's finances. The Brown Act requires every agenda to contain a description of **each** item of business to be discussed. (Gov. Code section 54954.2(a).) This is also required for any item to be discussed in closed session. (Gov. Code section 54957.7). "No action or discussion shall be undertaken on any item not appearing on the posted agenda," and the body "may only consider those matters" that were included in its statement of items to be discussed in closed session. (§§ 54957.7(a), 54954.2(a)(2).)

**Second**, any general discussion regarding the City's finances, such as the discussion held in closed session at the July 9, September 6 and September 20 City Council meetings, must be done in open session. Except where expressly authorized by statute, "no closed session may be held by any legislative body of any local agency." (Gov. Code section 54962.) "These exceptions have been construed narrowly; thus if a specific statutory exception authorizing a closed session cannot be found, the matter must be conducted in public regardless of its sensitivity." (California Attorney General, *The Brown Act: Open Meetings for Local Legislative Bodies* (2003) at pg. 1.) As described by the Attorney General, "The Legislature's addition of section 54962 effectively eliminated the possibility of finding an implied authorization for a closed session." (88 Ops.Cal.Atty.Gen. 16 (2005).)

There is no exception to the Brown Act's open-meetings requirement which would allow for the general financial discussion the City held in its closed sessions on July 9, September 6 and September 20.

The City's reference to "anticipated litigation" provides no cover for such discussion. "The purpose of the [litigation] exception is to permit the body to receive legal advice and make litigation decisions only; it is not to be used as a subterfuge to reach nonlitigation oriented policy decisions." (71 Ops. Cal. Atty. Gen. 96, 104-105 (1988).)

As the Attorney General opined within the first decade of the Brown Act's enactment, advice as to the lawfulness or legal implications of a proposed action not yet taken is not appropriate for a closed session, because the public is entitled to know what this

advice is in order to evaluate the performance of the body. (36 Ops.Cal.Atty.Gen. 175 (1960).) The mere possibility that a body's action might be challenged in court provides no basis to discuss the proposed action in closed session, since virtually any proposed action could result in litigation – and, thus, under such a rationale virtually all proposed actions would justify excluding the public. (71 Ops.Cal.Atty.Gen 96 (1988) [“to conclude that an exception would exist because there is always the possibility of judicial review...would be tantamount to saying that any legislative body of a local agency would meet in private on any matter, since, if they do not proceed in the manner required by law, or somehow abuse their discretion in doing so, they are subject to a lawsuit to correct their action. Such a mere possibility is not what is contemplated in [the potential litigation exception]”].)

If litigation has not been initiated, the agency may hold a closed session regarding “anticipated litigation,” but only where a point has “been reached where, in the opinion of the legislative body of the local agency on the advice of its legal counsel, based on **existing facts and circumstances**, there is a significant exposure to litigation against the local agency.” (§ 54956.9(d)(2).) Under Section 54956.9(e), for purposes of holding such a closed session, “**existing facts and circumstances**” are expressly limited to only one of the following situations:

- (1) Facts and circumstances that might result in litigation against the local agency but which the local agency believes are not yet known to a potential plaintiff or plaintiffs, which facts and circumstances need not be disclosed.
- (2) Facts and circumstances, including, but not limited to, an accident, disaster, incident, or transactional occurrence that might result in litigation against the agency and that are known to a potential plaintiff or plaintiffs, which facts or circumstances shall be publicly stated on the agenda or announced.
- (3) The receipt of a claim pursuant to the Government Claims Act...or some other written communication from a potential plaintiff threatening litigation, which claim or communication shall be available for public inspection pursuant to Section 54957.5.
- (4) A statement made by a person in an open and public meeting threatening litigation on a specific matter within the responsibility of the legislative body.
- (5) A statement threatening litigation made by a person outside an open and public meeting on a specific matter within the responsibility of the legislative body so long as the official or employee of the local agency receiving knowledge of the threat makes a contemporaneous or other

record of the statement prior to the meeting, which record shall be available for public inspection pursuant to Section 54957.5.

Therefore, any time a closed session is scheduled because there is a “significant exposure to litigation,” the facts and circumstances must be made known to the public, unless the facts and circumstances creating the threat are not yet known to the potential plaintiff. The Attorney General summarizes the disclosure requirements as follows:

- If there has been no kind of communication yet from the likely plaintiffs but the agency is aware of something that is likely to prompt a litigation threat—some accident, disaster, incident or transaction such as a contract dispute—“the facts must be publicly stated on the agenda or announced” prior to the closed session.
- If a claim or some other written threat of litigation has been received, the document is a public record and “reference to the claim or communication must be publicly stated on the agenda or announced” prior to the closed session.
- When the closed session is triggered by a litigation threat made in an open and public meeting, “reference to the statement must be publicly stated on the agenda or announced” prior to the closed session.
- When an oral threat of litigation is made outside a meeting, it may not be made the basis of a closed session unless the official who became aware of it makes a memo explaining what was said. The memo is a public record and “reference to the claim or communication must be publicly stated on the agenda or announced” prior to the closed session.

(California Attorney General, *The Brown Act: Open Meetings for Local Legislative Bodies* (2003) at pg. 23.)

The disclosure requirements serve an important purpose:

[T]he important balance which the Brown Act attempts to draw between the requirement that public business be conducted in public and the practical need public agencies have for confidentiality when attempting to make rational decisions about the legal strength of argument asserted by an actual or probably adversary...The Brown Act attempts to draw that balance by, among other devices, requiring disclosure to the public of facts and circumstances which show that a public discussion of a particular matter is prejudicial to the agency’s interests.

(*CAUSE v. City of San Diego* (1997) 56 Cal.App.4th 1024, 1030.)

Even before the codification of the exemption expressly permitting certain closed sessions related to litigation, the court in *Sacramento Newspaper Guild v. Sacramento County Bd. Of Supervisors* (1968) 263 Cal.App.2d 41, held “[n]either the attorney’s presence nor the happenstance of some kind of lawsuit may serve as the pretext for secret consultations whose revelation will not injure the public interest.”

Here, even had there been an actual threat of litigation which could have met the defined set of “facts and circumstances” necessary to hold a closed session under Section 54956.9, the City Council was not permitted to take action in closed session under the guise of “anticipated litigation” on an issue which must be discussed in open session.

In *Trancas Property Owners Assn. v. City of Malibu* (2006) 138 Cal.App.4th 172, the Court invalidated a settlement agreement adopted in closed session; the settlement agreement included the City’s commitment to approve a development agreement. Because the city’s decision to discuss the settlement agreement in closed session usurped the public’s right to participate in the decision-making process regarding the development agreement, the City’s action violated the Brown Act.

**[W]hatever else it may permit, the exemption cannot be construed to empower a city council to take or agree to take, as part of a non-publicly-ratified litigation settlement, action that by substantive law may not be taken without a public hearing and an opportunity for the public to be heard.** As a matter of legislative intention and policy, a statute that is part of a law enacted to assure public decision-making, except in narrow circumstances, may not be read to authorize circumvention and indeed violation of other laws requiring that decisions be preceded by public hearings, simply because the means and object of the violation are settlement of a lawsuit.

(*Id.* at 186; internal citations omitted; emphasis added.)

**Finally**, a review of the City’s agendas shows that the City routinely notices closed sessions pursuant to Government Code section 54956.9(d)(2), which allows a legislative body of a local agency to enter closed session to confer with legal counsel when there is a “significant exposure to litigation” based upon “existing facts and circumstances. However, the City Council routinely fails to disclose such existing facts and circumstances. To avoid its disclosure requirements, the City repeatedly relies on Government Code section 54956(e)(1), which would allow the District to refrain from disclosing “existing facts and circumstances” if the facts and circumstances are “not yet known to a potential plaintiff or plaintiffs.” Because it would be highly unusual for a potential plaintiff to not know the **facts** that would give rise to possible litigation, the routine use of this section appears to be a pro forma way for the City Council to avoid its disclosure requirements.

## **CEASE AND DESIST DEMAND**

The Brown Act section 54960 provides that any interested person may “commence an action by mandamus, injunction, or declaratory relief for the purpose of stopping or preventing violations or threatened violations,” “to determine the applicability of this chapter to ongoing actions or threatened future actions of the legislative body, or to determine the applicability of this chapter to past actions of the legislative body.”

In order to avoid litigation to force the District into compliance, FAC demands that the City Council cease and desist from the practices set forth above, which impair the public’s ability to participate in its government. Namely, the City Council must acknowledge the Brown Act violations set forth above, and must agree unconditionally to refrain from the following practices in the future:

1. Failing to identify the topics to be discussed in closed session;
2. Discussing matters, including but not limited to the general state of the City’s finances, in closed session where no closed session exemption provides a basis for the closed session discussion;
3. Failing to disclose the facts and circumstances that justify holding closed sessions pursuant to Government Code section 54956.9(d)(2); and,

## **REQUEST FOR RECORDS PURSUANT TO CPRA**

Pursuant to the CPRA, the California Constitution (Article I, section 3) and FAC’s rights of access under California common law, FAC hereby requests:

- (1) All communications or other documents that were created, sent or received by the City Council and/or its individual members and that relate to or reference the materials enclosed with this letter;
- (2) All communications or other documents that were created, sent or received by the City Council and/or its individual members before or after the City Council meetings of July 9, September 6 and September 20, 2017 and that concern actions to be taken as a result of any items discussed during closed session on those dates.

If any portion of the records requested is exempt from disclosure by express provisions of law, Government Code Section 6253(a) requires segregation and redaction of that material in order that the remainder of the information may be released. If you believe that any express provision of law exists to exempt from disclosure all or a portion of the records FAC has requested, you must notify FAC of the reasons for the determination



not later than 10 days from your receipt of this request letter. (Gov. Code § 6253(c).)  
Any response to this request that includes a determination that the request is denied, in whole or in part, must be in writing. (Gov. Code § 6255(b).)

Please contact me to obtain my consent before incurring copying costs, chargeable to FAC, in excess of \$100.

Thank you for your prompt attention to these important matters.

Sincerely,

A handwritten signature in black ink, appearing to read 'David Snyder', with a stylized, cursive script.

David Snyder  
Executive Director  
First Amendment Coalition

cc: City Attorney Virginia Gennaro via fax at (661) 852-2020

Enclosures

Exhibit F

# CALIFORNIANS AWARE

OPEN GOVERNMENT • FREE SPEECH • PROTECTED REPORTING

October 9, 2017

Christopher Gerry  
Acting City Clerk  
City of Bakersfield  
1600 Truxtun Avenue  
Bakersfield, CA 93301

RE: Demand to Cease and Desist: Ralph M. Brown Act (Government Code Section 54950 et seq.)  
Request for Access to Public Records (Government Code Section 6250 et seq.)

Dear Mr. Gerry,

This letter challenges a practice occurring in connection with the July 9, September 6 and September 20 meetings of the Bakersfield City Council as a violation of the Brown Act, specifically Government Code Section 54956.9. The practice in question was the Council's consideration in closed sessions at those meetings of matters that must be discussed only in open session, namely those headed as "Five Year Budget Projections of Revenues and Expenses," "Revenue Generation," and "Revenue."

These topics (see attached links) arguably constitute the very highest issues of concern to Bakersfield residents, businesses and taxpayers, presenting a detailed analysis of the City's near and long term fiscal unsustainability, the need for either significant staff cuts or significant new taxes, and the decisions to be made concerning a tax increase ballot measure, including the public relations considerations to ensure its success and the need for a consultant to poll public opinion and provide "outreach" communications to shape public perceptions.

In order to avoid the filing of an action against the Council for declaratory and injunctive relief to confirm that the practice in question violated the Brown Act and to order it not to be repeated, and for the recovery of any attorney fees and costs incurred in such litigation, I demand that Mayor Karen Goh, within 30 days of the receipt of this letter and in conformity with Government Code Section 54960.2, subdivision (c), inform me of the Council's unconditional commitment to cease, desist from, and not repeat the practice herein challenged as a violation of the Act.

In addition, this letter requests access to copies of all communications or other documents created or received by the City or City Council members or staff before or after these meetings concerning actions to be taken as a result thereof.

Very Truly Yours,

Terry Francke  
General Counsel

<https://www.scribd.com/document/361135503/Five-Year-Budget-Projection-July-2017>

<https://www.scribd.com/document/361137024/Revenue-Discussion-7-19-17>

<https://www.scribd.com/document/361136648/Revenue-Discussion-September-2017>

<https://www.scribd.com/document/361137181/Revenue-Discussion-9-20-17>

# Exhibit G



**Mayor Karen K. Goh**  
City of Bakersfield

November 3, 2017

Mr. David Snyder  
FIRST AMENDMENT COALITION  
534 Fourth Street, Suite B  
San Rafael, CA 94901

Re: Request for Access to Public Records (Govt. Code § 6250 et seq.);  
Demand to Cease and Desist (Govt. Code § 54950 et seq.)

Dear Mr. Snyder:

This letter will acknowledge receipt of your letter dated October 18, 2017, concerning the above requests. The public records aspect of your letter was addressed via correspondence by the City Attorney on October 23, 2017. This correspondence relates to your demand to cease and desist pursuant to Govt. Code § 54960.2, subdivision (c).

The Bakersfield City Council understands the importance of transparency and the Brown Act. We have attended classes sponsored by the League of Cities about the background, intent, and specifics of the Brown Act; we receive ongoing advice from our City Attorney about the applicability of the Brown Act in our daily work; and on August 15, 2012, we adopted "A Resolution Adopting A City Policy To Adhere To The Brown Act Despite The State's Decision To Suspend Some Of Its Provisions For Three Years" therefore, agreeing to continue to follow the Brown Act regardless of a reduction in state-mandated costs.

After careful consideration of your demand and review of the pertinent material, the City Council is confident that it did not violate the Brown Act and we remain committed to convening and agendizing our closed sessions within the parameters of the law.

Very truly yours,

KAREN GOH  
Mayor

cc: City Councilmembers  
Virginia Gennaro, City Attorney  
Alan Tandy, City Manager

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# Exhibit H





**Mayor Karen K. Goh**

City of Bakersfield

November 3, 2017

Terry Francke, General Counsel  
CALIFORNIANS AWARE  
2218 Homewood Way  
Carmichael, CA 95608

Re: Request for Access to Public Records (Govt. Code § 6250 et seq.);  
Demand to Cease and Desist (Govt. Code § 54950 et seq.)

Dear Mr. Francke:

This letter will acknowledge receipt of your letter dated October 9, 2017, concerning the above requests. The public records aspect of your letter was addressed via correspondence by the City Attorney on October 16, 2017. This correspondence relates to your demand to cease and desist pursuant to Govt. Code § 54960.2, subdivision (c).

The Bakersfield City Council understands the importance of transparency and the Brown Act. We have attended classes sponsored by the League of Cities about the background, intent, and specifics of the Brown Act; we receive ongoing advice from our City Attorney about the applicability of the Brown Act in our daily work; and on August 15, 2012, we adopted "A Resolution Adopting A City Policy To Adhere To The Brown Act Despite The State's Decision To Suspend Some Of Its Provisions For Three Years" therefore, agreeing to continue to follow the Brown Act regardless of a reduction in state-mandated costs.

After careful consideration of your demand and review of the pertinent material, the City Council is confident that it did not violate the Brown Act and we remain committed to convening and agendizing our closed sessions within the parameters of the law.

Very truly yours,

KAREN GOH  
Mayor

cc: City Councilmembers  
Virginia Gennaro, City Attorney  
Alan Tandy, City Manager

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**Bakersfield City Hall** | 1600 Truxtun Avenue | Bakersfield, CA 93301  
(661) 326-3770 | [mayor@bakersfieldcity.us](mailto:mayor@bakersfieldcity.us)

# Exhibit I



**CITY ATTORNEY**  
**VIRGINIA GENNARO**

**DEPUTY CITY ATTORNEY**  
Joshua H. Rudnick  
Andrew Heglund  
Richard Iger

**ASSOCIATE CITY ATTORNEY**  
Viridiana Gallardo-King



1600 TRUXTUN AVENUE  
FOURTH FLOOR  
BAKERSFIELD, CA 93301

TELEPHONE: 661-326-3721  
FACSIMILE: 661-852-2020

**OFFICE OF THE CITY ATTORNEY**

October 23, 2017

Mr. David Snyder  
FIRST AMENDMENT COALITION  
534 Fourth Street Suite B  
San Rafael, CA 94901

Re: Public Records Request

Dear Mr. Snyder:

This letter is in response to the Public Records aspect of your letter received by the City of Bakersfield on October 19, 2017. Responsive documents are attached.

If you have any questions, feel free to call me at (661)326-3721.

Very truly yours,

VIRIDIANA GALLARDO-KING  
Associate Attorney

VG:lsc  
Attachments  
cc (w/o att): Robin Bice, Deputy City Clerk  
Chris Huot, Assistant City Manager

S:\CLERK\Pub Recs\17-18\FirstAmendment.BrownAct.docx

**CITY ATTORNEY**  
**VIRGINIA GENNARO**

**DEPUTY CITY ATTORNEY**  
Joshua H. Rudnick  
Andrew Heglund  
Richard Iger

**ASSOCIATE CITY ATTORNEY**  
Viridiana Gallardo-King



1600 TRUXTUN AVENUE  
FOURTH FLOOR  
BAKERSFIELD, CA 93301

TELEPHONE: 661-326-3721  
FACSIMILE: 661-852-2020

**OFFICE OF THE CITY ATTORNEY**

October 16, 2017

Mr. Terry Francke  
CALIFORNIANS AWARE  
2218 Homewood Way  
Carmichael, CA 95608

Re: Public Records Request

Dear Mr. Francke:

This letter is in response to the Public Records aspect of your letter received by the City of Bakersfield on October 10, 2017. Responsive documents are attached.

If you have any questions, feel free to call me at (661)326-3721.

Very truly yours,

  
VIRIDIANA GALLARDO-KING  
Associate Attorney

VG:lsc

cc: Robin Bice, Deputy City Clerk  
Chris Huot, Assistant City Manager

S:\CLERK\Pub Recs\17-18\CalAware.docx

Exhibit J



**OFFICE OF THE CITY MANAGER**

October 6, 2017

**TO:** Honorable Mayor and City Council  
**FROM:** Alan Tandy, City Manager *AT*  
**SUBJECT:** **General Information**

---

**Notable Items**

- In the wake of the mass shooting in Las Vegas over the weekend, the Mayor, local pastors and community leaders gathered to lead the community in a time of prayer on Monday. Our thoughts and prayers remain with the aggrieved families in our community and around the country who have been affected by this tragedy. We send our best wishes to Bakersfield Police Officer Aaron Mundhenke for a full and speedy recovery.
- The October 11th Council agenda has an unusual number of significant items.
  - There are three items for the Sports Village as follows:
    - Award contract for installation of sports field lighting on phase 2
    - Award contract for construction of soccer stadium improvements in phase 3
    - Resolution for purchase of sports field lighting for the soccer stadium improvements in phase 3
  - There is a bid award on the 24<sup>th</sup> Street sound walls as well as consideration of a pedestrian crossing issue.
  - There is also a bid award on the sewer adjustments which are a part of the Centennial Corridor. That will be followed over the new few meetings with a contract on the road adjustments, some related work on the West Side Parkway and the at grade sound walls. Cumulatively between these contracts there is a lot that will be going on!
  - Finally, and perhaps most important, is a presentation requested by City Council on how emerging trends will impact the finances of the City over the next several years.



- The City has received information supplemental in nature to the quarterly sales tax information provided to the council in the September 15<sup>th</sup> General Information memo. The overall results of the quarter remain the same (quarterly change of positive 5.05%). This supplemental information provides indication of what industry types are going better or worse than citywide average results for the given period.

The general categories of Used Car Dealers, Service Stations and Public Utility/Transport Services performed above average compared to the same quarter last year. The categories of Grocery Stores and Department Stores performed below average compared to the same quarter last year. Our Finance Director, Nelson Smith, has provided a memo and chart of the top ten industry categories.

- You may recall that when we were conducting the extensive renovations of Fire Station 8 we had to create a temporary fire station utilizing a mobile home unit located at Panorama Drive and Columbus Street. Now that the newly renovated Fire Station 8 is up and running, we are re-tasking the mobile home unit which previously served as the temporary station. The unit was relocated this week out to its new home at the City of Bakersfield Animal Care Center where, after some modifications, it will become the new base of operations for our Animal Control Field staff. Below is a photo of the recently relocated mobile home unit.



- On October 4<sup>th</sup> the American Planning Association (APA) announced that Bakersfield's very own Mill Creek Linear Park has been selected as one of five "Great Public Spaces" on the APA's annual Great Places in America list.

Each year, the APA reviews projects across the nation and selects award recipients in one of 3 categories: Great Neighborhoods, Great Streets, and Great Public Spaces. Selected projects demonstrate exceptional character, quality, and planning; and enrich communities, facilitate economic growth, and inspire others around the country.

Cynthia Bowen, AICP, president of APA stated: "Public spaces serve a number of functions within a community, from gathering places to recreational venues, and to satisfy these varied community needs requires thoughtful collaboration and



planning. These places demonstrate how to effectively create a sense of place that enhances the lives of all residents and visitors. Congratulations to this year's designees."

The Mill Creek Linear Park connects the downtown area via a multi-modal, waterfront path, inviting locals and visitors to head outdoors and enjoy a truly unique experience. The Mill Creek Linear Park projects have been a driving force behind the revitalization of downtown Bakersfield. The Community Development Department has incorporated the Mill Creek Linear Park as a part of the on-going downtown vision and station area planning process, and hopes that the trail will lay the foundation for a future "urban trail" that encompasses all of downtown.

For more information about the APA's Great Public Spaces and Streets for 2017 and previous years, visit [www.planning.org/greatplaces](http://www.planning.org/greatplaces).

The Community Development Department and the Recreation & Parks Department will acknowledge receipt of this national designation during the upcoming Third Thursday Event, on October 19, 2017. The event will kick off at 5:30pm at Central Park in Downtown Bakersfield.

- Attached you will find the monthly Thomas Roads Improvement Program (TRIP) Status Report for the month of August. The report gives a summary of each TRIP project in construction, in design, and under review. Completion percentages and pictures of projects are also included.

### **Traffic Advisory**

#### *Intermittent daytime lane closures on Truxtun Avenue*

Earthwork for the Kern River Bridge Improvements will require intermittent lane closures for a short section of the outside westbound lane on Truxtun Avenue during the next couple of months. The closure is needed to allow trucks to exit the work site on the north side of Truxtun Avenue. When needed, the closure will be set up just west of the on-ramp to the Westside Parkway between the hours of 6 a.m. and 3 p.m.

#### *Nighttime lane closures on Westside Parkway Sunday to Thursday*

The contractor also plans to continue the installation of temporary concrete barrier rail along the Westside Parkway next week, October 8-12. This work will require nighttime closures of the inside lanes in both the eastbound and westbound directions, between Coffee Road and Truxtun Avenue. Motorists should anticipate lane closures will be in effect between the hours of 9 p.m. and 5 a.m., Sunday through Thursday nights. At least one lane will remain open in each direction at all times and all lanes should be open prior to the morning commute.

The Kern River Bridge Improvements project is the first phase of the Centennial Corridor project; it constructs bridges and makes the necessary improvements for the future

freeway's connection to the Westside Parkway. The Thomas Roads Improvement Program apologizes for any inconvenience this work may cause the traveling public. For additional information on the Kern River Bridge Improvements Project, please visit our website at [www.BakersfieldFreeways.us](http://www.BakersfieldFreeways.us).

### **Reports**

- Streets Division work schedule for the week of October 9<sup>th</sup>
- Police Department Report for August 2017

### **Event Notifications**

- Event calendar for the Rabobank Arena Theater and Convention Center





## MEMORANDUM

TO: Alan Tandy, City Manager

FROM: Nelson K. Smith, Finance Director *NKS*

DATE: October 4, 2017

SUBJECT: Sales Tax Quarterly Summary Report by Industry

Attached is a copy of the Sales Tax Quarterly Summary Report by Industry, summarizing and comparing the top ten industry categories second quarter results of 2016 to the second quarter results of 2017.

This summary information is supplemental in nature to the quarterly sales tax information provided to the Council a few weeks ago. The overall results of the quarter remain the same (quarterly change of positive 5.05%) but this supplemental information provides a general indication of what industry types are doing better or worse than citywide average results for the given period.

The general categories of Used Car Dealers, Service Stations and Public Utility/Transport Services performed above average compared to the same quarter last year. The categories of Grocery Stores and Department Stores performed below average compared to the same quarter last year.

Attachment

cc: Chris Huot  
Steve Teglia



**City of Bakersfield - Review of Sales Tax Data by Industry - Top Ten Categories**

		First Quarter Comparison			Second Quarter Comparison		
		<u>1st Qtr 2016</u>	<u>1st Qtr 2017</u>	<u>% + / -</u>	<u>2nd Qtr 2016</u>	<u>2nd Qtr 2017</u>	<u>% + / -</u>
1	New Car Dealers	\$ 2,205,673	\$ 2,352,723	6.67%	\$ 2,320,030	\$ 2,544,182	9.66%
2	Department Stores	\$ 1,934,200	\$ 1,934,575	0.02%	\$ 1,969,048	\$ 2,039,903	3.60%
3	Service Stations	\$ 902,432	\$ 959,826	6.36%	\$ 1,032,851	\$ 1,151,455	11.48%
4	Eating / Drinking Places w/o alcohol	\$ 924,582	\$ 982,018	6.21%	\$ 925,242	\$ 1,013,905	9.58%
5	Eating / Drinking Places with alcohol	\$ 875,039	\$ 898,255	2.65%	\$ 854,853	\$ 923,403	8.02%
6	Building Materials	\$ 593,090	\$ 236,728	-60.09%	\$ 699,598	\$ 731,361	4.54%
7	Public Utility, Transport & Allied Services	\$ 408,865	\$ 228,712	-44.06%	\$ 385,528	\$ 550,770	42.86%
8	Family Apparel	\$ 456,065	\$ 472,148	3.53%	\$ 477,641	\$ 513,503	7.51%
9	Used Car Dealers	\$ 464,753	\$ 865,202	86.16%	\$ 399,269	\$ 498,877	24.95%
10	Grocery Stores with alcohol	\$ 376,027	\$ 369,164	-1.83%	\$ 479,461	\$ 480,192	0.15%



October 2017

## TRIP Status Report

*TRIP projects are moving rapidly through the various stages of project development.*

*This report is to provide a periodic up-to-date snapshot of each project's recent major activities and progress. If you have questions, or need additional information, please contact Janet Wheeler at the TRIP office, (661) 326-3491. Regular project updates are also available on the TRIP website at [BakersfieldFreeways.us](http://BakersfieldFreeways.us)*

### MILESTONES

The City has advertised for construction bids for the Truxtun Avenue Operational Improvements Project. Bids are due from pre-qualified contractors on October 12, 2017 by 11 a.m. The deadline to submit Responsibility Statements and Questionnaires (RSQs) was September 14<sup>th</sup>. This project widens Truxtun Avenue from 4-lanes to 6-lanes from Empire Drive to approximately 100 feet east of Elm Street. Most of the widening along Truxtun Avenue will occur on the south side of the roadway. Construction is expected to begin in early 2018.

### PROJECT STATUS

#### **Beltway Operational Improvements**

Contractor: Security Paving Company

72% complete; anticipated completion: spring 2018

This project includes various improvements along State Route 58, from State Route 99 to Cottonwood Road, and on State Route 99, from north of Ming Avenue to Wilson Road.

Work continued last month on the Storm Water Pumping Plant located along northbound State Route 99 near Ming Avenue. Workers will continue on the mechanical and electrical components for this facility in October.

Traffic was shifted onto the new pavement on the southbound State Route 99 on-ramp from Ming Avenue last month. The left-turn access onto this on-ramp from westbound Ming Avenue is temporarily closed, but motorists can make U-turns and access the southbound ramp from the eastbound direction. Construction will continue in this area in October as the contractor works on the drainage system, an adjacent drainage basin, and the roadway.

The new State Route 99 to eastbound State Route 58 Connector Bridge is now self-supporting and the contractor began removing the falsework (temporary supports) from the structure in September. Work is also moving forward on other bridges being widened with this project. Falsework was removed from the widened P Street Bridge in September, and construction is underway on the adjacent sound walls and barrier. Sound walls and concrete barrier construction is also underway at the Madison Street Bridge and this section is expected to be completed in October.

Retaining wall and sound wall construction continues in many areas along State Route 58 within the project area. The contractor is in the process of removing temporary shoring at Union Avenue and drainage and roadway work is underway at this location; completion is expected within the next month. Work will also continue on the sound walls and concrete barriers at the eastbound Chester Avenue, H Street and Union Avenue on- and off-ramps in October.

Motorists should anticipate intermittent nighttime lane closures occurring Sunday through Thursday nights between the hours of 9 p.m. and 5 a.m. on both State Routes 58 and 99 within the project limits.



## **Kern River Bridge Improvements**

Contractor: Security Paving Company

12% complete; anticipated completion: summer 2019

Construction work is underway throughout the project area from north of the Westside Parkway to the south side of Truxtun Avenue. This project constructs and widens bridges across Truxtun Avenue and the Kern River to allow for the connection of the future Centennial Corridor to the Westside Parkway.

Earthwork activities are underway on both sides of Truxtun Avenue and intermittent lane closures will be needed for a small section of the outside westbound lane during the next few months to allow trucks to exit the work site. These lane closures will be set up west of the Westside Parkway on-ramp and may be in effect between the hours of 6 a.m. and 3 p.m.

The contractor is working on two drainage basins and a bridge abutment on the south side of Truxtun Avenue. Trucks will also be entering and leaving this part of the project site, but no additional closures are anticipated for the eastbound direction of Truxtun Avenue at this time.

Work on the water diversion in the Kern River is underway. The contractor plans to install shoring and start pile driving operations for bridge columns in October. Work within the river will begin on north side.

## **Truxtun Operational Improvements**

Contractor: Pending

0% complete; anticipated construction start: early 2018

This project widens Truxtun Avenue from 4-lanes to 6-lanes from Empire Drive to approximately 100 feet east of Elm Street. Most of the widening along Truxtun Avenue will occur on the south side of the roadway. Bids are due from pre-qualified contractors on October 12, 2017 at 11 a.m. The construction contract is expected to be sent to City Council for consideration of approval in November.

## **24th Street Improvement Project**

Designer: TYLin International

Design 95% complete; Right-of-Way 100% complete for full acquisitions

The City and Caltrans are currently reviewing the 95% roadway plans, streetscape design is underway, and right-of-way activities for partial acquisitions continue.

A Public Hearing to consider the elimination of the 24<sup>th</sup> Street crosswalks at A/Alder and D/Drake Streets will be held before City Council on October 11<sup>th</sup>.

A construction contract with JTS Construction will also be on the October 11<sup>th</sup> City Council agenda for the sound wall on the north side of 24<sup>th</sup> Street within the residential section. Construction of these sound walls is expected to begin after the New Year.

## **Centennial Corridor**

Designer: Parsons

Design: 95% complete

Staff is pursuing potential State-sponsored funding opportunities for the project phase that would replace the Belle Terrace Bridge over State Route 99.

Final design plans for various parts of the project are at or nearing completion; these include:

- 100% Westpark Sounds Walls and 100% Local Street Improvements packages
- 100% Local Roads and Bike Path plans - submitted on September 29<sup>th</sup>
- 100% PS&E package for the La Mirada and Marella Way structures - submitted on September 29<sup>th</sup>
- 100% Roadway plans are on target for submittal in October
- 100% plans for structures in Zones 1 and 2 are expected to be submitted in November (Zone 1 includes the roadways and structures from the Kern River Bridge Improvements through the California Avenue Bridge; Zone 2 includes the Marella Way and La Mirada bridges to facilitate neighborhood circulation across the future freeway)

- 95% plans for structures associated with the State Routes 58 and 99 Interchange through the Stockdale Highway Bridge (Zone 3) have been submitted. The design team is working toward a 100% submittal by the end of the year.
- Various environmental revalidations have been drafted due to design development and have been approved or are under review.

The City has obtained legal possession of all full parcels necessary for construction of the project, and the acquisition of the necessary partial parcels is underway. To date, 221 structures have been demolished.

A construction contract with Specialty Construction Inc. will be on the October 11<sup>th</sup> City Council agenda for the City-owned sanitary sewer relocations in the Westpark neighborhood. This work is expected to be underway in November.

The City plans to advertise for Responsibility Statements and Questionnaires for local street improvements and sound wall packages this month. Construction will follow behind the City's sanitary sewer relocations.

## **Hageman Flyover**

Designer: Caltrans

Design 98% complete

Caltrans Design and Structures teams are working on the final Plans, Specifications, and Estimate (PS&E) package. Caltrans anticipates submitting the final package to the City by the end of 2017.



## PROJECT PHOTOS



**Top left:** Sun sets over the Kern River Bridge Improvement (KRBI) project area. The bike path is expected to remain open during construction

**Top right:** Construction workers place concrete for a new retaining wall on the north side of the Westside Parkway, east of Mohawk Street.

**Middle left:** Earthwork for the Kern River Bridge Improvement Project is underway on both the north and south sides of Truxtun Avenue.

**Middle right:** The contractor has begun work on the water diversion plan on the north side of the river. Pile driving for the bridge columns is expected to begin in October.

**Bottom left:** Aerial view of the KRBI project area; the alignment for the Centennial Corridor mainline can be seen in the background.





# TRIP Status Report

October 2017



**Top left:** Crews construct a new retaining wall along the south side of State Route 58.

**Top right:** Work on the Ming Pump Plant continues.

**Middle left:** Night crews remove falsework from the widened P Street Bridge.

**Bottom left:** In September, American Society of Civil Engineers local chapter Past President Dan Cronquist presented the 2017 Transportation Project of the Year award to TRIP Manager Kristina Budak for the State Route 178 Widening Project.

**Bottom right:** The new owners of the "Speakeasy" house set the former 24<sup>th</sup> Street house on its permanent Bay Street foundation last month.



**STREETS DIVISION – WORK SCHEDULE**

**Week of October 9, 2017 – October 13, 2017**

**Resurfacing/Reconstructing streets in the following areas:**

Sealing streets in the area north of Brundage and west of Mt. Vernon

Maintenance Grind & Pave on Grove St east of Union

Paving in the HUD area's of Oleander and Castro

Maintenance Grind & Pave on Watt's Dr. between Union and Madison

**Miscellaneous Streets Division projects:**

Video inspection of City owned sewer and storm lines to evaluate condition of pipes

Repairing damaged sewer line found during video inspection

Miscellaneous concrete repairs throughout the City

Concrete repairs to various bus stops throughout City limits

Sewer and Storm line installation on the north side of Ming Ave east of Baldwin in preparation for street widening project

Miscellaneous concrete work at Sports Village

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**STREETS SWEEPING SCHEDULE**

**Monday, October 9, 2017**

Between So. "H" St. & Union Avenue – Pacheco Rd. & Hosking Rd.

Between Stockdale Hwy. & Truxtun Ave. (ext.) – Coffee Rd & Partridge Ave.

**Tuesday, October 10, 2017**

Between 99 Hwy. & So. "H" St. – Ming Ave. & Panama Ln.

Cul-De-Sacs on the north side of Magdalena Ave., west of So. "H" St.

**Wednesday, October 11, 2017**

City areas between Brundage Ln. & Ming Ave. – So. "H" St. & Union Ave.

City areas between Wilson Rd. & Pacheco Rd. – So. "H" St. & Union Ave.

Between Casa Loma Dr. & Planz Rd. – Madison Ave. & Cottonwood Dr.

Between Planz Rd. & Brook St. – Madison Ave. & Hale St.

**Thursday, October 12, 2017**

Between Carr St. & California Ave. – Mohawk St. & Stockdale Hwy.

Between Stockdale Hwy. & Marella Wy. – California Ave. & Montclair St.

Between La Mirada Dr. & Chester Ln. – Montclair St. & No. Stine Rd.

Between California Ave. (ext.) & Stockdale Hwy. – No. Stine Rd. & 99 Hwy.

Between Stockdale Hwy. & Ming Ave. – New Stine Rd. & Ashe Rd.

Between New Stine & Ashe Rd. – Taft Hwy. & Berkshire Rd.

**Friday, October 13, 2017**

Between Ming Ave. & White Ln. – Buena Vista Rd & Old River Rd.

Between Stine Rd. & 99 Hwy. – Belle Terrace & Adidas.

Between Panama Ln. & Berkshire Rd. – Ashe Rd. & Stine Rd.

**NOTE:** If raining, there will be no street sweeping service and all street cleaning personnel will be assigned to cleaning plugged drains and part circle culverts. This also applies when a large number of street sweepers are in Fleet for repairs. Areas that have been missed during this time will be swept at the end of the month only when possible.



## BAKERSFIELD POLICE MEMORANDUM



Date: September 25, 2017  
To: Alan Tandy, City Manager  
From: Lyle Martin, Chief of Police  
Subject: Special Enforcement Unit/Gang Violence Report

I have enclosed the Special Enforcement Unit's monthly gang statistics report for August of 2017. Please call if you have any questions.

LDM/vrf





**BAKERSFIELD POLICE DEPARTMENT  
SPECIAL ENFORCEMENT UNIT  
MONTHLY REPORT – AUGUST 2017**

**Special Enforcement Unit Monthly Stats for August 2017**

29	Felony Arrests	82	FI's	18	Search Warrants
11	Misdemeanor Arrests	2	Citations	40	Court Prep - Hours
9	Felony Warrant Arrests	254	Probation and Parole Searches	103	Hours Assisting Patrol
28	Misdemeanor Warrant Arrests	8	Hrs. Assisting Other Department Sections	307	Hours Assisting Investigations
8	AB109 Arrests – 186.22	91	Supplemental Reports	5	2017 Shootings
0	AB109 Arrests - Other	36	General Offense Reports	9	2016 Shootings
176	Hours In Training	4	Vehicle Reports	5	2015 Shootings
9	Guns Seized	55	Patrol Call Response	2	2014 Shootings

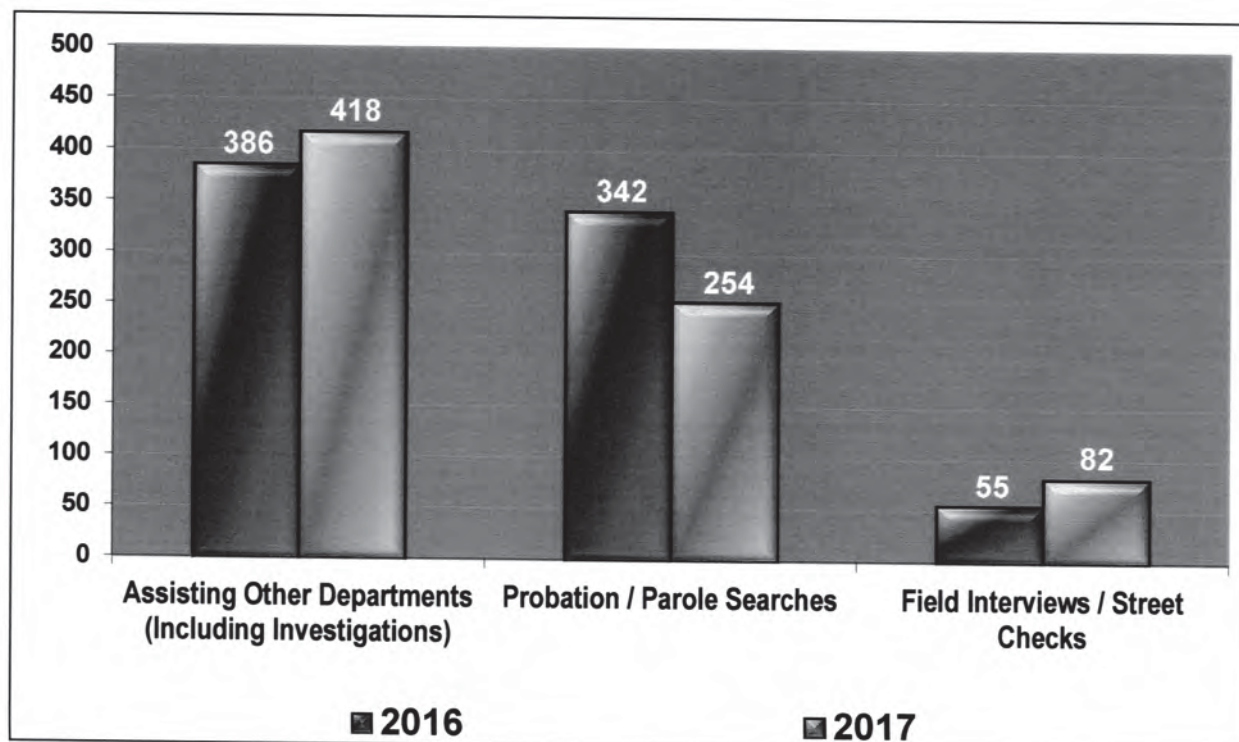
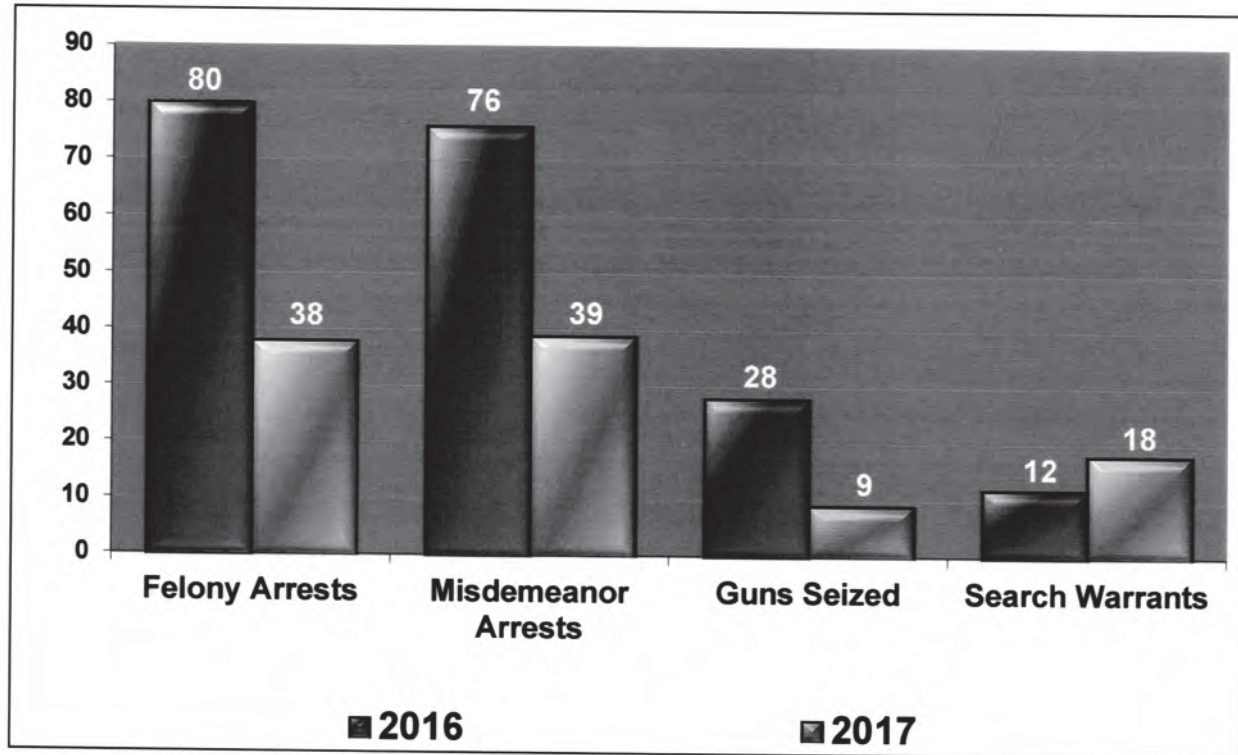
**Year to Date Special Enforcement Unit Statistics  
January – August 2017**

310	Felony Arrests	477	FI's	139	Search Warrants
213	Misdemeanor Arrests	92	Citations	431.5	Court Prep - Hours
80	Felony Warrant Arrests	2189	Probation and Parole Searches	959	Hours Assisting Patrol
284	Misdemeanor Warrant Arrests	169.5	Hrs. Assisting Other Department Sections	1682	Hours Assisting Investigations
82	AB109 Arrests – 186.22	799	Supplemental Reports	34	2017 Shootings
2	AB109 Arrests - Other	442	General Offense Reports	61	2016 Shootings
499	Hours In Training	37	Vehicle Reports	38	2015 Shootings
190	Guns Seized	585	Patrol Call Response	48	2014 Shootings



# BAKERSFIELD POLICE DEPARTMENT SPECIAL ENFORCEMENT UNIT MONTHLY REPORT – AUGUST 2017

## August 2016-2017 COMPARISON

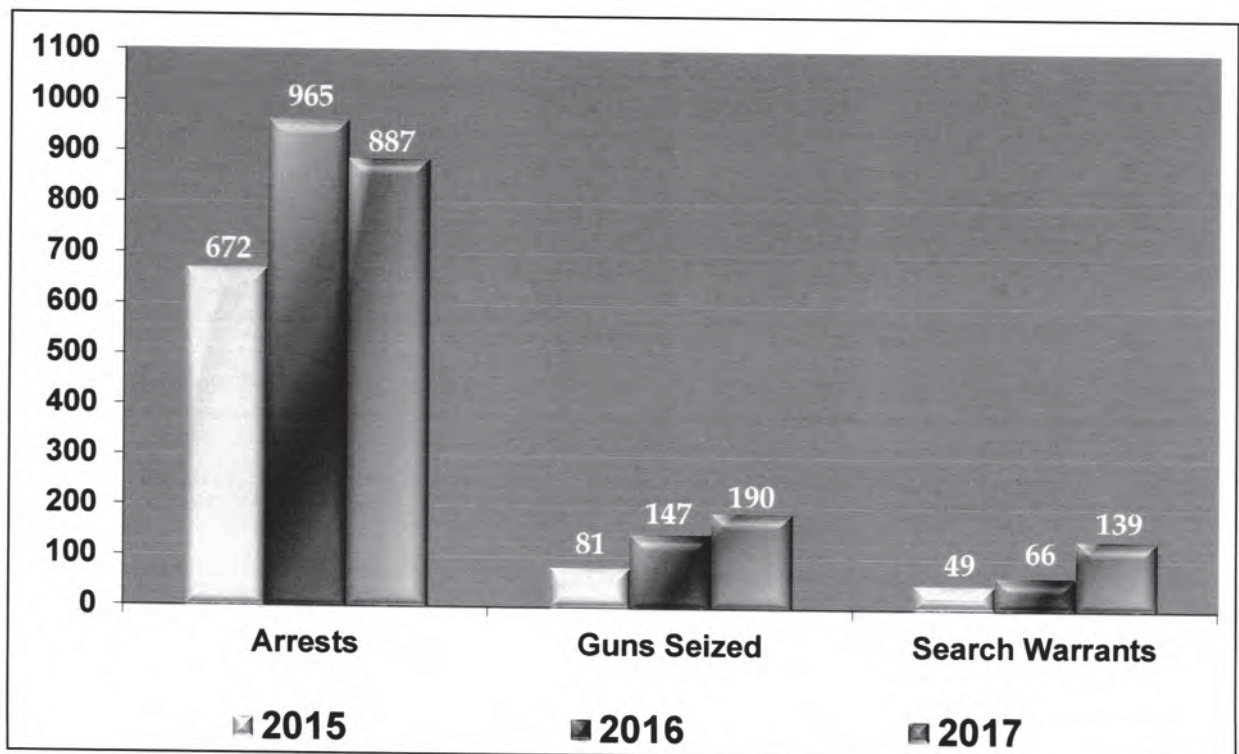
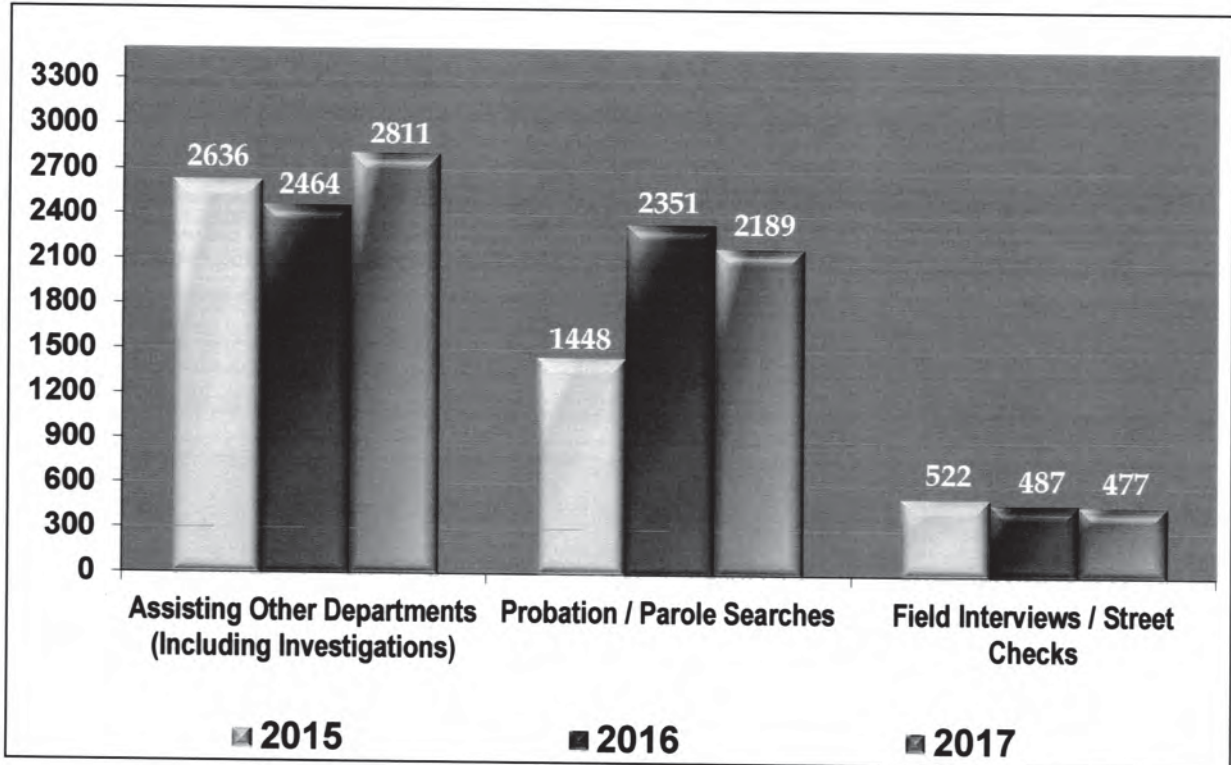






**BAKERSFIELD POLICE DEPARTMENT  
SPECIAL ENFORCEMENT UNIT  
MONTHLY REPORT – AUGUST 2017**

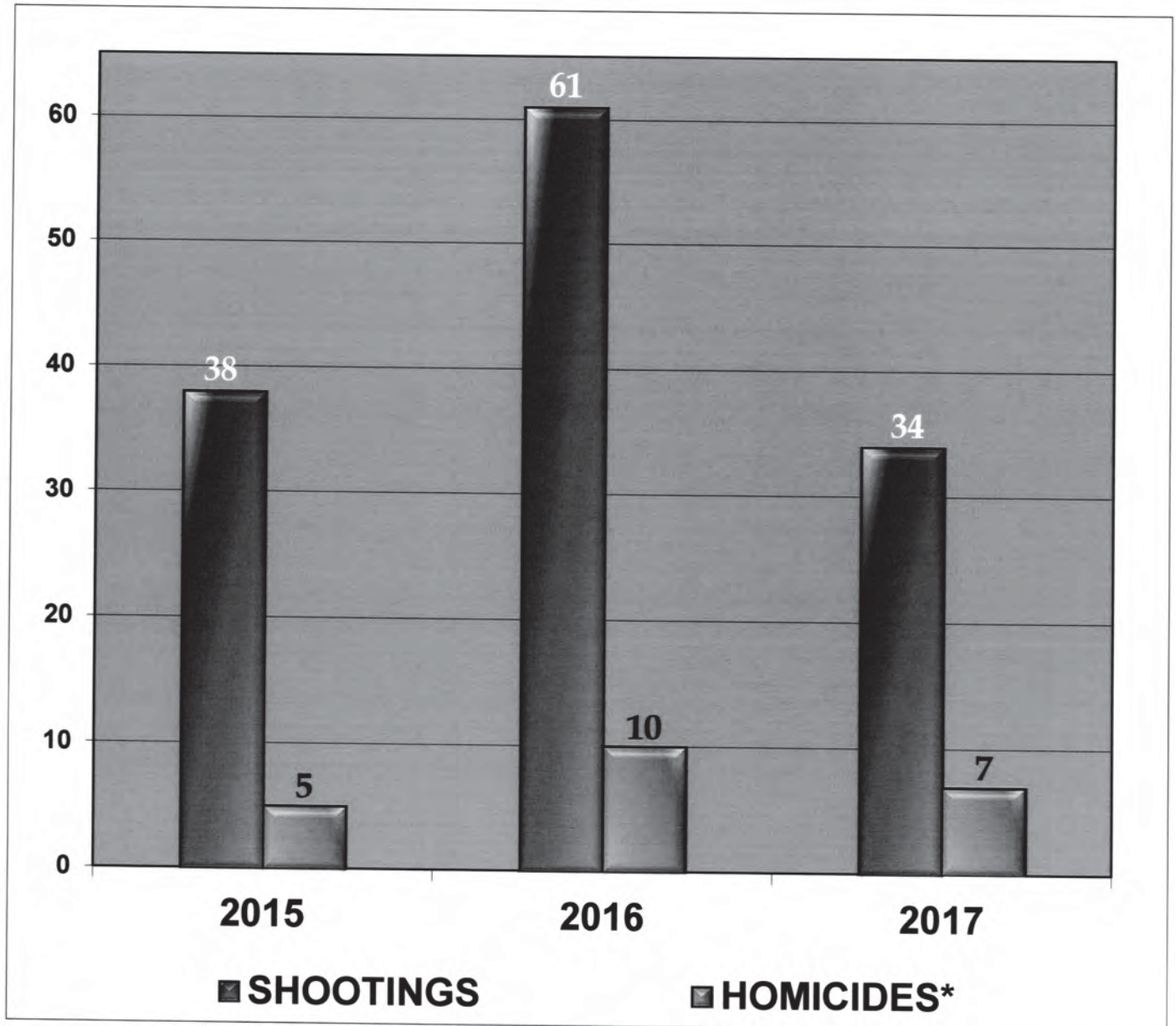
**2015-2017 YEAR TO DATE COMPARISON**





**BAKERSFIELD POLICE DEPARTMENT  
SPECIAL ENFORCEMENT UNIT  
MONTHLY REPORT – AUGUST 2017**

**YEAR TO DATE GANG VIOLENCE INDEX 2015-2017**



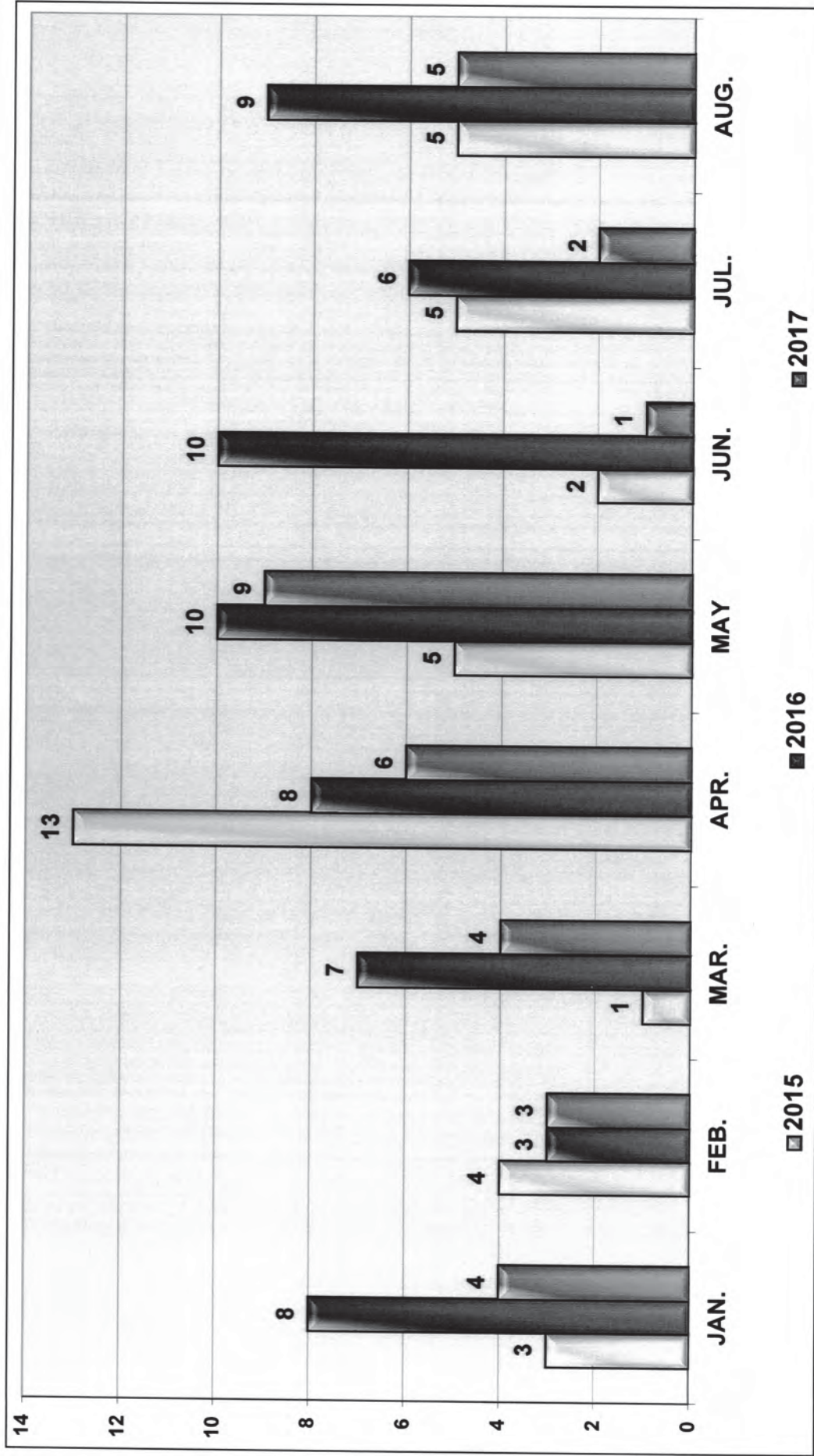
\*Please note that the homicide stats include all gang related homicides, including but not limited to shootings and stabbings.





**BAKERSFIELD POLICE DEPARTMENT  
SPECIAL ENFORCEMENT UNIT  
MONTHLY REPORT – AUGUST 2017**

**GANG RELATED SHOOTINGS – 2015-2017 (YEAR TO DATE ONLY)**



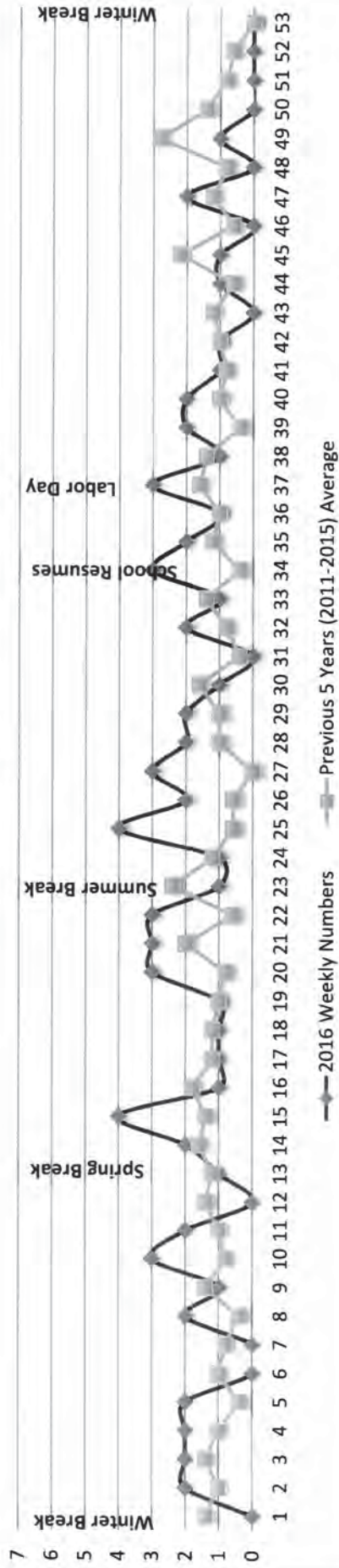




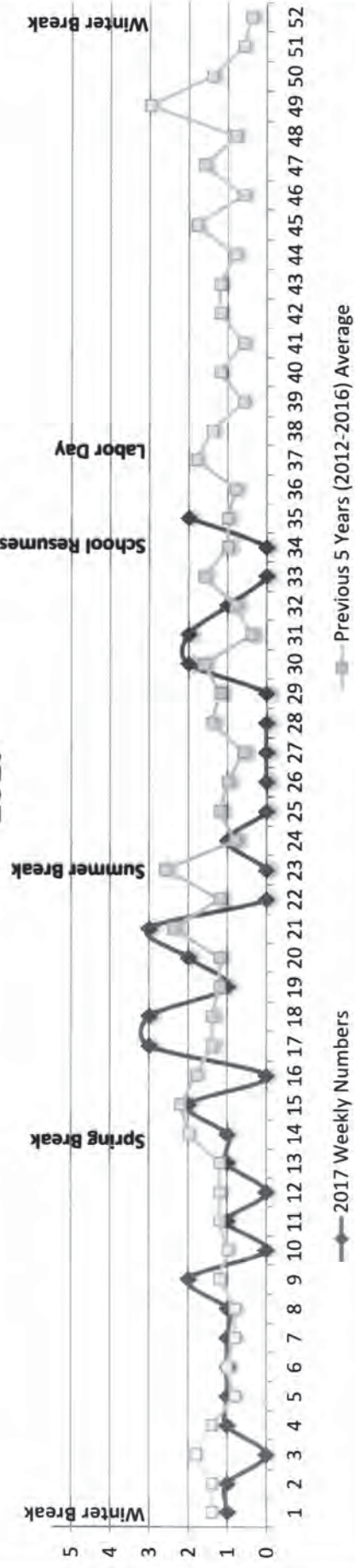
**BAKERSFIELD POLICE DEPARTMENT  
SPECIAL ENFORCEMENT UNIT  
MONTHLY REPORT – AUGUST 2017**

**GANG RELATED SHOOTINGS COMPARED TO THE AVERAGE OF THE PREVIOUS 5 YEARS – PER WEEK**

**2016**



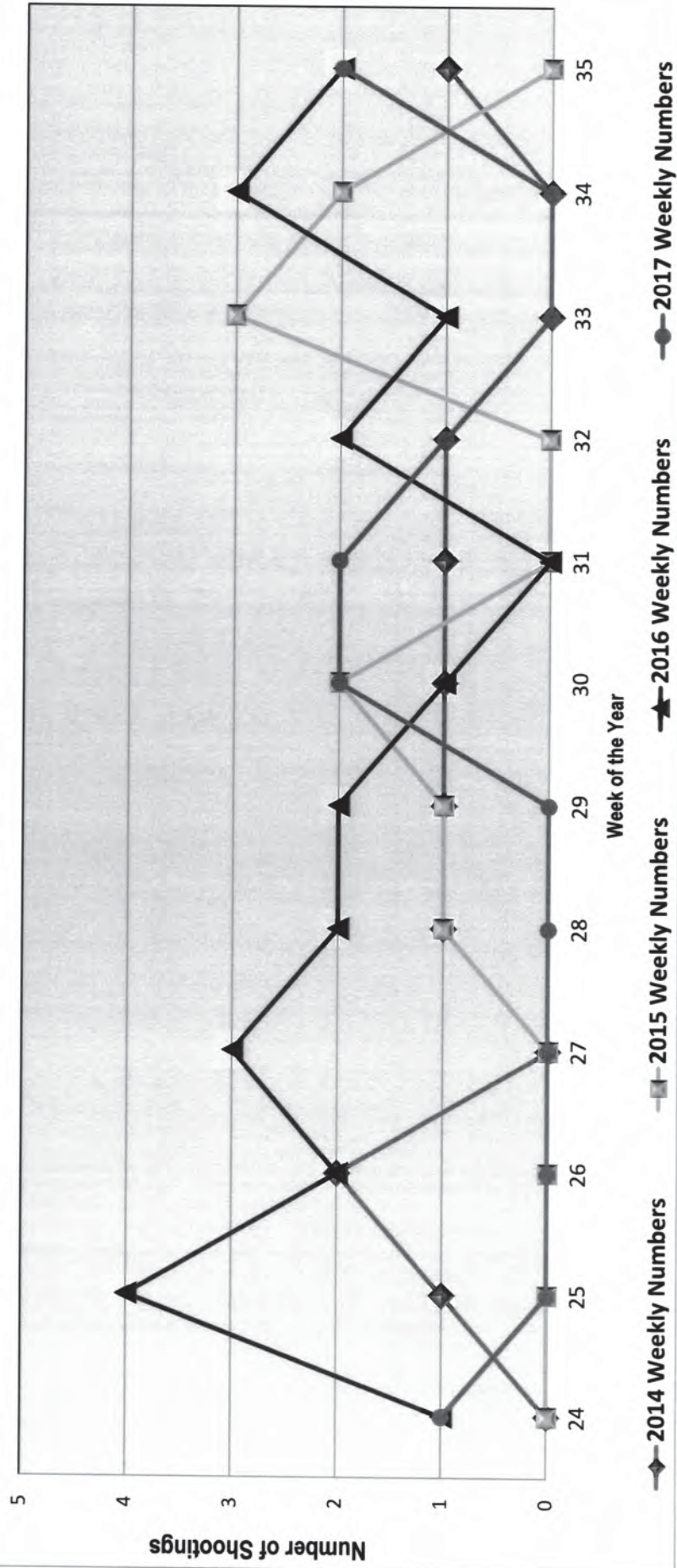
**2017**





**BAKERSFIELD POLICE DEPARTMENT  
SPECIAL ENFORCEMENT UNIT  
MONTHLY REPORT – AUGUST 2017**

**2014 - 2016 Shooting Comparison to date - 12 Week Time Frame**





TICKETED BY **axs**

**BOX OFFICE HOURS**  
Mon-Fri 10 AM - 5 PM  
(Excluding Event Days)

**CHARGE-BY-PHONE**  
1-888-929-7849

**GROUP SALES INFORMATION**  
661-852-7309

**SEASON TICKET INFORMATION**



**Bakersfield Condors**  
661-324-PUCK (7825)

[www.bakersfieldcondors.com](http://www.bakersfieldcondors.com)



BAKERSFIELD  
SYMPHONY  
ORCHESTRA  
STELIAN ERON, Music Director

**Bakersfield Symphony**  
661-323-7928  
[www.BSONow.org](http://www.BSONow.org)

**BROADWAY**  
IN BAKERSFIELD

**Broadway In Bakersfield**  
661-852-7308

**Week of October 2nd**



# UPCOMING EVENTS

## Rabobank ARENA

The Official Bank

October 12 - Condors vs San Antonio	6:30 PM	On Sale Now
October 14 - Condors vs Tucson	7:00 PM	On Sale Now
October 27 & 28 - Condors vs Stockton	7:00 PM	On Sale Now
October 29 - Banda MS	7:00 PM	On Sale Now
November 1 - Condors vs Manitoba	6:30 PM	On Sale Now
November 3 - Skillet, Britt Nicole, etc.	7:00 PM	On Sale Now
November 9 - Disney On Ice	7:00 PM	On Sale Now
November 10 - Disney On Ice	7:00 PM	On Sale Now
November 11 - Disney On Ice	3PM/7PM	On Sale Now
November 12 - Disney On Ice	1PM/5PM	On Sale Now
November 18 - PBR Velocity Tour	7:00 PM	On Sale Now
February 19 - Harlem Globetrotters	2:00 PM	On Sale 10/11

## Rabobank THEATER

The Official Bank

October 7 - Bakersfield Symphony	7:30 PM	On Sale Now
October 8 - Dirty Dancing	7:30 PM	On Sale Now
October 12 - Theresa Caputo	7:30 PM	On Sale Now
November 4 - Bakersfield Symphony	7:30 PM	On Sale Now
November 30 - Mannheim Steamroller	7:30 PM	On Sale Now
January 13 - Sesame Street Live	2 & 6 PM	On Sale 10/10

## Spectrum AMPHITHEATRE

October 12 - America	7:00 PM	On Sale Now
October 14 - Festival Latino	12:00 PM	Free
October 28 - Ozomatli w/Velorio	6:00 PM	On Sale Now

[www.rabobankarena.com](http://www.rabobankarena.com) - [www.spectrumamphitheatre.com](http://www.spectrumamphitheatre.com)

# Fiscal Outlook

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OCTOBER 11, 2017

## Background

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City Council has requested staff provide a long term fiscal outlook

5 year forecast of General Fund revenue and expenses

Challenges

Opportunities

Next steps

## Factors Affecting Outlook

Growth of major General Fund revenue sources lagging expenditures

- Unlikely oil sector will rebound to 2014 levels in foreseeable future
- Online retail sales impacting sales tax
- Nestle recently announced the layoff of 600± employees from Bakersfield plant
- State Farm vacating regional offices

Significant known cost increases on horizon

- CalPERS
- Healthcare
- Utilities (electricity, water)

City continues to grow – service levels need to coincide

- Cannot continue to forgo additional staff in key areas

Council Goals and priorities focus on maintaining and enhancing basic public services

- Police, Fire, Streets, Code Enforcement, Park Facilities

## Factors Affecting Outlook

Emphasis placed on enhancing quality of life programs/services

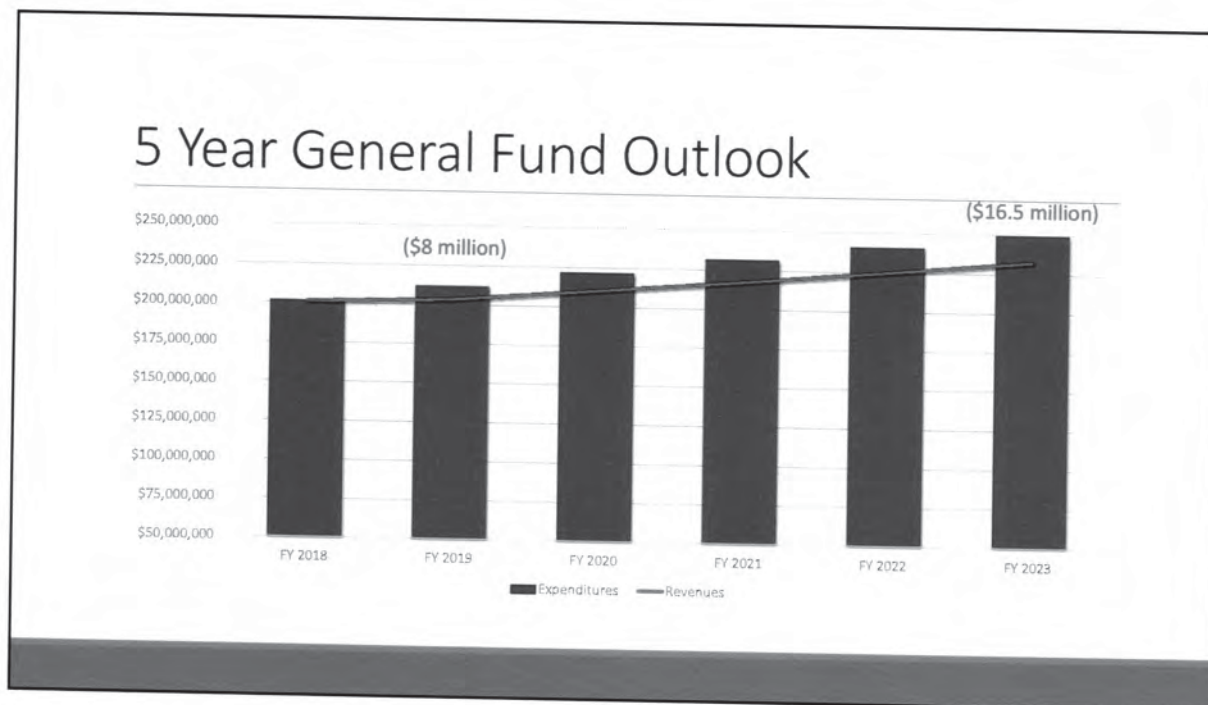
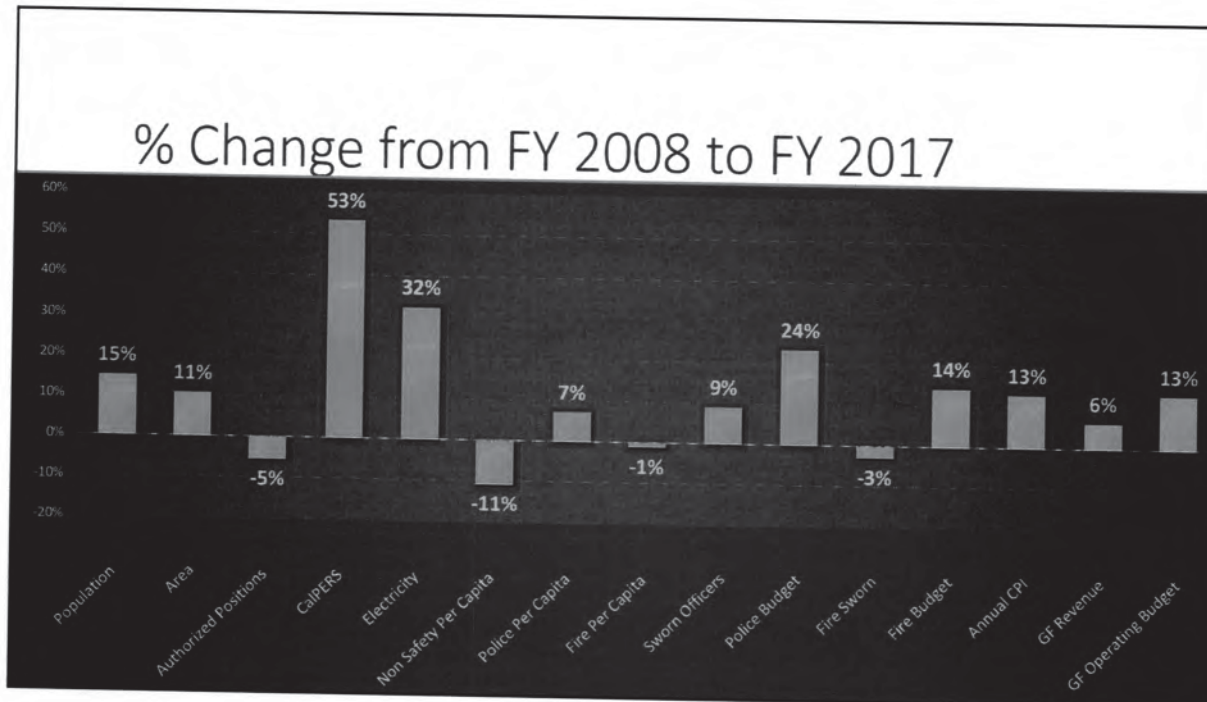
- Parks, Recreational Activities, Lighting, Beautification, Economic Development

Employees have not received any wage adjustment since 2014 or 2015, depending on employee group

State actions have put additional strains on City resources (without sufficient replacement funding sources)

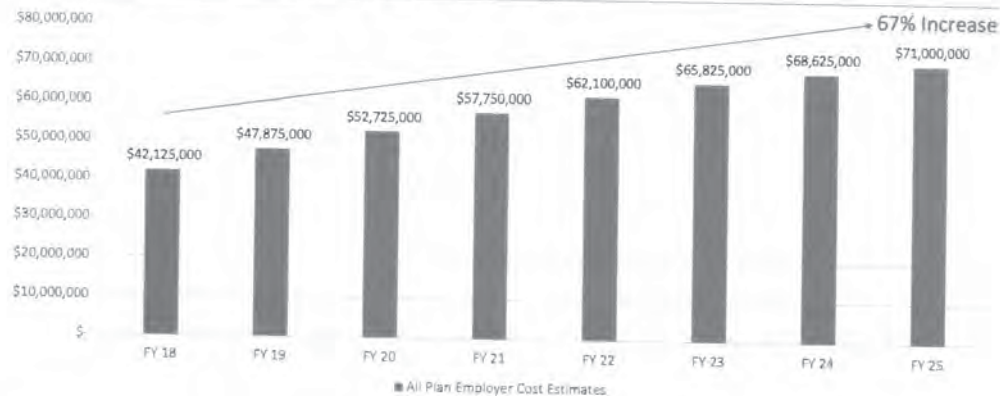
- End of Redevelopment
- SB 89 (2011) - \$1 million± shifted to state
- Proposition 47 & AB 109







## CalPERS Employer Rates



## Expenditure Controls

City has historically taken a very conservative approach to budgeting resources and staffing

2013 Washington Examiner study:

- Analyzed 107 Cities > 200,000 population
- Bakersfield ranked #107 – leanest government for residents per employee ratio
- Gap has increased since study was published

City has taken difficult, comprehensive and wide-ranging steps to align General Fund expenses with revenues:

- **FY 2014-15:** City received \$2 million unanticipated state reimbursement, otherwise cuts were imminent
- **FY 2015-16:** \$10.4 million (deferred COLA adjustments, new equipment)
- **FY 2016-17:** \$4.5 million (including elimination of 13 full time positions)
- **FY 2017-18:** No significant discretionary increases allowed

## Expenditure Controls

Taken one time actions in an effort to bide time for economy to recover

- ✧ Eliminating/deferred capital projects – shifted funds to operating budget
- ✧ Reduced City's compensated absences reserve
- ✧ Deferred a retiree healthcare trust payment

### Summary of Additional Controls

- ✧ Services, programs and full-time positions have been reduced or eliminated
- ✧ Non essential staff travel ban, temporary employees, overtime, tuition reimbursement program, council contingency
- ✧ Implemented IACP recommendations – reallocation of available resources to improve services
- ✧ Water conservation measures
- ✧ Energy efficiency improvements

## What Options Exist

Further expenditure reductions

Revenue enhancements

Combination of both

## Expenditure Reductions

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### All Position Hiring Freeze/Staffing Reduction

- Personnel costs = 81% of General Fund expenditures
- Public Safety = 62% of General Fund total expenditures
- The most impactful means to reduce ongoing General Fund spending is to reduce personnel costs
- Further reduce levels of service, response times to non-urgent matters
- Retention and employee morale issues

### Closure of fire station(s)

- Reducing firefighter positions does not result in budget savings without closure of a station

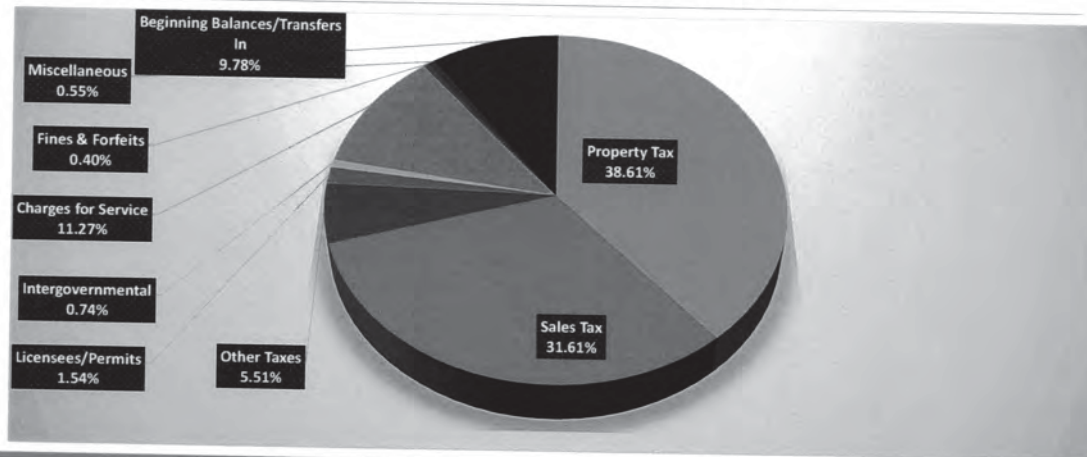
## Expenditure Reductions

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### Other potential savings:

- Reduction of recreation programs and facility hours
- Increase time between certain non-essential activities – lawn mowing, streetscape maintenance, striping, preventative street maintenance, facility maintenance and upkeep
- Recommended service level reductions will be brought to the Council based on consultation with each department as it relates to the level of cuts necessary

## FY 18 General Fund Revenues



## General Fund Spending – Per Capita

City	Adopted General Fund Budget (16-17)	General Fund \$ Per Capita
San Francisco*	4,859,781,042	5,559
Los Angeles	5,580,000,000	1,381
Oakland	530,689,270	1,246
San Jose	1,271,288,298	1,215
Long Beach	478,431,377	996
San Diego	1,337,981,387	951
Sacramento	438,834,000	890
Anaheim	303,800,000	847
Fresno	294,265,000	560
<b>Bakersfield</b>	<b>195,975,000</b>	<b>511</b>



## Sales Tax

### Bakersfield 2017 Sales Tax Rate = 7.25%

Average Sales Tax Rate – Top 20 CA Cities = 8.5%

\$100 purchase = \$7.25 Sales Tax

◦ \$6 to State (Education, Public Safety, Social Services)

◦ \$.25 to County Transportation



◦ \$1 to City → Kept local for City Services – Police, Fire Parks, Streets, etc.



## Property Tax

### Property Tax Rate = 1% of Property Value



Schools – 60%

County/  
Fire Fund  
– 25%

City - 9%

Special Districts – 6%

*For every \$1 paid in property tax, the City receives 9 cents*

## Property & Sales Tax Revenue Examples

### Sales Tax



New Car = \$20,000

7.25% Sales Tax = \$1,450

State  
\$1,200

County  
\$50

City  
\$200

### Property Tax



New House = \$300,000

1% Property Tax = \$3,000

Schools  
1,800

County/  
County Fire  
\$750

City  
\$270

Special  
Districts  
\$180

## Revenue Enhancements

Outside of the property tax (Proposition 13), cities have authority to impose a broad range of taxes

However

- City cannot raise fees beyond the cost of providing that service – *ex: adding 25% to the existing park rental fee*
- Cannot use enterprise funds for General Fund expenditures – *ex: using water funds to pay for police patrol*
- Proposition 218 requires voter approval for all local tax increases

Add on sales tax is the most common type of revenue measure implemented by voters in cities in CA

- Undesignated uses = simple majority of voter approval
- Designated = requires 2/3 voter approval

Cities in California with active add-on sales tax measure = 176



## Top 20 Cities – Sales Tax

City	Total Sales Tax Rate
Long Beach	10.25%
Los Angeles	9.50%
Santa Clarita	9.50%
San Jose	9.25%
Oakland	9.25%
Fremont	9.25%
Stockton	9.00%
Riverside	8.75%
San Francisco	8.50%
Sacramento	8.25%
Chula Vista	8.25%
San Bernardino	8.00%
Fresno	7.98%
Modesto	7.88%
San Diego	7.75%
Anaheim	7.75%
Santa Ana	7.75%
Irvine	7.75%
Fontana	7.75%

**Bakersfield**

**7.25%**

## Revenue Enhancements

Add-on sales tax would be applied to all taxable sales within the City limits

Revenue estimates depend on amount of the approved sales tax measure

- \$16 million to \$50 million annually

100% of add-on sales tax would come back to City:

- Local control – revenues would not be subject to state whims
- Support and enhance General Fund programs and services: Police, Fire, Streets, Parks, Beautification, Economic Development, etc.
- Would assist in being able to provide levels of service residents have come to expect from City
- Would likely alleviate the need to further reduce staffing, programs and services

## What do Residents Think?

Many cities considering a sales tax measure will poll prospective local voters

- Helps provide the Council and staff with a clear understanding of the opinions, perceptions and priorities of voters
- Statistically valid
- Generally takes 6 weeks to plan and conduct voter surveys through e-mail and telephone questionnaires
- Sample size, type and length of questionnaire determine costs
- Does not lock City into placing measure on ballot – informational only

## Tax Measure Timeline – Hypothetical

**October 2017:** Issue request for proposals for consultant

**November 15, 2017:** Award consulting firm agreement for viability assessment/polling services

**December 2017 – February 2018:** Voter Surveys/Focus Groups

**March 2018: Review survey results and determine next steps**

**June 2018:** Adopt and submit necessary resolution and items to the County Elections Office

**November 6, 2018:** Election Day

## Next Steps

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- Staff issue a request for proposals for consultant to perform viability assessment/voter surveys
- Consultant agreement would be placed on future council agenda for consideration
- Does not commit City to placing measure on ballot



## **BAKERSFIELD CITY COUNCIL AGENDA MEETING OF OCTOBER 11, 2017**

Council Chambers, City Hall, 1501 Truxtun Avenue  
Regular Meeting 5:15 PM

### **REGULAR MEETING - 5:15 PM**

#### **1. ROLL CALL**

#### **2. INVOCATION** by Dr. Danielle Wright, Freedom Worship Center.

#### **3. PLEDGE OF ALLEGIANCE** by Ethan Calvillo, Junior at Bakersfield High School.

#### **4. PRESENTATIONS**

#### **5. PUBLIC STATEMENTS**

#### **6. WORKSHOPS**

- a. Fiscal outlook update.

#### **7. APPOINTMENTS**

- a. Regular and Alternate Appointments (Ward 5) to the Keep Bakersfield Beautiful Committee due to the expiration of terms of Regular Committee Member David Taylor and Alternate Committee Member Patrick Frase (terms expired November 2016).

*Staff recommends Council determination.*

#### **8. CONSENT CALENDAR**

*Staff recommends adoption of Consent Calendar items.*

##### **Minutes:**

- a. Approval of minutes of the September 20, 2017, Regular City Council Meetings.

##### **Payments:**

- b. Receive and file department payments from September 8, 2017, to September 28, 2017, in the amount of \$27,195,101.41, Self Insurance payments from September 8, 2017, to September 28, 2017, in the amount of \$652,863.86, totaling \$27,847,965.27.

Ward 5



### **Ordinances:**

Ward 3

- c. First reading of ordinance amending the Official Zoning Map in Title 17 of the Bakersfield Municipal Code by changing the zone district from PCD (Planned Commercial Development Zone) to C-2/PCD (Regional Commercial/Planned Commercial Development Zone) on 10.10 acres located south of Sillect Avenue and north of Riverside Drive.
- d. Adoption of ordinance adding Sections 17.04.129 and 17.04.154 and amending Section 17.08.050 of the Bakersfield Municipal Code relating to commercial cannabis activity. **(FR 09/20/17)**

### **Resolutions:**

Ward 6

Ward 2

Ward(s) 1, 3, 5, 7

- e. Resolution authorizing the City to obtain credit from Union Bank pursuant to commercial card agreement for corporate borrowing.
- f. Resolution confirming approval by the City Manager designee of the Chief Code Enforcement Officer's Report regarding assessments of certain properties in the City for which structures have been secured against entry or for the abatement of certain weeds, debris, and waste matter, and authorizing collection of the assessments by the Kern County Tax Collector.
- g. Resolution determining that lighting can most efficiently be obtained through cooperative procurement bidding procedures from MUSCO Lighting and authorizing the Finance Director to dispense with bidding thereof, not to exceed \$350,000.
- h. Resolution determining that a replacement Zamboni® model 546 ice resurfacing machine cannot be reasonably obtained through the usual bidding procedures and authorizing the Finance Director to dispense with bidding thereof, not to exceed the budgeted amount of \$118,000.
- i. Resolutions to add territories to the Consolidated Maintenance District and approving, confirming, and adopting the Public Works Director's Report:
  - 1. Area 3-103 (Tract 7304 – NE of Berkshire Road and Old River Road)
  - 2. Area 4-170 (5900 Comanche Drive)
  - 3. Area 4-171 (301-313 Dr. Martin Luther King Jr. Boulevard)
  - 4. Area 5-86 (4500 Hughes Lane)

### **Agreements:**

Ward 1, 6	j.	Agreement with Manley's Boiler, Inc. (\$60,000), for plumbing and boiler maintenance for the Public Works Department, Wastewater Division.
Ward 5	k.	Final map and improvement agreement with Castle & Cooke for Tract 7255 Phase 2, located at the southwest corner of Ming Avenue and Allen Road.
Ward 5	l.	Final map and improvement agreement with Castle & Cooke for Tract 7299, Unit 1 located south of Ming Avenue and east of Renfro Road.
Ward 2	m.	Improvement agreement with Giumarra Investments, LLC, sucessor by conversion with G.C. Investments, LLC, for Parcel 12112, Phase 4 located north of Stockdale Highway and east of Coffee Road.
Ward 6	n.	Amendment No. 4 to Agreement No. 90-279 with Sprint Spectrum L.P. to approve the assignment of the transmitter tower lease on McCutchen Road from Nextel of California to Sprint Spectrum L.P. and to approve a sublease of portions of the tower area to T-Mobile.
Ward 3	o.	Amendment No. 6 to Agreement No. 11-100 with Parsons Transportation Group (\$87,865; revised not to exceed \$44,341,567) for design support services during the construction of the Beltway Operational Improvements Project.
Ward 3	p.	Amendment No. 2 to Agreement No. 15-008 with NV5, Inc. (\$1,103,333.81; revised not to exceed \$11,170,805.26), for construction management services for the Beltway Operational Improvements and the Rosedale Auxiliary Lane Projects.
Ward 1, 6	q.	On-call equipment maintenance services agreements for the Public Works Department, Wastewater Division: <ul style="list-style-type: none"> <li>1. Amendment No. 2 to Agreement No. 15-241 with Electrical Systems and Instrumentation, Inc. (\$100,000; revised not to exceed \$300,000 and extend term one year).</li> <li>2. Amendment No. 2 to Agreement No. 15-242 with Wilsons Industrial Pump, Inc. (\$100,000; revised not to exceed \$300,000 and extend term one year).</li> </ul>
Ward(s) 2, 3, 4, 5, 6, 7	r.	Amendment No. 3 to Agreement No. 17-084 with W.M. Lyles (\$18,971,810; revised not to exceed \$21,811,472) for design and construction costs associated with the 1,2,3 - Trichloropropane (TCP) Mitigation Project.
Ward(s) 2, 3, 4, 5, 6, 7	s.	Professional engineering consultant agreement for the 1,2,3-Trichloropropane (TCP) Mitigation Project:



1. Amendment No. 1 to Agreement No. 16-250 with Provost & Pritchard Consulting Group (\$33,100; revised not to exceed \$733,900) for engineering services associated with water system improvements for the TCP Mitigation Project.
2. Appropriate \$33,100 in fund balance to the Water Resources Capital Improvement Program budget within the Domestic Water Fund.

Ward 1

t. Mount Vernon Green Waste Facility operations:

1. Amendment No. 1 to Agreement No. 17-025 with K & I Services (\$275,000; revised not to exceed \$575,000; and to extend term through June 30, 2018) for the trucking of woodchips from the Mount Vernon Green Waste Facility.
2. Appropriate \$151,000 in the County's share of the Green Waste Facility costs and \$124,000 in Refuse Fund balance to the Public Works Department's Operating Budget within the Refuse Fund.

**Property Acquisition Agreements - TRIP:**

**Bids:**

u. Accept bid from Lehr Auto Electric (\$57,253.85) for Setina Manufacturing police vehicle equipment.

v. Accept bid from Safety Network Holding, Inc. (\$138,738.60), for traffic control devices for the Public Works Department, Streets Division.

Ward 6

w. Accept bid and approve contract with Stockbridge General Contracting (\$2,061,000) for the Bakersfield Sports Village Phase III Soccer Stadium Improvements Project.

Ward 6

x. Accept bid and approve contract with Eco Energy Solutions, Inc., dba High Volt Electric (\$323,625), for the Bakersfield Sports Village Phase II Soccer Field Lighting Project.

Ward 4

y. Accept bid and award contract to Granite Construction Company, Inc. (\$717,753), to construct the Westside Parkway Operational Improvements.

Ward 2

z. 24th Street Soundwall Project:

1. Accept bid and award contract to James E. Thompson, Inc., dba JTS Construction (\$1,377,500) to construct the project.
2. Enter into a construction management agreement with NV5, Inc. (\$172,959.92), for construction management services.

Ward 2

- aa. Sanitary sewer relocation for the Centennial Corridor Project:
1. Accept bid and award contract to Specialty Construction Inc. (\$1,922,525), to construct the project.
  2. Approve consultant agreement with AECOM (\$99,392) for construction management services.

**Miscellaneous:**

- Ward 2, 6
- ab. Appropriate \$604,000 in Federal grant revenues (Selective Traffic Enforcement Program grant from the State Office of Traffic Safety) to the General Fund Police Operating Budget.
- ac. Appropriate \$30,000 in Federal grant revenues to the General Fund Police Operating Budget, to fund the Bicycle/Pedestrian Safety and Education Program.
- ad. Appropriate \$41,085 in grant funds from the California Department of Water Resources' 2014 Water-Energy Grant Program to the Recreation and Parks Capital Improvement Budget within the Capital Outlay Fund.
- ae. Reclassification of Fleet Mechanic I to Fleet Mechanic II.

**Successor Agency Business:**

- Ward 2
- af. Receive and file Successor Agency payments from September 8, 2017, to September 28, 2017, in the amount of \$315,380.00.
- ag. Appropriate \$17,548 in Successor Housing Agency Fund balance to the Economic Development Operating Budget within the Successor Housing Agency Fund for construction of a water main and services at the 19th Street Senior Plaza.

**9. CONSENT CALENDAR PUBLIC HEARINGS**

*Staff recommends conducting Consent Calendar Public Hearing and approval of items.*

**10. HEARINGS**

- Ward 2
- a. Public hearing to consider a resolution ordering the removal of the 24th Street crosswalks at Alder/A Streets and Drake/D Streets.

*Staff recommends approval of the resolution.*

- Ward 6
- b. Appeal by Christian Ramirez of the July 11, 2017, decision of the Board of Zoning Adjustment to deny a Conditional Use Permit to allow a recycling center for the purchasing of California Redemption Value containers from the public in a C-1 (Neighborhood Commercial Zone) district located at 3300 Planz Road.

*Staff recommends upholding the decision of the Board of Zoning*



*Adjustment and denying Conditional Use Permit No. 17-0171.*

- c. Public hearing to consider Action Plan Amendments to the following U.S. Department of Housing and Urban Development Action Plans:

1. FY 2014-15 Amendment No. 7: Transfer funds from Martin Luther King Community Center Gym Rehabilitation (\$25,000 in Community Development Block Grant funds) to Bakersfield Senior Center – Gate Improvements.
2. FY 2015-16 Amendment No. 3: Transfer funds from Community Housing Development Organization (CHDO) Set Aside (\$155,226 in Home Investment Partnerships funds) to Self-Help Enterprises – Down Payment Assistance.
3. FY 2016-17 Amendment No. 3: Transfer funds from CHDO Set Aside (\$144,774 in Home Investment Partnerships funds) to Self-Help Enterprises – Down Payment Assistance.

*Staff recommends the City Council open the hearing, take no action, and continue this item to the regularly scheduled meeting of November 15, 2017.*

**11. REPORTS**

**12. DEFERRED BUSINESS**

**13. NEW BUSINESS**

- a. California Water Service Company franchise renewal:
1. Resolution accepting the application of California Water Service Company requesting a water franchise.
  2. Resolution of intention to grant a franchise to California Water Service Company.

*Staff recommends adoption of the resolutions.*

**14. COUNCIL AND MAYOR STATEMENTS**

**15. ADJOURNMENT**



# ADMINISTRATIVE REPORT

**MEETING DATE:** 10/11/2017

Workshops 6. a.

**TO:** Honorable Mayor and City Council

**FROM:** Alan Tandy, City Manager

**DATE:** 10/2/2017

**WARD:**

**SUBJECT:** Fiscal outlook update.

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**STAFF RECOMMENDATION:**

**BACKGROUND:**

The City Manager's Office will provide the City Council with a multi-year fiscal outlook.

Exhibit K



November 6, 2017

Viridiana Gallardo-King  
City of Bakersfield  
1600 Truxtun Ave.  
Bakersfield CA 93301  
vking@bakersfieldcity.us

***Via U.S. Mail and Email***

**Re: City response to October 17, 2017 CPRA Request**

Dear Ms. Gallardo-King:

I write in response to your October 23, 2017 letter and document production (the "Response"), which responded to the California Public Records Act ("CPRA") request for records submitted by the First Amendment Coalition ("FAC") on October 17, 2017 (the "Request.")<sup>1</sup>

In its Request, FAC sought:

- (1) All communications or other documents that were created, sent or received by the City Council and/or its individual members and that relate to or reference the materials enclosed with this letter;
- (2) All communications or other documents that were created, sent or received by the City Council and/or its individual members before or after the City Council meetings of July 9, September 6 and September 20, 2017 and that concern actions to be taken as a result of any items discussed during closed session on those dates.

In its Response, the City produced 41 pages of documents, most of which are dated in October 2017, long after the meetings in question took place. None are dated prior to August 2017, although the Request sought documents well pre-dating that time.

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<sup>1</sup> FAC submitted its correspondence via email, fax and U.S. Mail on October 17, 2017. The date on FAC's letter, October 18, 2017, was an inadvertent error. In any event, it is not the case, as stated in the Response, that the City received FAC's emailed or faxed correspondence on October 19.



In addition to obviously failing to produce documents responsive to the first category of documents sought in the Request, the City's Response failed to include any documents responsive to the Request's second category of documents.

Although FAC is aware of -- and indeed attached to its Brown Act demand -- several documents that pre-date October 2017 and that are responsive to FAC's requests, the City has failed to produce those or indicate that it has withheld any responsive documents. Within 10 days of the Request, the City was required to determine whether the Request, in whole or in part, seeks copies of disclosable public records in the possession of the agency and promptly notify the requester of both the determination and the reasons therefore. (Gov. Code § 6253(c).) The agency must explain in writing the reasons for its withholding of any records. (Gov. Code § 6255.) Thus, even if the City believes that responsive records are exempt from disclosure, the CPRA still requires that the City identify those records and articulate the specific exemptions to disclosure under the CPRA that the agency believes justify withholding.

Additionally, the notification of denial of any request for records must set forth the names and titles or positions of each person responsible for the denial. (Gov. Code § 6253.) The Response fails to meet this requirement as well.

Finally, the Request asked the City to send all correspondence, including any responsive documents, to my email address ([dsnyder@firstamendmentcoalition.org](mailto:dsnyder@firstamendmentcoalition.org)). The City failed to do so, instead sending hard copies to FAC's mailing address. The CPRA requires agencies to provide records in the format requested by the requester. (Gov. Code section 6253.9(a).) FAC has requested, and hereby reiterates its request, that the City provide all documents and correspondence to my email address, i.e., in digital format. Please do so in all future correspondence.

Should the City fail to properly respond, as set forth above, no later than 5 p.m. on November 8, 2017, and disclose all responsive records, FAC will be forced to consider filing a petition for writ of mandate ordering the City to produce the records sought. (Gov. Code section 6259 (a).)

Sincerely,



David Snyder  
Executive Director  
First Amendment Coalition  
[dsnyder@firstamendmentcoalition.org](mailto:dsnyder@firstamendmentcoalition.org)

cc: [City\\_Council@bakersfieldcity.us](mailto:City_Council@bakersfieldcity.us); [AdmAtt@bakersfieldcity.us](mailto:AdmAtt@bakersfieldcity.us)

# Exhibit L

CITY ATTORNEY  
VIRGINIA GENNARO

DEPUTY CITY ATTORNEY  
Joshua H. Rudnick  
Andrew Heglund  
Richard Iger

ASSOCIATE CITY ATTORNEY  
Viridiana Gallardo-King



1600 TRUXTUN AVENUE  
FOURTH FLOOR  
BAKERSFIELD, CA 93301

TELEPHONE: 661-326-3721  
FACSIMILE: 661-852-2020

OFFICE OF THE CITY ATTORNEY

November 8, 2017

**Via E-Mail & Facsimile**  
(415) 460-5155

Mr. David Snyder  
FIRST AMENDMENT COALITION  
534 Fourth Street Suite B  
San Rafael, CA 94901  
[dsnyder@firstamendmentcoalition.org](mailto:dsnyder@firstamendmentcoalition.org)

Re: Public Records Request Response

Dear Mr. Snyder:

This letter is in response to your November 6, 2017 letter received by the City of Bakersfield.

For the record, our office provided you with responsive documents; we did not deny any requests. The "enclosures" you mention were not included in our response because you already had the records in your possession and we did not see the need in providing them again. Additionally, and most importantly, the enclosures are confidential pursuant to Government Code Section 54956.9.

If you have any questions, feel free to call me at (661) 326-3721.

Very truly yours,

  
VIRIDIANA GALLARDO-KING  
Associate Attorney

VG:lsc  
cc: Robin Bice, Deputy City Clerk

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